

CLARK HILL

August 30, 2016

VIA E-FILING

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

Re: KCVN, LLC and Colorado Pacific Railroad, LLC -
Feeder Line Application -
In Crowley, Pueblo, Otero and Kiowa Counties, Colorado
STB Docket No. FD 36005

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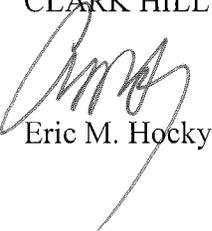
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Dear Ms. Brown:

Enclosed are the Comments and Verified Statements being filed on behalf of V and S Railway, LLC ("V&S"). V&S is filing both a "public version" and a "confidential version" that is subject to the protective order in this proceeding. Because of the size of the filing, each version has been broken into several parts that may be filed separately.

Respectfully,

CLARK HILL PLC


Eric M. Hocky

EMH/e

cc: All persons shown on the certificate of service

Before the

SURFACE TRANSPORTATION BOARD

Docket No. FD 36005

**KCVN, LLC AND COLORADO PACIFIC RAILROAD, LLC
- FEEDER LINE APPLICATION -
IN CROWLEY, PUEBLO, OTERO AND KIOWA COUNTIES, CO**

COMMENTS OF V AND S RAILWAY, LLC

VOLUME I OF II

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Dated: August 30, 2016

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Before the
SURFACE TRANSPORTATION BOARD

Docket No. FD 36005

**KCVN, LLC AND COLORADO PACIFIC RAILROAD, LLC
- FEEDER LINE APPLICATION -
IN CROWLEY, PUEBLO, OTERO AND KIOWA COUNTIES, CO**

COMMENTS OF V AND S RAILWAY, LLC

In this proceeding, KCVN, LLC (“KCVN”), a landowner, and Colorado Pacific Railroad, LLC (“CPRR”), a shell corporation formed solely for the purposes of this proceeding (KCVN and CPRR are collectively the “Applicants”), filed an application under 49 U.S.C. §10907 and 49 C.F.R. Part 1151 to force V and S Railway, LLC (“V&S”) to sell to the Applicants a line of railroad known as the Towner Line (or the “Line”) between milepost 747.5 near Towner, Colorado, and milepost 869.4 near NA Junction, Colorado, a distance of approximately 121.9 miles. As Section 10907 makes clear, the extraordinary remedy created by the section is available only in the limited circumstances set forth in the statute. As demonstrated herein, Applicants have not satisfied the statutory standards, and accordingly, the Application should be denied. Moreover, even if the Board were to determine that the Applicants have satisfied the standards for relief, the proposed purchase price suggested by the Applicants does not represent the proper valuation of the Line, and should be rejected in favor of the purchase price proposed by V&S in these Comments.

I. Procedural Background

This proceeding was commenced on March 18, 2016, when KCVN, LLC and Colorado Pacific Railroad, LLC (“Applicants”) filed a Feeder Line Application to acquire the “Towner Line” between NA Junction and Towner, Colorado, a line that is owned by V and S Railway,

LLC (“V&S”).¹ In a decision served on April 15, 2016 (the “April 15 Decision”), the Director of the Office of Proceedings (the “Director”) made a preliminary finding that the Application was “substantially complete” and established a procedural schedule. Although the April 15 Decision found that the Applicants had provided substantially all of the information required by 40 C.F.R. §1151.3, it also found that “The applicants should provide some additional information, described below, for the Board’s consideration as the feeder line case proceeds.” April 15 Decision, at 3. The Applicants were given until April 29, 2016 to provide additional information regarding their financial responsibility, the proposed operating plan, and the limits of the proposed operator’s liability insurance. The Applicants filed a Supplement to Feeder Line Application (the “Supplemental Application”) on April 29, 2016.

Certain discovery disputes arose and were resolved by the parties and by Administrative Law Judge John Dring who was appointed by the Board to handle discovery matters in this proceeding. The procedural schedule was subsequently amended by agreement of the parties, and approved by the Office of Proceedings in decisions served on July 14, 2016, and August 18, 2016. Under the current schedule, comments are due by August 30, 2016, and Applicants’ reply is due by September 27, 2016.

II. Statutory Background

Under 49 U.S.C. §10907(b), the Board can require a rail carrier owning a railroad line to sell the line to a “financially responsible person” only if the Board finds either (1) that the public convenience and necessity require or permit the sale, or (2) the railroad line is on the railroad

¹ V&S also owns and operates two other lines of railroad, the Medicine Division line between Medicine Lodge and Attica, Kansas, and the Hutchinson Division line located wholly within Hutchinson, Kansas. In addition, V&S owns the Missouri Central Railroad Line between Vigus, Missouri and Beaufort Missouri, which is operated by Central Midland Railroad Company. These lines are not the subject of this proceeding.

carrier's system diagram map (as a line for which the railroad plans to file an application to abandon or discontinue, or has such an application under consideration), and has not yet filed an application to abandon such line. If the Board makes the necessary findings and orders the sale, then the Board must set the purchase price at not less than the constitutional minimum value, that being the greater of net liquidation value ("NLV") and going concern value ("GCV"). 49 U.S.C. §§10907(b) and (c). The procedures and requirements for an application to be filed by a person seeking to acquire a line under Section 10907 are set forth in 49 C.F.R. Part 1151.

III. The Towner Line does not qualify for feeder line treatment.

A. The Towner Line is not on a system diagram map as a line for which the V&S anticipates filing an application to abandon.

One of the two bases for a forced sale under the feeder line program is if a line has been included on the owning railroad's system diagram map ("SDM") "in category 1 or 2" and the railroad has not yet filed an application to abandon. 49 U.S.C. §10907(b)(1)(A)(ii); 49 C.F.R. §1151.1. The Applicants assert that V&S has not filed an SDM, but that the Board can imply that the Towner Line would have been in category 1 or 2 if V&S had. Applicants point to various statements and prior filings with the Board as evidence that V&S considered abandoning the Line, and V&S acknowledges that it has considered abandoning all or parts of the Line. However, none of this is sufficient for the Board to find that V&S considered filing an application for abandonment or discontinuance of the Towner Line, the prerequisite for placing a line in category 1 or 2.

V&S acknowledges the Applicants' assertion that V&S has not filed a system diagram map ("SDM") with the Board.² The SDM requirements can be found within the Board's abandonment regulations (49 C.F.R. Part 1152, Subpart B). The "penalty" for not filing an SDM is that an abandonment or discontinuance application would be rejected by the Board. 49 C.F.R. §1152.24(e)(1). There are no provisions, as Applicants suggest, for implying that the Towner Line would have been listed by V&S in category 1 – lines which the carrier anticipates will be the subject of an abandonment or discontinuance application within three years, or category 2 - lines which the carrier has under study as the potential subject of a future abandonment or discontinuance application. See 49 C.F.R. § 1152.10(b) (emphasis added). Indeed, at best, V&S's prior filings with the Board demonstrate that V&S filed a notice of exemption to discontinue only that portion of the Line between a point near NA Junction, CO and Haswell, CO (the "Western Segment"), and that it variously considered filing a notice of exemption to abandon or discontinue the entire Line. The Board has previously found that the fact that service over a line has been discontinued pursuant to a notice of exemption

does not mean that the line ought to be made available to a third party under the more summary procedures of 49 U.S.C. 10907(b)(1)(A)(ii). As noted, under the plain language of the statute, those provisions are engaged only when a line appears on a carrier's SDM.

New York & Greenwood Lake Railway – Feeder Line Acquisition – A Line of Norfolk Southern Railway Company, STB Finance Docket No. 34649 (served July 27, 2005), slip op. at 3.³ The

² V&S is not alone in not filing an SDM. Based on a search of the Board's website, since 1996 there have been only 93 SDM filings by 43 different railroads. V&S believes that there are over 450 railroads operating in the United States under the jurisdiction of the Board.

³ Although the Board in *New York & Greenwood Lake* indicated that a discontinued line could potentially be the subject of a feeder line application under the public convenience and necessity test, V&S notes that in fact the Board has not ever found the test satisfied with respect to a discontinued line. This is not surprising given that in order to get discontinuance authority a

Board also specifically found that it was proper for Norfolk Southern not to include the line segments at issue in category 1 or 2 since Norfolk Southern had decided that any filing with respect to the segments would be a notice or petition rather than an application. *Id.*

V&S clearly does not have any current intent to abandon the Towner Line, as it indicated in its January 27, 2016, withdrawal of the notice of exemption that had been filed in *V&S Railway, LLC – Discontinuance Exemption – In Pueblo, Crowley, Kiowa and Otero Counties, CO*, STB Docket No. AB-603 (Sub-No. 4X).⁴ Moreover, V&S has never given any indication that it ever considered filing a full application for either abandonment or discontinuance.⁵ Accordingly, there is no basis for the Board to find that the Towner Line would have been shown in category 1 or 2 if an SDM had been filed by V&S, and Applicants cannot satisfy the more summary feeder line criteria set forth in 49 U.S.C. §10907(b)(1)(A)(ii) or 49 C.F.R. §1151.1.

B. Applicants have not demonstrated that the public convenience and necessity require the sale of the Towner Line.

Since, as shown above, Applicants cannot satisfy the more summary procedures discussed above, their Feeder Line Application can only be granted by the Board if the Applicants can demonstrate that the public convenience and necessity standard of 49 U.S.C. §10907(b)(1)(A)(i) has been met. In order for the Board to determine that the public convenience and necessity require or permit the sale of a railroad line, it must find based on the record that –

carrier must show that there is little or no demand for service. A finding to the contrary would expose a huge number of currently discontinued lines to potential forced sales.

⁴ The withdrawal was approved by the Board in a decision served May 6, 2016.

⁵ Short line railroads such as V&S rarely file applications for abandonment or discontinuance due to the substantially higher costs (filing fees, as well as the costs of collecting the necessary data in the form required by the Board's regulations to justify the abandonment or discontinuance). Instead, short lines primarily take advantage of the class exemption for out of service rail lines, or an individual exemption that is available by petition.

- (A) the rail carrier operating such line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers who transport traffic over such line;
- (B) the transportation over such line is inadequate for the majority of shippers who transport traffic over such line;
- (C) the sale of such line will not have a significantly adverse financial effect on the rail carrier operating such line;
- (D) the sale of such line will not have any adverse effect on the overall operational performance of the rail carrier operating such line; *and*
- (E) the sale of such line will be likely to result in improved railroad transportation for shippers that transport traffic over such line.

49 U.S.C. § 10907(c)(1) (emphasis added). The burden of proving all five elements of the public convenience and necessity test is on the Applicants. 49 U.S.C. §10907(c)(2).

1. The Applicants have not demonstrated that V&S has failed to make the necessary efforts to provide service to shippers who transport traffic over the Line.

Applicants acknowledge that there are no current active shippers located on the Line. V&S's 2012 discontinuance of service over the Western Segment using the Board's out of service class exemption, established that there were no shippers on the Western Segment, and that there had been no requests for service related to the Western Segment for over two years (in fact for 7 years) prior to the discontinuance. Parsons VS at 3.⁶ Neither the Applicants nor anyone else objected to the discontinuance, or appealed the Board's grant of the discontinuance. As noted in the Application, the last request for service on the eastern portion of the Line was by Bartlett Grain ("Bartlett") in 2012.

There have been no allegations that V&S has ever been unresponsive to shipper requests for service – such as justified alternative rail service in Pyco. *Pyco Industries, Inc. – Feeder Line*

⁶ References to “_____ VS” are to the Verified Statement of the person or entity indicated, attached to either the Application, Supplemental Application or these Comments.

Application – Lines of South Plains Switching, Ltd. Co., STB Finance Docket No. 34890 (served August 31, 2007) (“*Pyco / SAW*”), slip op. at 11. Not only has V&S never refused to provide service to any shipper on the Line, in 2008, V&S, repaired sidetracks on property leased by Bartlett at Eads, CO, that Bartlett had allowed to fall into disrepair. V&S paid for the repairs at its initial cost and expense so that service could continue to be provided. Parsons V.S. at 3. Bartlett never paid for the repairs although it was required to do so under its lease. *Id.* V&S continued to provide service on the portion of the Line that was not discontinued for so long as service was requested by the remaining shipper on the Line, Bartlett.

Although V&S is not currently providing service over the discontinued Western Segment, it has been able to use the tracks for car storage. The car storage is currently generating over [[]] on an annualized basis. Parsons VS at 3-4. With this car storage revenue, it is clear that V&S has the resources to maintain the tracks and provide service if it is reasonably requested.⁷

There are no active shippers on the remaining open eastern portion of the Line. Bartlett was the last active shipper with elevators at Haswell and Eads, and it has made no requests for service since February 2012, when it tendered and V&S handled 51 cars. *Compare See Keokuk Junction Railway Company – Feeder Line Acquisition – Line of Toledo Peoria and Western Railway Corporation Between La Harpe and Hollis, IL*, STB Finance Docket No. 34335 (“*KJRY/TPW*”) (served October 28, 2004), p. 9 (*all* of the complaining shippers – local and overhead – had used the line to tender or receive shipments in past).

⁷ Applicants’ proposed operator Kansas & Oklahoma Railroad (“K&O”) also proposes using storage revenue to cover its initial operations. *See Exhibit D-5, Presentation, slide 8.*

The major complaint of Bartlett, and of the other witnesses for the Applicants is clearly that they did not agree with the new “higher rates” established by V&S in June 2011.⁸ The complaints all focus on the new higher “single car rate” without acknowledging the different tiers of rates depending on the number of cars tendered, and that for blocks of 50 or more cars, the rate was very similar to the rate that was in effect before the changes, and for blocks of 30 - 49 and 15-29 cars the rates are marginally higher, but substantially less than the single car rate. *See* V&S Tariff (effective July1, 2011) attached to Griffith VS. Of the witnesses, Bartlett is the only one that actually ever directly requested service from V&S under the previous tariff. None of the other farmers giving statements, or referenced in the statements of others, has directly shipped or received anything on the Line since V&S acquired it in 2005. While Bartlett did initially seek to have V&S lower the rates, or limit or eliminate the minimums that applied, it was not willing to commit to any volumes or to the tender of any minimum number of cars at a time.

No one has demonstrated that the V&S tariff rates are unreasonable, or filed a formal complaint with the STB.⁹ The single car rate was established with the recognition that there was only one potential shipper on the line, located approximately 38 miles from the interchange, and that the costs of providing service re-inspection of line, probably some maintenance, a crew start and full day of service, locomotive fuel and maintenance) for one car were substantially the same

⁸ Bartlett notes that there were “several reasons” besides increased rail rates that contributed to its decision to shift to truck; however, it does not further explain these reasons. Griffith VS at 2.

⁹ Mr. Hanavan’s testimony (originally presented in another proceeding), regarding a supposed rate quote of \$8,000/car (Hanavan VS at 4-5) is totally unsubstantiated, and V&S denies ever providing such a quote. Parsons VS at 6. And Mr. Hanavan’s comparison of V&S’s single car rate to the shuttle train rates of Union Pacific and BNSF Railway that apply to trains between 92 and 110 cars (Hanavan VS at 8-9) does not demonstrate anything other than V&S’s lower rates for larger volumes are exactly how the big railroads are setting rates.

as the costs of providing service for several, and that with a higher number of cars being handled, the costs can be spread over more cars. The tiered rates were not set up to drive away traffic; they were actually set up to incent the shipper to tender additional traffic. Parsons VS at 3, 5. And although Bartlett complains about the single car rate, it also notes that it generally tenders between 10 and 25 cars at a time, and that its sidings can reasonably accommodate blocks of up to 40 at a time – levels which would dictate the application of lower rates. Griffith VS at 3.¹⁰ This is not a similar situation to that in *KJRY/TPW* where there were a number of active shippers that demonstrated that TPW was actively discouraging use by refusing to provide rate quotes, and setting shipping rates prohibitively high. *KJRY/TPW* (served October 28, 2004), slip op. at 5. V&S has never refused to quote rates or provide service when reasonably requested, and there were never any complaints that the service V&S provided was inadequate.¹¹

The Applicants have not identified any new shippers that would be located on the Line. Moreover, while they have identified potential several shippers that may wish to use the Line for service, only one (Bartlett) has elevator facilities located on the Line or has ever requested service from V&S, and none of the potential shippers has committed to shipping any specific amounts of grain on the Line. *See* Exhibits D-1, D-2, D-3 and E-2. Moreover, there have not even been any discussions between the shippers and the Applicants or K&O regarding what the rates might be. *Id.* While there are vague allusions to traffic that might move over the Line

¹⁰ The K&O operating plan contemplates trains of [] cars. Supplemental Application, Osborn VS at 2. K&O also seems to contemplate minimum unit trains of [] moving east from Eads. Exhibit D-4, Story email dated 4/28/16.

¹¹ At the current time, the eastern portion of the Line is embargoed due to a fire that destroyed a bridge near Haswell, CO, and isolated V&S's power. Parsons V.S. at 4. V&S did decline a recent inquiry from KCVN to potentially ship wheat westbound over the line; of course, KCVN made the request knowing that the bridge had been destroyed and that service over the Western Segment is still discontinued. *Id.*

between points east and west of the Line, no specific shippers are identified in the Application or the Supplemental Application, and there is no evidence that any shipper has made any commitments to move traffic over the Line.¹²

Applicants and K&O suggest in their operating plan that they expect to handle between [] and [] carloads in the first year (based on the number of trains per week and the number of cars per train), and an additional [] to [] cars per year of other commodities as business develops. Initially, the traffic will be primarily wheat. Supplemental Application. Osborn VS at 3.¹³ These estimates are grossly overstated based on the evidence presented.

Looking at the past history of wheat traffic on the Line, the most cars handled in a single year (all for Bartlett) was the 511 cars handled in 2010; the average number of cars handled per year between 2008 and 2010 was approximately 320. If 2011 and 2012 are included, the average drops to 208 cars per year. Parsons VS at 3. All of the wheat traffic handled since V&S became the operator has moved eastbound. No wheat has moved westbound from any online customers or overhead.

V&S retained an expert John J. Hoegemeier to examine the wheat market served by Bartlett and by the Towner Line. His analysis and report are attached hereto as Exhibit B ("Hoegemeier VS"). As explained by Mr. Hoegemeier, the draw area for an elevator is

¹² From a presentation that K&O prepared for the Applicants, it appears that a primary source of the overhead moves might be [] being moved from [] ("), outside of Pueblo, to Kansas for highway projects]. See Exhibit D-5. However, K&O's discovery responses did not include any evidence of any commitments, nor was there any evidence of any discussions or contracts between K&O and BNSF Railway that would be necessary for K&O to reach [] from the end of the Towner Line.

¹³ They suggest that the traffic could be supplemented by the movement of cars into storage. Supplemental Application, Osborn VS at 3. However, by its very nature, car storage moves does not entail regular movement of the cars; rather there is a single move in, followed some unknown months later, with a single move out.

determined by a combination of distance of the farmer from the elevator (the cost of trucking the wheat to the elevator), the price the elevator is willing to pay, and the locations of competing elevators and the prices they are willing to pay. Given the parallel Union Pacific line to the north of the Towner Line and the parallel BNSF Railway line to the south of the Towner Line, as well as the competing elevator of Thunderbird L&L in Towner on the K&O, the Bartlett elevators on the Towner Line are likely to draw from only a limited portion of Kiowa County.¹⁴ As calculated by Mr. Hoegemeier, the potential traffic available to Bartlett in an average year is approximately 1,440,000 bushels (30% of the grain harvested in Kiowa County) which equates to approximately 450 carloads – assuming it all moves by rail. Hoegemeier VS at 8-9. Comparing this estimate to the actual amount of grain purchased by Bartlett at its Towner Line locations in 2010 – 2012 when it was still shipping by rail shows that Mr. Hoegemeier’s estimate might be a little generous. *Compare* the total purchased (unloaded) by Bartlett as shown in Exhibit D-1, produced by Bartlett in response to a subpoena, and the total harvest volumes estimated by Mr. Hoegemeier. Hoegemeier VS at 4. Thus, the restrictions on how much wheat Bartlett can purchase for shipping seems much more driven by geography and the location of competitive rail lines and elevators, than V&S’s rail service or pricing.

Additionally, in response to subpoenas, each of the witnesses who asserted that they would consider using the Towner Line (Bartlett, Tallman Farms and Shelby Britten) confirmed that there have been no discussions with the Applicants or K&O about rates, and each one confirmed that there have been no commitments to K&O or the Applicants to use the Towner Line. *See* Exhibits D-1, D-2, D-3 and E-2.

¹⁴ It is thus unlikely that the disparate properties owned by KCVN, or the multitude of farmers referenced by Mr. Hanavan, would be likely to be selling their grain to Bartlett Grain’s elevators on the Towner Line.

The suggestions of KCVN, Mr. Hanavan and Mr Stum that there might be significant amounts of wheat to move westbound over the Towner Line is belied by the lack of any evidence that there have been any commitments to move wheat in that direction. V&S does not view KCVN's recent inquiry as a serious indication of potential use given that KCVN was aware of the bridge being destroyed as well as the discontinuance of the Western Segment. Moreover, the inquiry only related to the possible handling of up to 30 cars of grain. Parsons VS at 4.

Not only is the potential wheat traffic overstated, but the traffic for other overhead shippers that allegedly will be developed seems equally speculative. (No additional online customers or facilities are suggested by the Applicants or K&O.) While a number of commodities are listed as potential traffic for the Line, no specific shippers or commodities are identified. As noted previously, based on a presentation by K&O produced in discovery, it appears that it sees the primary source of potential traffic to be [

] Exhibit D-5. *See also* Exhibit D-4 (email dated 4/27/16), and Exhibit D-7 (email dated 4/19/16). While [] reaches Pueblo for interchange with Union Pacific and BNSF Railway, the Towner Line does not reach all the way to Pueblo, and K&O would need to reach an agreement with BNSF Railway to use the tracks from NA Junction into Pueblo, and obtain additional rights to use tracks there to []. K&O's responses to discovery did not include any documents or indication that there had been any agreements, or even discussions, with other carriers about the arrangements that would be necessary for this traffic to move.

In connection with the Union Pacific / Southern Pacific merger proceeding, Union Pacific's Missouri Pacific Railroad Company ("MP") subsidiary which then owned the Towner Line proposed abandoning it. The Board's discussion of the traffic at the time supports the

notion that the Applicants' estimated traffic potential for the Line should be viewed with a healthy dose of skepticism. MP noted that it handled a total of 164 carloads of freight from 5 shippers in 1993, and 142 carloads of freight in 1994. MP projected forecast year traffic of 238 carloads. The Board found that, absent "specific commitments," the projection by the protestants (relatively few of whom were shippers that actually used the Line) that traffic could be as much as 4,000 carloads, was "speculative." *Union Pacific, et al. – Control and Merger – Southern Pacific Rail Corporation, et al.*, STB Finance Docket No. 32760, Decision 44 (served August 12, 1996), slip op. at 204-205.

Overall, the Applicants have overstated the potential demand for service. Further, they have not demonstrated any specific request for service or firm commitment to use rail service to, from or over the Towner Line. Given that there is no credible demand for rail service, or additional levels of rail service, Applicants have not presented sufficient evidence of demand to demonstrate that V&S has not provided adequate service to meet the demand or that it would be unable to do so. In an analogous situation where a carrier was seeking to reinstitute rail service over a line that was subject to interim trail use, the Board found:

[Ballard] has also failed to demonstrate that there is a credible demand for renewed freight rail service. Although Ballard has submitted several additional letters of potential shipper support since filing its original petitions, none of the letters includes a specific request for service or a firm commitment to use the Line. While the letters, viewed together, express vague support for the idea of freight rail service as a transportation option, they do not provide a level of serious commitment to or demand for rail service. Given the lack of any such commitment in the shipper letters, we are not persuaded that Ballard is a bona fide petitioner.

Ballard Terminal Railroad Company, LLC – Acquisition and Operation Exemption – Woodinville Subdivision, STB Docket No. FD 35731 (served December 30, 2014), slip op. at 7.

Similarly there are no specific commitments for overhead use of the Towner Line, and the demand to use the Towner Line for overhead traffic for other commodities is all speculative. Additionally, V&S is not aware of any feeder line proceedings where a forced sale was required where overhead traffic alone was used to support the application.

2. The Applicants have not demonstrated that transportation has been inadequate for the majority of the shippers who transport traffic over the Line.

The Application does not include any affirmative statements by shippers that they feared service-related retribution in retaliation for criticizing rail service, or that they suffered a pattern of abusive behavior by V&S. Thus, this not like the situation in *Pyco/SAW*, slip op. at 12, in which the majority of shippers on the lines said they viewed SAW's rail service to be inadequate because of poor rail service, retaliatory actions and threatened retaliation. *See also See Oregon International Port of Coos Bay – Feeder Line Application – Coos Bay Line of the Central Oregon & Pacific Railroad, Inc.*, STB Finance Docket No. 35160 ("*Port of Coos Bay/CORP*"), slip op. at 6 (11 of 14 shippers that had used the line in the past 5 years said service has been inadequate). Here there has not been any retaliatory or abusive behavior by V&S. Indeed, even though in 2008 V&S advanced funds for repair of sidetracks and those funds were never repaid, Bartlett continued to request service, and V&S continued to provide it. Thus, there has been no showing that service has been inadequate for shippers that actually transported traffic over the Line.

3. The forced sale of the Line would have a have a significantly adverse financial effect on V&S.

It is true that in the usual case, if the incumbent railroad is paid the constitutional minimum for the rail line, then there will not be an adverse financial impact on the railroad. However, in this instance that is not the case. V&S currently has arrangements with another

carrier for long term storage of railcars on the Western Segment that has been discontinued. Under the storage agreement, V&S is currently earning approximately [] per month, or over [] on an annualized basis. Parsons VS at 3-4. Because the storage contract is not a physical asset, and because it does not represent operating income, it does not appear that the value of the contract or the income would be accounted for in the calculation of the constitutional minimum value, whether it be net liquidation value or going concern value. Loss of this income without compensation would have a significant adverse impact on V&S.

4. Applicants have not demonstrated that the forced sale of the Line is likely to result in improved railroad transportation for shippers that transport traffic over the Line.

Applicants have provided no evidence that rail service will improve if they become the owners of the Line. As discussed above, the biggest complaint of the “potential shippers” is about the rates that V&S set for traffic moving on the Line. Thus, they (and in particular Bartlett, the last actual shipper to request service) will only see “improved service” if the freight rates are reduced.¹⁵ However, as both K&O and the potential shippers have acknowledged in discovery, there has been no discussion of what rates will be charged. Based on K&O’s rates on its own lines, it is not clear that the freight rates, in particular for shipments of [] as K&O proposes to handle will be any less than V&S’s tariff charges that supposedly drove traffic away. The rates that K&O will establish, just like the rates that V&S established, vary by such factors as location, track speed, destination, and traffic density. Looking at K&O’s current tariff (effective June 1, 2016), a copy of which is attached hereto as Exhibit E-1, shows a variety

¹⁵ Bartlett also complained about the number of cars it would have to tender to get a lower rate from V&S. However, it does not appear that it will do any better with K&O. The operating plan is based on trains of [] cars to start (Supplemental Application, Osborn VS at 3), and K&O is apparently also considering [] unit trains for eastbound traffic of wheat from Eads (Bartlett). Exhibit D-4, Story email dated 4/28/16. There is no discussion of single car moves.

of applicable rates for sample moves between 35 and 45 miles (Eads is approximately 38 miles from Towner), ranging from \$425 to \$1025.¹⁶ No multiple-car rates are provided.

K&O suggests that the Line will only be maintained to FRA Class 1 condition which limits freight operations to 10 mph. Story VS at 3. At that speed, a crew would take a full 12 hours to traverse the entire 121.9 mile line – assuming it did not make any stops to serve shippers along the way. On the other hand, beginning with V&S's purchase of the Line at the end of 2005, the Line was maintained to FRA Class 2 condition which allowed for freight service to be provided at 25 mph. Thus, the K&O maintenance plan does not seem to contemplate better or faster service.

Additionally, while K&O suggests that it will run regular train service [] to start (Supplemental Application, Osborn VS at 3), Mr. Story originally indicated that K&O would only be providing service "as needed." Story VS at 3. The [] service is based on each train averaging [] of traffic []. To the extent, as discussed above, these traffic estimates are wildly inflated, service is much more likely to be sporadic and provided only when there is a sufficient volume of traffic to support a train start, *i.e.*, not any different than has been provided by V&S.

This is not like the situation in *Pyco/SAW*, slip op. at 14, where there was evidence that rail service would improve under a new operator because there was an alternative rail service provider appointed, and service had improved under the interim rail service provider. Here the

¹⁶ See, for example, Towner to Leoti, \$425 (39.5 miles); Colwich to Hutchinson, \$767 (35.1 miles); Ellinwood to Hutchinson, \$921 (41.5 miles); Frederick to Hutchinson, \$1025 (43.7 miles).

promised “improved service” is based on fictional traffic volumes, unknown rates and an improbable operating plan.

Applicants clearly have not met their burden of demonstrating that the sale of the Line will be likely to result in improved railroad transportation for only shipper that has transported traffic over the Line.

IV. The Application does not meet all of the Board’s regulatory requirements.

The Board has delegated to the Director of the Office of Proceedings, the initial authority to accept or reject feeder line applications. 49 C.F.R. §1011.7(a)(2)(viii). However, the Director does not address the merits of an application; rather the Director merely determines whether the application contains substantially all of the information required by the feeder line regulations. *See Dr. Daniel R. Fiehrer – Feeder Line Application – Line of BNSF Railway Company between Helena and Great Falls, MT*, STB Finance Docket No. 34947 (served August 27, 2007) (“*Fiehrer/BNSF*”), slip op. at 2; 49 C.F.R. §1151.2(b). *See KJRY/TPW* (served July 9, 2003), slip op. at 6, n.17 (arguments pertaining to the public convenience and necessity, constitutional minimum value, and regulatory standards can be raised in the incumbent’s verified statements and comments). The Board makes the final determinations as to whether the standards for relief have been met. *See* 49 C.F.R. §1151.4. In this proceeding, there are several areas where the Application, even as supplemented, does not satisfy the requirements of the regulations.

A. Financial Responsibility

Under 49 U.S.C. 10907(b)(1)(B), a feeder line applicant must demonstrate that it is “financially responsible.” And to be “a financially responsible person” the feeder line applicant must demonstrate that it can (1) pay the constitutional minimum value of the line, and (2) cover

the expenses of providing adequate transportation over the line for at least 3 years. 49 U.S.C. §10907(a); 49 C.F.R. §1151.3(a)(3).

The Applicants have provided some limited financial information regarding the assets of and cash on hand available to KCVN, and via KCVN, to CPRR. No evidence was presented with regard to any committed or available lines of credit or other loans that would be available for funding the purchase of the Line, or to cover the rehabilitation, operating and maintenance costs to provide service over the first three years. While the Applicants' available cash appear to be sufficient to cover the purchase and the estimated costs for the first three years of service as described in the Application,¹⁷ they are clearly not sufficient to cover the purchase price if the Board were to accept the net liquidation value proposed by V&S. *See* Section V, below.

It is also not clear that in attempting to show that the Applicants are financially responsible, that they have included all of the rehabilitation and startup costs that may be required. The rehabilitation estimate of \$3,500,000, was prepared by Applicants' witness Gerald Fauth (Fauth VS at 7), although it unclear that he is qualified to prepare such an estimate. His credentials indicate that he is an economic expert, but do not indicate that he has any railroad engineering expertise or education that would qualify him determine the rehabilitation that will be required. Fauth VS, Appendix GWF-1.¹⁸ Even assuming the estimate is reasonable, the estimate still needs to be increased to account for replacement of a bridge west of Haswell that was destroyed by fire in June, 2016, after the estimate was calculated by Mr. Fauth. Parsons VS at 4. V&S has solicited bids for replacement of the bridge, and believes the cost will be in the

¹⁷ *See* the criticism of the Applicants' operating plan below.

¹⁸ It is not V&S's burden to establish the rehabilitation and other startup costs, and V&S has not prepared an alternative calculation.

range of \$500,000.¹⁹ Additionally, because Applicants have not yet prepared an environmental report (although the Director noted in the April 15 Decision, at p.3, n.5, that one will be required), the rehabilitation estimates do not include any mitigation costs that might be imposed with respect issues that might be raised in the report. To be financially responsible, the Applicants must demonstrate that they can cover all of the necessary rehabilitation costs to commence operations. *See Pyco/SAW*, slip op. at 32.

The Applicants must also show that they can cover the startup costs of providing service. Those costs may be minimal if K&O is the operator (there is not a signed agreement at this time) as K&O is an operating railroad with employees and equipment. However, the Applicants assert that they can cover the startup costs even if K&O is not the operator. However, they have not provided the Board with any estimates of what the total of those costs might be.

As noted by both the Applicants and K&O, under the draft operating agreement, K&O will be responsible for the rehabilitation costs (approximately \$4,000,000 as adjusted for the bridge), and for 3 years of operating and maintenance costs [redacted]. Supplemental Application, Osborn VS at 3. However, no financial information has been provided with respect to K&O, or its ability to bear these costs. While the Applicants claim that they will be able to cover these costs if K&O does not, the Board should make an independent determination about whether K&O is willing and able to bear these costs.

If the Board finds that the sale of the Line is required under the statute, then the Board will need to reexamine the financial information provided by the Applicants in light of the Board's ultimate determination of net liquidation value, the adjusted rehabilitation costs, and the missing startup costs. If sufficient cash is not clearly available, then there must be a committed

¹⁹ The bids range from [[redacted]] to [[redacted]], plus 12% for engineering and administration. Parsons VS at 4.

source of funds to cover the purchase and expenses for starting and providing service for 3 years. However, the Applicants have merely indicated that they will obtain a loan if necessary, or make cash infusions from unknown sources. Application at 9. The Board has previously found such expressions to be insufficient. *See Fiehrer/BNSF*, slip op. at p.4. *See also, KJRY/TPW* (decision served May 9, 2003), slip op. at 5 (expressions of interest and loan assurances do not constitute a loan commitment). Applicants have not provided information regarding any loan commitments. On reexamination, it will be clear that the information provided in the Application is not sufficient to find that the Applicants are financially responsible. As such, the Application should be dismissed.

B. Operating Plan

The regulations require that the Applicants submit a detailed operating plan, including any contract between the applicant and the proposed operator, that demonstrates that adequate transportation will be provided for at least 3 years. 49 C.F.R. §1151.3(a)(7). The Director in reviewing the Application, suggested that the Applicants needed to provide additional detail with respect to, among other items, their operating plan including operating costs, and maintenance costs. April 15 Decision at 4. Applicants responded by providing some additional information in their Supplemental Application.²⁰ However, V&S does not believe that the Application and Supplemental Application provide the necessary demonstration that adequate transportation will be provided.

Applicants did not attach a copy of the proposed operating agreement with K&O because none has been signed. However, a draft of the agreement was produced in discovery, and a copy

²⁰ The supplemental information was supposedly provided by K&O, the proposed operator. However, K&O did not provide a supplemental verified statement with the information. Rather Applicants provided a supplemental verified statement of William Osborn that merely verifies that K&O provided him with the information.

is attached hereto as Exhibit D-6. The agreement does not confirm that K&O will be responsible for the rehabilitation, indicating that the costs will be allocated between the parties as set forth in an Exhibit B which was not attached to the draft.

With respect to the proposed maintenance plan, V&S notes that the estimated maintenance costs includes only the costs of labor and equipment, and not any costs of any materials. Supplemental Application, at 2. Additionally, V&S notes that the annual maintenance costs of [] equates to only approximately [] per mile for the 121.9 mile line that Applicants and K&O propose to maintain, which appears low even for maintenance in FRA Class 1 condition (or it may indicate that that they are not planning to maintain the entire line).

The information provided by Applicants did not include any estimates of revenue. This is not surprising since K&O has not yet established rates for its service, nor have any shippers committed to use the service. While pro formas are no longer required to be produced as part of the application, Applicants must demonstrate that the costs of providing service – including operating and maintenance costs – will be covered from revenues. Without this information, there is no support for Applicants' claim that the line can be operated profitably for, and provide shippers with, improved service.

The application was dismissed in *Fierher/BNSF*, slip op. at 3, because the applicant did not present evidence that any local shipper would seek service over the line, nor any evidence that the line would make a profit.²¹ The requirement of how many shippers must express support is case-specific, but there must be some evidence of shipper support. *Id.* at 6. While the

²¹ A general letter from a shipper that it might consider using the line if it were reopened, but which does not say how much traffic it would ship, was not considered as evidence that there was revenue that would cover expenses. *Id.* at 4.

Application was accepted on the basis of the supporting verified statements from shippers, and the traffic estimates of K&O, closer examination shows that the shipper support is only general support for rail service without any commitments, and the traffic estimates of K&O are speculative at best. *See* discussion in Section III.B.1 above.

C. Environmental Report

In the Application, the Applicants suggested that they be permitted to wait to prepare an environmental report, citing the May 9, 2003, decision of the Director in *KJRY/TPW*, *supra*. Application at 37-38. However, the decision cited by Applicants to justify their request did not address the environmental report requirement and instead rejected KJRY's application on other grounds. In a later decision in the *KJRY/TPW* proceeding served July 9, 2003, the Director accepted KJRY's supplemental application, subject to "KJRY's compliance with the environmental reporting requirements." *Id.* at 3. With respect to the environmental report, the Director specifically found that thresholds for environmental review must use current traffic figures as a baseline, and KJRY was required to prepare and submit an environmental report. Since there has been no recent traffic handled on the Line, any increase in traffic will exceed the 100% increase in traffic threshold that triggers the requirement of an environmental report. The Director's April 15, 2016 Decision, at p. 3, n.5, in this proceeding noted that the Office of Economic Analysis would coordinate with the Applicants as to what was required. V&S is not aware of what has been discussed or whether Applicants have been the preparation of an environmental report. However, V&S notes that the Board's regulations at 49 C.F.R. §1105.7(a) require that an applicant file its environmental report "with or prior to its application." Accordingly, the Director should not have accepted the application without the environmental report, and the Board should certainly not consider the Application until the report has been

completed, parties have had an opportunity to comment, and any determination on mitigation or other actions has been made.

V. If the Board were to find that the Towner Line should be sold under the feeder line program, the Board must determine the constitutional minimal value.

A. Applicants have the burden of establishing the constitutional minimal value.

Under 49 U.S.C. §10907(b)(1), if the Board finds that a line is required to be sold, then it sets the purchase price in an amount “not less than the constitutional minimum value.” The “constitutional minimum value” is defined in 49 U.S.C. §10907(b)(2) as “the net liquidation value of such line or the going concern value of such line, whichever is greater.” The burden is on the Applicants to establish the purchase price in their case in chief. *KJRY/TPW, supra* (served February 7, 2005), slip op. at 4.

Applicants assert that V&S has not had any operating revenues from the Towner Line since 2012, and that therefor there is no going concern value (“GCV”) for the Line. V&S does not dispute that there have not been any operating revenues, although as discussed above at pp. 7, 14-15, V&S is earning storage revenues from the Line. Even if storage revenues were used to calculate a GCV, V&S believes the GCV would be less than the properly calculated net liquidation value (“NLV”).

As the Board has noted, NLV calculations in feeder line proceedings use similar standards and valuation methodologies to NLV calculations in offer of financial assistance (“OFA”) proceedings in connection with abandonments. *See Port of Coos Bay/CORP* (served October 31, 2008), slip op. at 14 citing *Railroad Ventures, Inc. v. STB*, 299 F.3d 523, 556 (6th Cir. 2002). In these forced sale contexts, the burden of proof as to compensation is on the offeror (here the Applicants). *Trinidad Railway, Inc. – Abandonment Exemption – In Las*

Animas County, CO (served April 17, 2002), slip op. at 4. Since the burden is in the offeror, the Board has made clear how it will compare the compensation proposed by the parties:

Thus, in areas of disagreement, the offeror must present more detailed evidence or analysis or provide more reliable and verifiable documentation than that which is submitted by the carrier. “Absent probative evidence supporting the offeror’s estimates, the rail carrier’s evidence is accepted.”

Id. (citations omitted).

In this proceeding, the Board is being presented with two starkly different calculations of NLV.

Applicants’ NLV	\$ 2,594,551
V&S’s NLV	\$23,931,500

As is set out in the discussion below, and can be seen in a comparison of the NLV of R.L Banks & Associates, Inc. (“RLBA”) submitted herewith as Exhibit F, and the NLV of Gerald Fauth submitted by the Applicants, there are significant differences in how the track and other track materials (“OTM”) were graded (as between relay, reroll and scrap²²), as well as in the market prices applied to different grades of track and OTM. Since the evidence and analysis of the NLV presented by the Applicants is not more detailed, or more reliable and verifiable, than the NLV presented by V&S, the NLV presented by V&S must be accepted.

B. The acquisition price (NLV) suggested by Applicants is not unsupported and should be rejected.

A close review of the Fauth NLV shows that it is not so much on independent calculation and evaluation of NLV; rather it is a critique of a number of previous NLVs, only one of which was submitted in a Board proceeding, and which were performed at various times over the past

²² As has been explained by the Board, “relay rail” is rail that has been used and maybe used again in its present condition. “Reroll” is rail that is one grade better than scrap and can be used for fence posts or rebar. See *KJRY/TPW, supra* (served October 28, 2004), at 12.

almost 20 years for a variety of purposes. Fauth cherry picks from the various valuations to create a combine NLV that suits his purposes (and those of the Applicants) to create as low a value as possible.

There is nothing in Fauth's biographical materials or education that indicate that he has any railroad engineering background or education, or that he is qualified to inspect or evaluate a rail line. While Fauth did make a site visit to the Line, he choose not to hi-rail the Line, instead being satisfied to look at the Line from various crossings along the way. Although he levels various criticisms of the inventory of sizes and weights of track and OTM as found in two recent RLBA NLVs (2014 and 2015), he ultimately accepts their evaluation of the inventory. *See, for example*, Fuath VS at 16, 26 and 35.²³

Fauth, despite not having done a proper inspection of the entire Line, or being qualified to do so, then determines the quality of the rail and OTM. He does this primarily from an anecdotal perspective, and from select findings in the older NLVs. He notes that the rail is "old" and worn (although he provides no wear measurements) that on the Western Segment some spikes were removed damaging the rail. Finally, he determines that much of the rail and OTM should be treated as "scrap" because of his claim that there is no market for any track other than the 136 pound CWR. *See* Fauth VS at 29.²⁴

The age of rail is not material to evaluating the quality of the rail which is dependent on the remaining useful life. Moreover, the claims that the rail is in bad shape, and that the removal

²³ RLBA performed a third independent inspection of the Line for the purposes of the NLV submitted herewith. While there were slight differences from the previous RLBA inventory, they are not significant. RLBA has used the current inventory for the purposes of the NLV presented herewith.

²⁴ The problems with the Fauth methodology and evaluation are set forth in much greater detail in the RLBA VS attached as Exhibit F.

of spikes has made the welded rail less usable or marketable, are belied by statements Fauth makes elsewhere (in calculating the rehabilitation costs) that most of the rail is in fairly good condition (Fauth VS at 19), and that only a relatively small amount of track is needed for the rehabilitation. Moreover, the storage cars were all moved onto the Western Segment without incident, and RLBA's hi-rail of the entire line was made without a problem.

Additionally, Fauth says much of the material should be treated as scrap not because of its condition, but because of his contention that there is no market for the materials. In saying so, Fauth shows that he is not familiar with the market place for secondary rail materials. While Fauth focuses on possible purchase by Class I railroads, he ignores the true market which is comprised by short lines, contractors and industrial users. As explained in the RLBA VS, and supported by the verified statement of Rhonda Nicoloff, the President of A&K Railroad Materials, Inc. ("A&K") (attached hereto as Exhibit C), there is in fact a strong market for the types of materials found on the Towner Line.²⁵ As described more fully below, A&K/V&S had entered into a contract to sell much of the rail and material on the Western Segment to a short line railroad. The inventory being sold was all considered by the parties to be of relay quality. Although the sale was temporarily enjoined by the Board despite the Western Segment being discontinued, the agreement still is convincing evidence of the relay quality of the rail, and of the market price for the rail. *See Pyco Industries, Inc. – Feeder Line Application, Lines of South Plains Switching, Ltd.*, STB finance Docket No. 34890 ("Pyco/SAW") (served August 31, 2007), slip op. at 17 ("A signed sales contract ... can be convincing evidence of the fair market value of

²⁵ While A&K is shares common ownership with V&S, as one of the largest dealers in the United States of new and used rail and OTM, its information on the market and on current market pricing, are entitled to substantial weight.

a rail line or segment.”) As such, there is no justification for Fauth’s downgrading of the valuation of the inventory based on a lack of market.

Fauth’s pricing for inventory other than scrap is also suspect. Instead of seeking out market prices from dealers in the secondary market, he attempted to extrapolate prices based on changes in scrap prices. However, this approach ignores that the market prices for relay rail and materials do not follow scrap prices. Rather, they are independent prices established by demand. V&S is not aware the Board ever adopting the Fauth approach to determine the price of relay track and OTM in an OFA or feeder line proceeding. On the other hand, RLBA obtained substantial detailed information from A&K, a major player in the market, including historic and current price lists, and sales data to confirm actual selling prices. Additionally, RLBA was able to obtain some additional pricing information from other secondary dealers that was used as a check on the prices derived from the A&K material. Finally, RLBA used the actual confirmed sales contract referenced above to inform the pricing of the covered materials.

In *Trinidad, supra*, at 5, the STB rejected the offeror’s valuation where it used the same quantities as an appraisal conducted on behalf of the railroad, and simply modified the valuations and reduced the unit prices to arrive at a lower NLV, without an actual inspection or any detailed justifications. *See also KJRY/TPW* (served October 28, 2004) p. 14 (the Board accepted in large part the incumbent carrier’s calculations which utilized “current track charts, recent price quotes and a physical inspection of the [l]ine” in contrast to the offeror’s valuation which was “based on older data, averages and estimates”). Similarly, the Board should reject the Fauth NLV as being based on arbitrary and unjustified reductions in quality, and unsupported pricing.

C. The Board should accept the alternative RLBA acquisition price (NLV) set forth herein.

The RLBA NLV is based on the hi-rail inspection of a qualified engineer with railroad experience. As noted above, Fauth ultimately accepts the inventory of rail and materials based on the 2014 RLBA inspection based on the hi-rail inspection of a different qualified engineer with railroad experience. While the current inventory is slightly different than the 2014 inspection (comparisons of the two inventories is included in the RLBA VS), there is no real dispute that RLBA has properly inventoried the rail and materials, not only once but twice, with the same results.

With respect to the quality of the materials, it is also clear that the evaluations done independently by RLBA's two engineers with substantial rail experience, based on hi-rail inspections of the entire Line, are entitled to substantially more weight than the evaluation done by the Applicants' economist who only inspected pieces of the Line from crossings and selective adjustments made based on out-of-date valuations largely prepared for purposes outside of Board proceedings. Again the two evaluations are compared in the RLBA VS), and came to very similar conclusions about the quality of the track and OTM on the Line.

With respect to market prices for relay rail and materials, RLBA's actual market prices (list prices as well as sales data) obtained from one of the secondary market's largest dealers, A&K, are more credible than Fauth's unsupported economic projections.

Additionally, the RLBA VS in great detail looks at Fauth's use of old, out-dated NLV reports prepared for a variety of reasons, and explains the errors in relying on such reports. And RLBA also points out the errors in Fauth's pricing methodology.

Based on the foregoing, and as set out in great detail in the RLBA VS, the grading of the materials and the market prices in the RLBA NLV, based on a recent hi-rail of the entire Line by

qualified inspectors, and on current market prices from a dealer in the secondary market, is clearly more detailed, more reliable and more verifiable, than anything presented in the Fauth VS, and should be accepted by the Board in its entirety.

VI. Repurchase rights

If the Board determines that V&S must sell the Line to the Applicants, V&S will automatically obtain a right of first refusal to repurchase the Line if it were to be offered for sale in the future. 49 U.S.C. §10907(h). Under the statutory repurchase right, V&S would have the right to repurchase the Line for the same price, plus adjustments for improvements made to the Line by the Applicants. However, the statute does not contemplate that the Applicants or K&O can remove or replace any of the Line with materials of lesser weight or quality. V&S requests that the Board include in any order requiring the sale of the Line, a condition that prohibits the purchaser from removing any of the rail or materials unless they are replaced with rail or materials of the same or greater weight and quality. *See Trinidad, supra*, at 3 (imposing a condition on an OFA purchaser that the heavier track in the line be retained).

VII. Conclusion

For all of the foregoing reasons, the Board should find that the Applicants have not satisfied the requirements of a forced sale under the feeder line requirements of 49 USC § 10907 and 49 CFR Part 1151, and the Application should be dismissed or denied.

In the event the Board were to find that the Towner Line should be sold, it should reject the unsupported NLV suggested by the Applicants, and should adopt the NLV of \$23,931,500 as calculated by RLBA. Further, any order requiring the sale of the Towner Line should include a condition limiting the purchaser's right to remove any track or materials unless replaced with rail or materials of the same or greater weight and quality.

Respectfully submitted,



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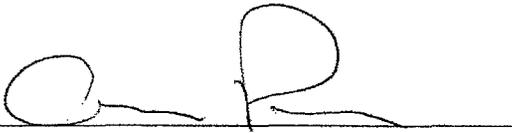
Attorneys for V&S Railway, LLC

Dated: August 30, 2016

VERIFICATION

I, Aaron Parsons, Assistant Vice President of V and S Railway, LLC, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on August 29, 2016.


Aaron Parsons

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of August, 2016, I served a copy of the confidential and public versions of the foregoing document by email on the following:

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and copies of the public version of the foregoing document by US mail, postage prepaid on the following persons shown as parties of record by the Board:

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By: _____



Eric M. Hocky

EXHIBIT "A"

Before the

SURFACE TRANSPORTATION BOARD

Docket No. FD 36005

**KCVN, LLC AND COLORADO PACIFIC RAILROAD, LLC
- FEEDER LINE APPLICATION -
IN CROWLEY, PUEBLO, OTERO AND KIOWA COUNTIES, CO**

COMMENTS OF V AND S RAILWAY, LLC

VERIFIED STATEMENT OF

AARON PARSONS

VERIFIED STATEMENT OF

AARON PARSONS

My name is Aaron Parsons. I am the Assistant Vice President of V and S Railway, LLC (“V&S”). I have held this position since May of 2007. I have personal knowledge of the information set forth in this Verified Statement.

To establish my credentials, I am a graduate from the University of Utah, in Economics. In addition to completing several discipline specific courses at the National Academy of Railroad Sciences, I have also graduated from the Executive Railroad Management program at Michigan State University, in East Lansing, Michigan. Throughout the years of my employment with the subsidiary railroads of A&K Railroad Materials, I have come to acquire a quite thorough working knowledge base of nearly all aspects involved in the operations, and management, of railroads. This experience has included the conception, development, and establishment of new railroads, from scratch, in Mississippi (the Grenada Railway, and Natchez Railway).

V&S. V&S was formed in 2000. It currently owns four different unconnected rail lines – the Towner Line in Colorado which is the subject of this proceeding, and the Medicine Lodge line and the Hutchinson line, both of which are located in Kansas, and the Missouri Pacific Railway in Beaufort Missouri, which is operated by Central Midland Railroad Company. The Kansas lines are actively providing service, and together handled over 1,015 carloads in 2015. The status of service on the Towner Line is discussed more fully below.

Current Status of Service on the Towner Line.

The Towner Line was acquired from the State of Colorado in December of 2005. The purchase price was paid off in 2010. Between 2006 and 2012, V&S invested over \$474,000 in

capital improvements to the Line. Since V&S has owned and operated the Line, the only traffic that has been generated has been grain. From the date of our purchase, the only traffic was the eastbound grain traffic from Haswell (Temple, now Bartlett) and Eads (Bartlett). Since the Line has been owned by V&S it has never had requests to move freight traffic west from on-line points, or to provide overhead freight movements over the whole Line.

Grain traffic was somewhat sporadic during the years 2008 - 2010 (156, 295, and 511 respectively), and V&S was losing money on the Towner Line. To address the issue, V&S adopted a new tariff in June 2011 which provided for increased higher single car rates, but tiered rates based on the number of cars tendered at a time. Rates for 49 or more cars were similar to the rates that had been in effect under the previous tariff. Bartlett Grain shipped 27 cars in 2011 (under our old tariff), and 51 cars in 2012 (under the new tariff). In 2012, Bartlett Grain asked for lower rates for lesser numbers of cars, but would not commit to tender any volume of cars, at a time, or in total, and V&S did not agree to lower the tariff rates. The tariff rates have remained at the June 2011 level. Bartlett Grain has not requested service since 2012.

V&S provided service to Bartlett Grain and to other shippers on the Line whenever it was requested. In 2008, in order to be able to provide requested service from Bartlett Grain, V&S arranged for and paid at its sole expense for repairs to the sidetracks at Bartlett Grain's Eads grain elevator that Bartlett Grain leases from V&S. Although the track lease made the repairs the responsibility of Bartlett Grain, it never reimbursed V&S for the cost of the repairs.

In 2014 V&S sought and obtained discontinuance authority over the Western Segment as there had been no service to any local customer for well over 7 years. In October 2015, V&S was presented with an opportunity to lease tracks on the Western Segment to BNSF Railway

Company for the storage of empty cars. The storage track leases are currently generating [[] per month, or [[] on an annual basis.

The Eastern Segment remained open and available for service although as noted above there have been no requests for service from on-line shippers since 2012. In June, 2016, there was a fire that burned V&S's railroad bridge just west of Haswell. See photo attached hereto as Exhibit 1. The police report of the fire indicates that it was likely started as a result of a control burn being done by the State of Colorado Department of Transportation ("CDOT"). As a result of the fire, V&S's locomotive which has been stored west of Haswell, became isolated from the Eastern Segment, and V&S imposed an embargo on the Eastern Segment. V&S retained C&C Railroad Consultants to solicit bids for the replacement of the bridge. Copies of the bids are attached hereto as Exhibit 2. The bids range from [[] to [[] for replacement; C&C would charge an additional 12% for engineering and administration. V&S has also been preparing to file a claim with CDOT for the cost of replacement of the bridge.

In August, KCVN sent an email to me asking if V&S could handle a movement of wheat westbound from Towner to NA Junction. The email lacked the details required of a "reasonable request" in that it was not for a specific number of cars, there was no origin or destination for the traffic, and there was no indication that there were arrangements with the connecting railroads that would need to handle the cars before and after V&S. Given that KCVN knew that the move was impossible due to the bridge fire, which was reported on by several news sources, and service over the Western Segment had been discontinued, the request was clearly made for an improper purpose. However, V&S responded to KCVN's email. The exchange of correspondence is attached hereto as Exhibit 3.

2015 Inspection of the Towner Line. In September, 2015, KCVN and Gerald Fauth requested permission for Mr. Fauth to inspect the Line. V&S indicated that Mr. Fauth would need to sign a standard right of entry form, and he was offered a V&S hi-rail vehicle and escort (for compensation) for the inspection. Mr. Fauth returned the signed right of entry form but said that he would not need the hi-rail vehicle and escort.

Responses to Verified Statements filed in Support of the Feeder Line Application.

I have reviewed the verified statements filed in support of the KCVN Feeder Line Application, and have the following comments to the allegations contained therein:

The 2011 Rate Increase

As the witnesses acknowledge V&S did not increase rates until 2011. As noted above, that increase followed five years of operating losses, meaning that V&S was essentially subsidizing the shippers. Even at the lower prices under the prior tariff, the grain traffic was not growing, and in fact was sporadic. We suspect that this is due to the short distance in which this freight is moved (less than 500 miles, which is generally considered by the industry to be the distance of freight travel where rail enjoys a price advantage over trucks). Pricing was adjusted so that volumes were incentivized, and also so that the V&S subsidy to its shippers (V&S's losses) would be less severe. In setting the new prices, V&S took into account that almost all of the grain traffic on the Towner Line (and in the region) historically moves during two or three weeks in early July at the time of harvest, and again for a few weeks in October. The rest of the year, there has been little to no potential for revenue other than storage of unused railcars.

Darrell L. Hanavan, Colorado Wheat Administrative Council

Mr. Hanavan and his organization is not a shipper. Although Mr. Hanavan speaks about the great potential for a new wheat product, no evidence has been provided about how much is

actually being grown, and in particular how much is in the gathering area of Towner Line elevators. Until October 28, 2014 (9 years after the V&S began operations) nobody in our organization had been contacted regarding development, of any kind, that would impact rail traffic in a material way. There have been no actual requests to V&S to move this new product.

Mr. Hanavan complains about a price quote of \$8,000/car that he claims was given to Cargill around 2010 for shipment from Brandon, Colorado. V&S has no record of the referenced request from Cargill or of the price quote. Mr. Hanavan provides no written proof of the rate quote of \$8,000/car, or the circumstances of how many cars were to be moved, whether repairs to the siding were required, or whether the rate applied only to the Towner Line or included the movement on connecting railroads to a specific destination. Moreover, the rate is wildly inconsistent with the tariff rate that would have been applicable at the time.

Mr. Hanavan complains about the current tariff single car rate of \$3,000/car, without acknowledging that the tariff also offers tiered rates by volume (as is common in railroad wheat tariffs), or that shippers with elevators almost never ship one car at a time. Similarly, Mr. Hanavan compares the V&S single car charge with BNSF and UP rates to the Gulf, mentioning but not emphasizing that the BNSF and UP rates are “shuttle train” rates that only apply to trains of between 92 and 120 cars, depending on the rates cited. As recognized in V&S’s tariff rates, with longer trains rates can be significantly lower.

Joe Griffith, Bartlett Grain

Between 2006 and 2012 when it stopping shipping by rail on the Towner Line, Bartlett Grain was the only active shipper on the Line. Bartlett Grain mostly complains about the “single car rate” although he acknowledges that usually they usually ship between 10 and 50 cars at a time. They ignore the economics of moving a single car for the only customer on the Line – it

takes nearly the same mobilization, inspection, repair, crew and locomotive costs to move one car as it does to move multiple cars at a time. The single car rate is designed to cover most of those costs. Multiple car rates reflect spreading these costs over the number of cars in the train. Mr. Griffin does not mention that the rates are substantially reduced as car numbers are increased. As an example, the per car price is dropped by a third by ordering 5 cars and more than two thirds at 15 cars. This structure was put in place to incentivize more rail freight as the rate to move seven cars was less than that of four cars, and fifteen cars could be ordered at a price less than eight cars. Rates to move 30 cars or more (historically, this is a very realistic number of cars to order at one time) are very near the previous tariff rate at which V&S had been operating at a loss over the previous five years. Given the short shipping season, if Bartlett Grain were to ship even the levels that it did in 2009 or 2010, it should not have had any problem meeting one of the two tiers with the lowest per car rates. The volume discount highlights the fact that the V&S desired growth in rail freight by rewarding the use of volume.

As Bartlett Grain is aware, despite the terms of the Tariff, contracts can be negotiated based on volume, and service commitments. However, Bartlett Grain was not willing to commit to any particular car volumes, at a time or even per shipping season.

Also not mentioned in Mr. Griffith's statement is that leading up to 2008 Bartlett Grain had allowed their siding, which they were contractually obligated to maintain, to fall into such disrepair that it created a safety hazard for V&S and Bartlett's employees. When the V&S requested that they repair the siding, Bartlett Grain refused. V&S, in an effort to not disrupt shipments, paid a third party in excess of \$10,000.00 to have the siding repaired, which was never repaid to V&S. Again, the V&S was demonstrating a good faith effort to supply freight service to its customers.

Bartlett Grain does not and cannot complain that V&S ever failed to provide service when Bartlett Grain requested it.

Dusty Tallman, Tallman Farms

V&S believes that Mr. Tallman may have a siding that is served by the Towner Line. However, he does not have an elevator, and per his verified statement he is not set up for multiple car loading despite producing 300,000 to 750,000 bushels of grain. As such he complains about the current single car rate. However, Mr. Tallman never requested service from V&S in any of the five years before the tariff rate increase. And the last time Mr. Tallman directly used rail service seems to have been when UP was operating the line (i.e., before 1998 when the line was purchased by the State of Colorado.) It is clearly not the rail rates that have caused Mr. Tallman to elect to ship by truck and not to use his limited direct access to the Line.

Linly Stum, Thunderbird L&L

Although Mr. Stum and Thunderbird L&L are located in Towner, they are not located on the Towner Line. Rather they are located in on tracks that are beyond the Towner Line and that are served by K&O. They are not and have never been a customer of V&S (nor do they claim to be). Rather, they, like Mr. Hanavan, talk vaguely about the potential need of new varieties of wheat to move westbound over the Towner Line. They do not say that they are buying the new types of wheat, in what quantities it is being produced, or where it is being shipped. They have never requested rates or service westbound over V&S, nor do they commit to do so.

Shelby Britten

He is not directly served by the Towner Line, and therefore cannot commit to move any particular amounts by rail. Nor can he complain directly about any refusal of V&S to provide service, or even about the tariff rates. He apparently sells at least some of his grain to Bartlett

Grain, although we do not know at what location. He does not say how much of his grain has moved by rail in the past, and indeed he may not know since it is up to the elevator when and how to ship the grain after they buy it. As with all farmers not directly served by rail, he will move his grain to the elevator or customer that offers the highest price (net of his cost of trucking). The rail rates will not directly impact his decision, as he is not paying the railroad.

Overall, none of the witnesses provide any commitment to ship any particular amounts on the Towner Line, or make any allegation that V&S could not handle traffic were it tendered. Moreover, the potential westward movements of new varieties of wheat are purely speculative as the witnesses give no actual data of how much of these new varieties are actually being grown in the catchment area of the Towner Line, and how much would actually move westward. The facts remain that (1) the last customer on the Towner Line is located 38 miles from Towner, and is not willing to make any commitments to ship any amount of grain by rail, and (2) there has never been any overhead westbound moves requested or made since V&S has owned the Line, and any such moves are purely speculation.

VERIFICATION

I, Aaron Parsons, Assistant Vice President of V and S Railway, LLC, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on August 29, 2016.



Aaron Parsons

EXHIBIT 1



EXHIBIT 2

EXHIBIT 3

EXHIBIT "B"

Before the

SURFACE TRANSPORTATION BOARD

Docket No. FD 36005

KCVN, LLC AND COLORADO PACIFIC RAILROAD, LLC

- FEEDER LINE APPLICATION -

IN CROWLEY, PUEBLO, OTERO AND KIOWA COUNTIES, CO

Verified Statement

Of

John J. Hoegemeier, PhD.

Principal

SD Freight Rail Consulting LLC

On Behalf Of

V and S Railway, LLC

My name is John J. Hoegemeier and I am the Principal of SD Freight Rail Consulting LLC. I am an economist, and my firm specializes in economic studies, freight flow analysis, cost benefit assessments, feasibility studies and rail carload costing. My clients have included Class 1 and short line railroads, transloaders, shippers, and government agencies. My more recent work has specialized in agricultural and petroleum transportation supply chain issues.

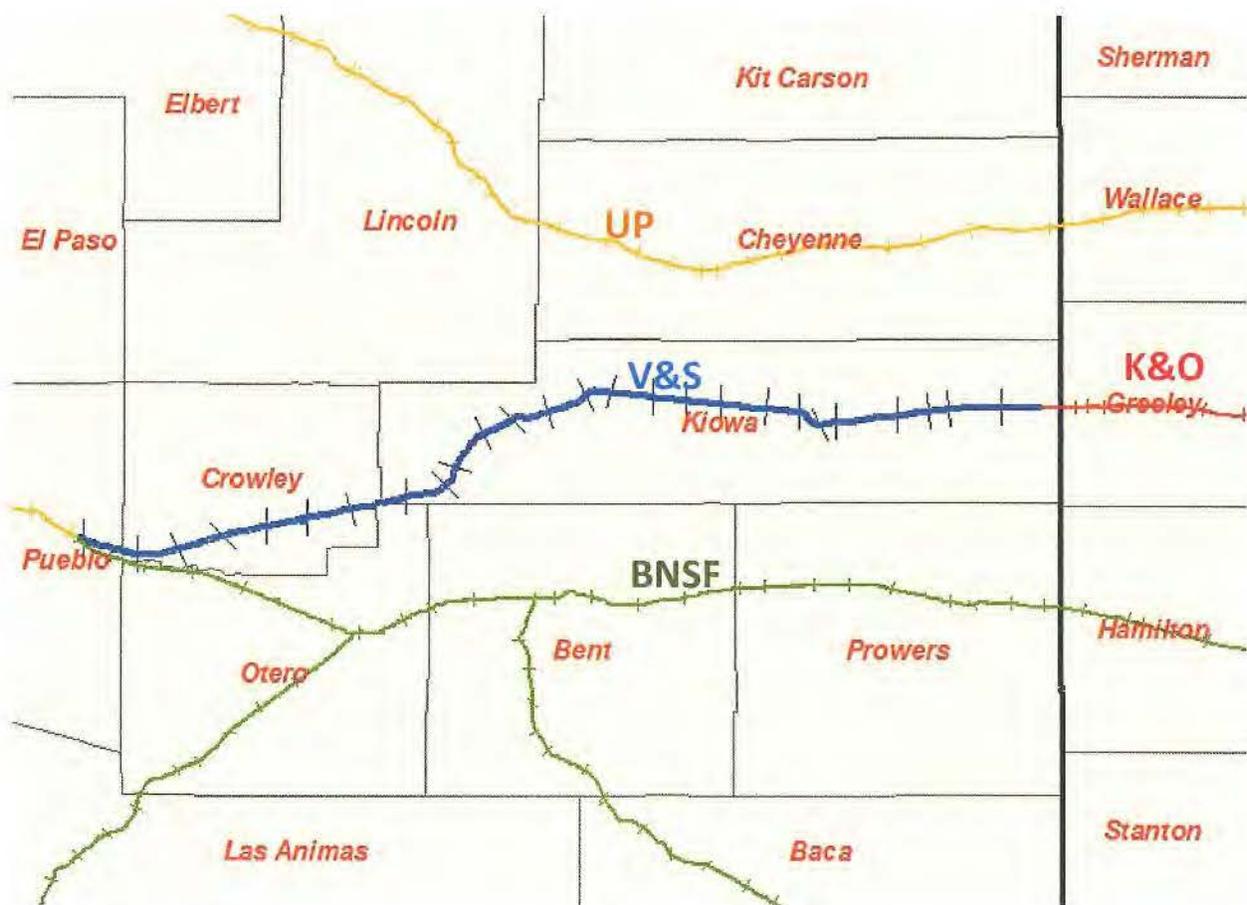
I have been asked by V and S Railway, LLC (“V&S” or “V&S Railway”) to review and evaluate the likely volume of grain which could potentially be moved on the V&S Railway Towner Line. A review of public data was conducted to determine the annual wheat harvests by County, then the average harvest volumes were allocated to elevators based upon farm transportation costs. All of the sources are shown in the Appendix to this Verified Statement (“VS”). The located elevator grain volumes would determine the estimated annual maximum rail volume for elevators on the Towner Line.

A copy of my credentials is included at the end of this VS.

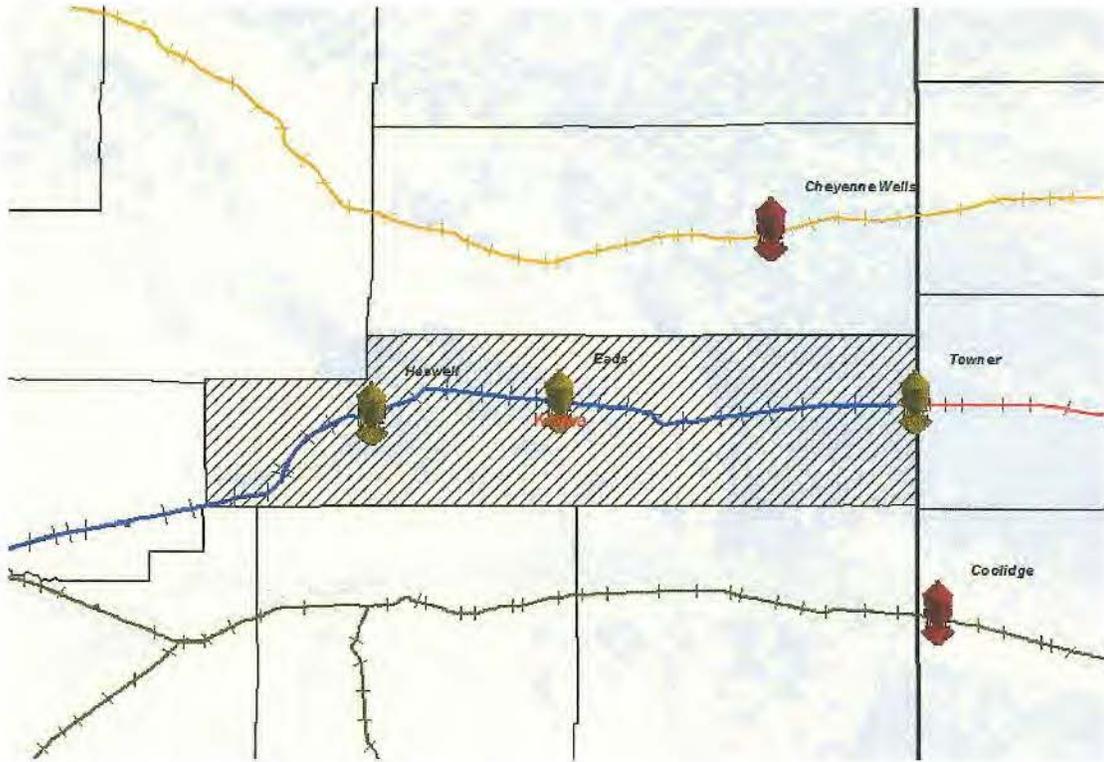
The Towner Line is located in east central Colorado. The Line extends 122 miles from Towner at the eastern end near the Kansas/Colorado border westwards to NA Jet near Pueblo CO.

Southeastern Colorado is a major producer of hard red winter wheat (HRW). The grain volume which was investigated for movement on the Towner Line was the HRW grain.

Additional rail competition for grain shipments is provided by BNSF which has a mainline 30 miles to the south of the Towner Line and Union Pacific Railroad which has a line approximately 30 miles to the north. The V&S Towner line interchanges with the K&O Railroad at Towner. K&O operates in Kansas from Towner east. The rail lines in the region are shown on the map below:



These railroads and the elevators located on them provide competition to any grain rail movements on the Towner Line and effectively limit the Towner Line draw area to Kiowa County. The draw area for Kiowa County is shown below:



The light blue shaded areas in the map indicate areas of wheat harvest acres.

Harvest data for Kiowa County were gathered from the annual USDA Colorado Ag Bulletin. The most recent data was for 2014, and a ten year period of harvests was reviewed. The harvest volumes are shown in the table below:

County	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Kiowa	3,380,000	3,433,000	9,541,000	0	6,499,000	8,047,000	4,402,000	3,680,000	294,000	3,665,000

The average annual harvest for this ten year period (excluding 2008) was 4,771,222 bushels. There is a wide variation, and in 2008 and 2013, the harvest was almost non-existent. Each 263,000lb grain hopper can move approximately 3,300 bushels of grain. This is equivalent to 1,446 rail cars per year for Kiowa County. This assumes all of the grain would move out by rail, although that is likely not the case.

There are multiple elevators located in the region which contains the Towner Line.

Grain elevators are separated into five categories based upon outbound rail service:

Non-rail served

Single car – 1 to 25 railcars

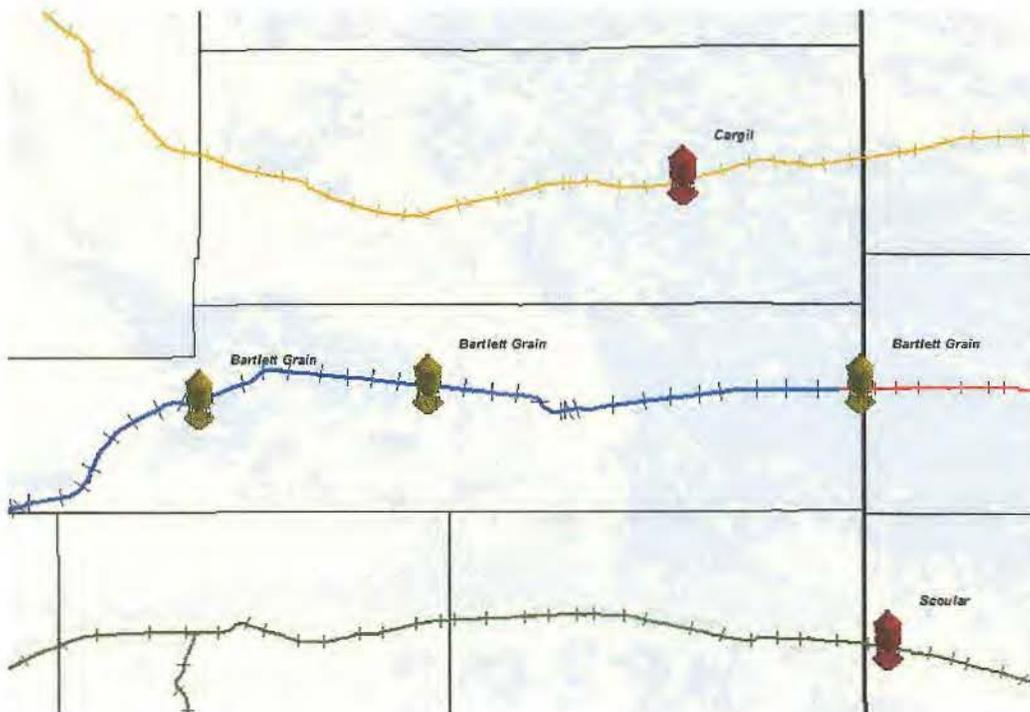
Multi car – 25 to 52 railcars

Unit train – 52 to 100 or more railcars

Shuttle – 100 or more railcars with a shuttle designation

Railroads typically provide tariff rates per carload based upon the number of cars moved in a shipment and the facility type. A shuttle facility is given the lowest rate, while the single car facility would have the highest rate.

The Towner Line has two rail served elevators which moved grain on the V&S Railway over the last 10 years; Bartlett Grain at Eads CO and Bartlett Grain (formerly Temple Grain) at Haswell CO. The Haswell facility is single car and operated during the peak harvest season. However the Eads elevator is year round and has sufficient track that if upgraded could be at least a multi-car facility.



There are two major shuttle facilities located near the Towner Line rail served elevators; the Cargill elevator at Cheyenne Wells CO on the UP, and the Scouler Grain elevator at Coolidge KS on the BNSF. Both of these elevators offer competition for eastern Kiowa County grain.

Bartlett Grain has a single car elevator located at Towner CO which is served by the K&O. This elevator offers competition for grain in the immediate vicinity of Towner.

An elevator operator purchases grain based upon spot bids or contracts. The majority of the grain moved in Colorado is purchased under a spot bid. An elevator operator has costs associated with storage and transportation. Large facilities such as shuttles are more efficient and have lower storage and transportation costs. This allows them to be more competitive in attracting grain from regional farms by offering a higher price per bushel than smaller facilities.

Elevators with lower costs, and subsequent higher bid and grain purchase prices will have a greater draw radius than other elevators. This is because the higher purchase price balances the increased transportation cost of the longer truck distance to the elevator.

Currently the Towner Line elevators do not use rail service. The current bid price at the Towner Line elevators could likely be reduced due to the incorporation of truck costs from the elevator to another rail served terminal (as compared to using a rail transportation rate from the elevator). I estimate the differential using an estimated rail rate at both elevators less the truck move by 5 axle truck to Towner was \$0.02 for Eads and \$0.04 for Haswell.

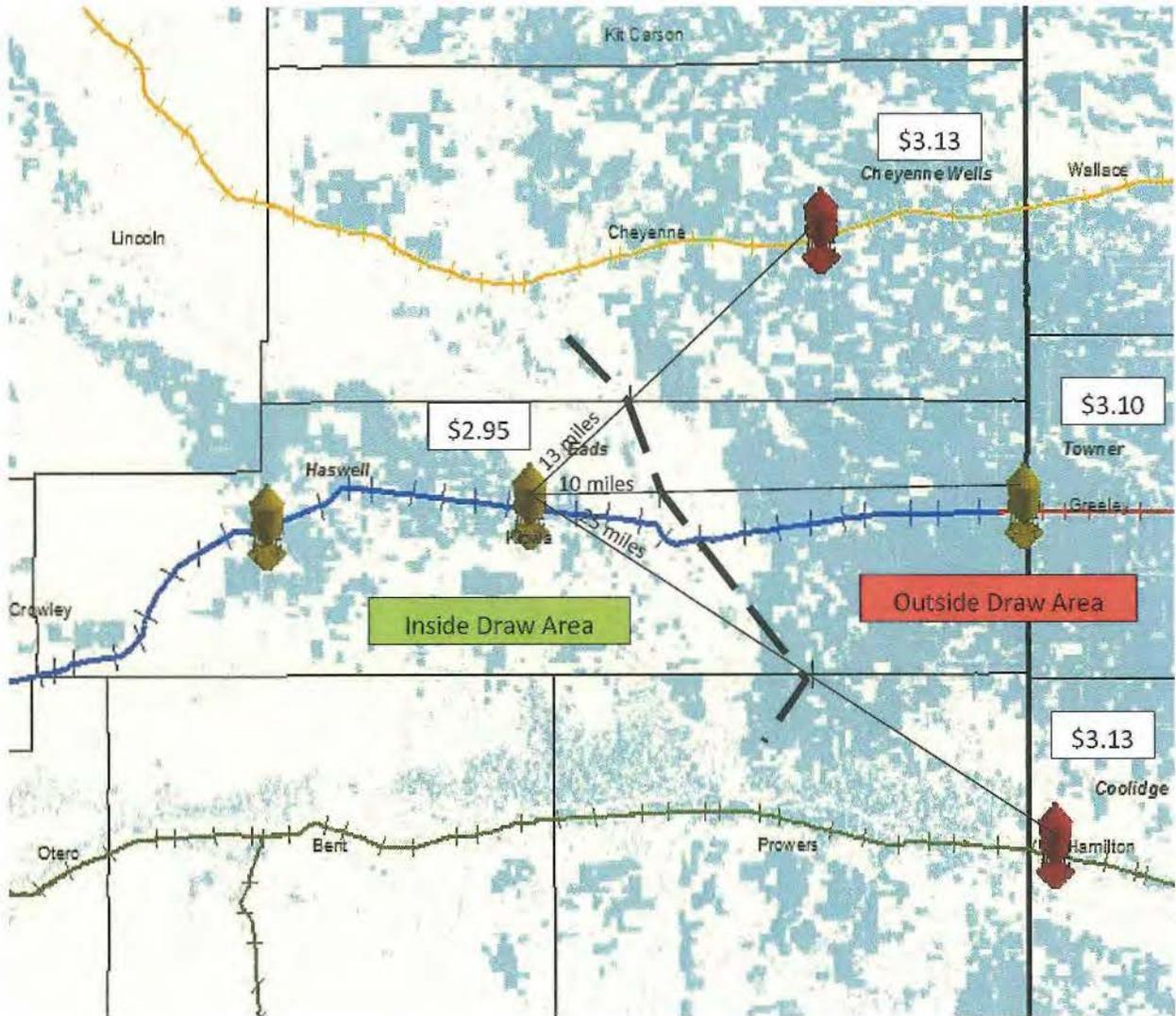
The larger radius of the shuttle elevators along with the location of other single car elevators limit the ability of Towner Line elevators to attract grain from farmers in eastern Kiowa County. Therefore the estimated grain draw for the Towner Line rail served elevators will be less than the total Kiowa County harvest.

Calculating the draw radius is a function of comparing the total price received from two elevators at a given point (a farm). This net price would be the bid price paid less the truck transportation costs from the farm.

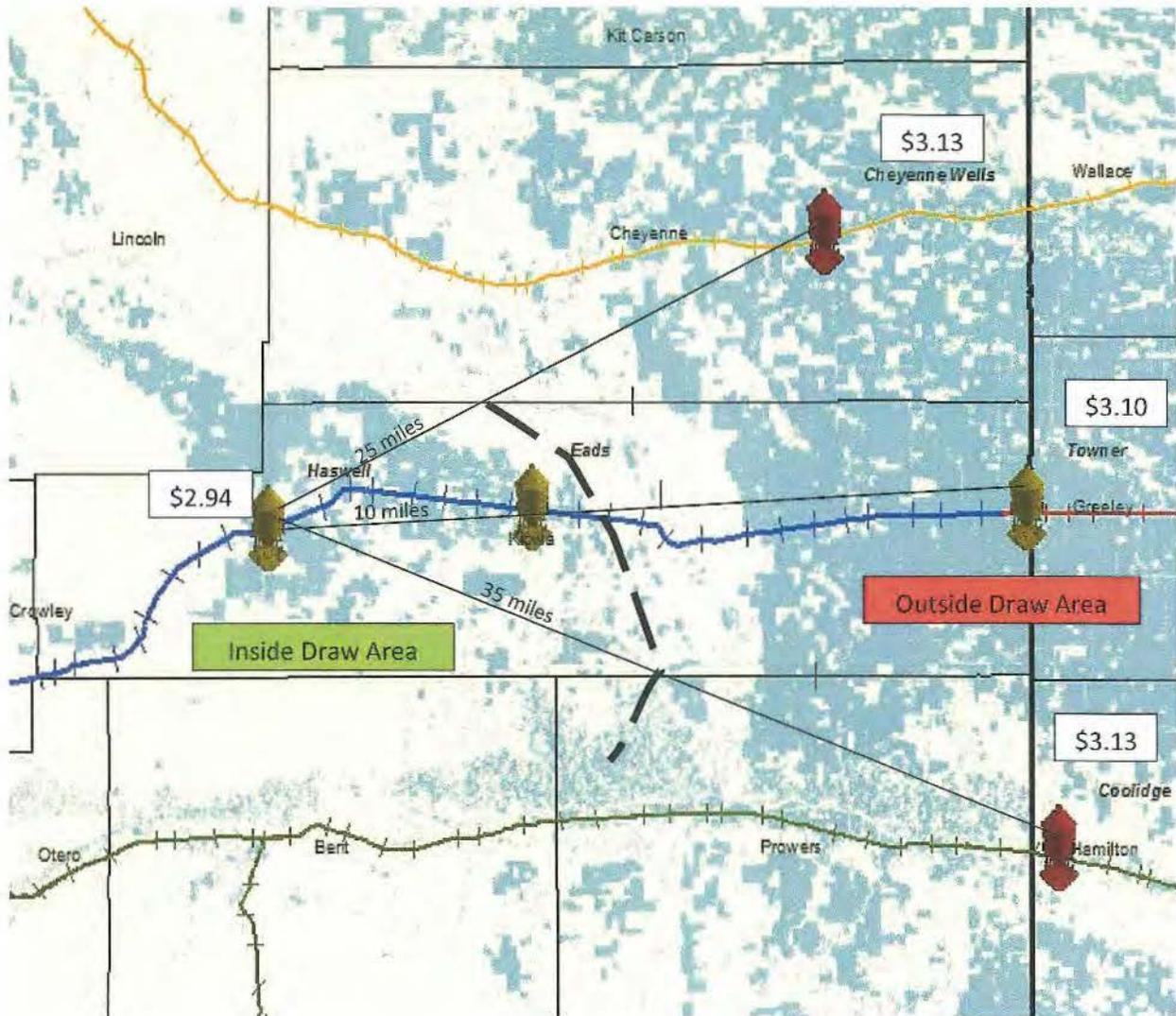
Bid prices were gathered from on line websites of Bartlett Grain, Cargill, and Scoular for the first two weeks of July at the beginning of the harvest season.

Using the calculated draw radius for the Eads and Towner elevators as a reference, the draw areas for these two elevators becomes the western portion of Kiowa County which is shown on the maps below.

Eads Draw Area



Haswell Draw Area



Since the entire Haswell draw area is contained within the Eads draw area, the Eads draw area is the section where the harvested grain could be moved by Towner Line rail served elevators. This area is equivalent to approximately 30% of the grain harvest area within Kiowa County. This effectively limits the maximum rail grain volume for the Towner Line to this amount.

The resulting 30% of the harvest would be equal to **1,431,267** bushels, or **438** carloads, of grain per year from both of the Towner Line elevators. This volume equates to only 7.2 annual carloads per mile between Haswell and Towner.

In conclusion, the harvest volumes for Kiowa County are approximately 4.8 million bushels per year. This limits the county rail grain moves to no more than an average of 1,500 carloads per year.

The competitive impacts of other grain elevators in close proximity to the Towner Line as exhibited by current bid prices further limits the draw area of Towner Line elevators to about 30% of the Kiowa County harvest area, or no more than 450 average annual carloads.

VERIFICATION

I, John J. Hoegemeier, PhD., Principal of SD Freight Rail Consulting, LLC, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on August 29, 2016.

John J. Hoegemeier, PhD.

APPENDIXX – Sources

Reports and Studies

Kansas Department of Agriculture, *Custom Rates 2013*, Topeka KS, 2014 US Department of Agriculture, *Grain Truck and Ocean Rate Advisory, 1st Qtr 2016*; Washington DC, 2016 US Department of Agriculture, National Agriculture Statistics Service; *Colorado Agriculture Statistics 2015*; Washington DC, July 2015. Also years 2006 through 2014

Regulatory Documents

Surface Transportation Board., *Finance Docket No. 32760; UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY, AND MISSOURI PACIFIC RAILROAD COMPANY – CONTROL AND MERGER- SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY COMPANY, SPCSP CORP., AND THE DENVER AND RIO GRAND WESTERN RAILROAD COMPANY. Decision No. 44*; Washington DC, August, 1996

Surface Transportation Board., *Finance Docket No. 35664; V&S RAILWAY, LLC, -ACQUISITION AND OPERATION EXEMPTION—COLORADO DEPARTMENT OF TRANSPORTATION, V&S filing*; Washington DC, August 2012

Data Sources

Surface Transportation Board, *2014 Surface Transportation Board Public Use Carload Waybill Sample*; Washington DC, 2015. Also years 2005 through 2013.

US Department of Agriculture, *2012 Agricultural Census*, Washington, DC; 2014

Bartlett Grain Eads Bid Prices: <https://www.bartlettandco.com/bartlett-grain-company/facilities/facility/14/eads>

Cargill Bid Prices: <http://www.cargillag.com/local-bids.html?location=22914>

Scoular Kansas Bid Prices: <http://www.scoularkansas.com/coolidge>

Geographic Spatial Data Sources

US Department of Agriculture, National Agriculture Statistics Service; *CropScape, Cropland Data Layer 2015*; Washington DC, 2015

US Department of Transportation; *National Transportation Atlas Databases 2015*; Washington DC; 2015

SD Freight Rail Consulting

John J. Hoegemeier, PhD.
Principal, SD Freight Rail Consulting, LLC
San Diego, CA/San Antonio, TX
www.sdfreightrail.com

BS Chemical Engineering – Illinois Institute of Technology
MBA – Cal State Long Beach
PhD Transportation Economics – UC Irvine

General Background

Areas of expertise and experience include economic assessment and cost-benefit analysis. Key areas of expertise and experience include the following:

- transportation costing analysis
- freight capacity studies
- railroad capacity and operations analysis
- petroleum industry supply chain analysis
- agricultural distribution and transportation analysis
- risk analysis for freight operations
- land use planning issues related to rail transportation
- community impacts from transportation projects and environmental assessment

Public sector clients include Port agencies and MPOs.

Current private clients include firms in the automotive, petroleum, grain, and shipping industries.

Specific Areas of Expertise and Experience

Economic assessment and cost-benefit analysis.

Wrote a detailed paper on the benefits of Port and rail infrastructure in diverting truck traffic from San Diego area freeways. Designed and interactive spreadsheet with associated documentation to determine the impacts to regional highways of short line railroad abandonment, or the failure to upgrade short lines to support 286k rail cars.

Rail operational and capacity analysis

Experience in evaluating railroad private fleet car cycle times, impacts of service disruptions on customers, and analysis of velocity, dwell, and on-line inventories. Work performed for both railroads and shippers.

Rail cost analysis.

Rail costing experience using the Surface Transportation Board's Uniform Rail Costing System. Data and inputs for short lines were added to the program database for greater accuracy in determining relative costs. Analysis for specific moves using marginal and allocated costs has also been performed.

Risk analysis.

Performed grade crossing risk analysis for short line railroads using FRA data and software, designed interactive spreadsheets to determine relative benefit of track improvements in preventing derailments, and evaluated the relative risk of hazardous material movements using different truck and rail routings.

Petroleum pipeline netback analysis

Wrote a detailed report with an accompanying model on crude oil pipeline netbacks for determining competitive routings for crude by rail in a dynamic pricing environment.

Agricultural Commodity Distribution and Transportation Analysis

Provided detailed data for costing and flow of the grain transportation systems as part of multiple studies. Work included detailed freight volume assessments using USDA and local census and harvest data.

LPG supply chain costing analysis

Provided detailed pricing and capacity analysis for LPG exports into Mexico for multiple clients. Work included detailed strategic plans and an interactive supply chain model to evaluate export options in a changing pricing market.

Engineering assessments, operating plans, and capacity analysis.

Provided preliminary evaluations of capability to handle 286,000 lb. rail cars using accepted research by the American Short Line and Regional Railroad Association, and using track software used by the US Army Corps of Engineers.

Conducted preliminary capacity analysis using parametric analysis of mainline capacity using interactive spreadsheets to determine incremental capacity from specific projects.

Assisted in developing operating plan to support daily 7 hour closure of LOSSAN Corridor during Del Mar Bluffs project, while maintaining full freight service.

Wrote feasibility study for unit vehicle train moves into the Port of Grays Harbor, WA.

Land use planning, community impacts, and environmental assessment.

Provided input to regional general plans and community plan updates. Conducted train noises assessments for projects in San Diego and National City.

Conducted a health risk assessment for a proposed project adjacent to a short line rail yard using accepted guidelines and software from the California Air Resources Board.

Strategic planning

Conducted a detailed study on existing conditions for freight rail in San Diego and California.

Recommended specific projects to expand capacity based upon existing markets and projected growth.

Provided inputs to the regional freight planning process in conjunction with other rail stakeholders to provide a list of prioritized projects for freight rail improvements on publicly owned track.

Analyzed regional rail lines and impacts of traffic growth using GIS software, and providing graphic outputs and data to regional transportation planners.

Performed a detailed analysis of freight rail grade crossing impacts in the region to assist in evaluating the most suitable candidates for grade separation projects.

Subcontractor in developing the SANDAG Freight Gateway Study in conjunction with HDR and Cambridge Systematics.

Subcontractor in designing and developing improvements on the San Diego Metropolitan Transit System SD&AE South Line

Local agency and government Interaction

Appeared before the Port of San Diego Board of Port Commissioners, the San Diego City Council Land Use and Housing Committee, and the National City Planning Commission on freight rail issues.

Member of the SANDAG Regional Freight Working Group and the Transportation Priority Evaluation Committee for the regional Metropolitan Planning Organization.

Grant and loan applications.

Co-wrote application, analyzed public benefits, and assembled application package for a State grant of \$7 million dollars for a rail yard project in Oregon.

Assisted in the preparation of four applications for the California Proposition 1B Freight Improvement Bond. Those project applications totaled over \$450 million.

Wrote cost benefit analysis for rail improvements for the Port of Corpus Christi as part of a TIGER IV application.

Wrote cost narrative and benefit analysis for rail terminal improvements for the Port of San Diego Tenth Avenue Marine Terminal as part of a TIGER IV application.

Authored Papers and Studies:

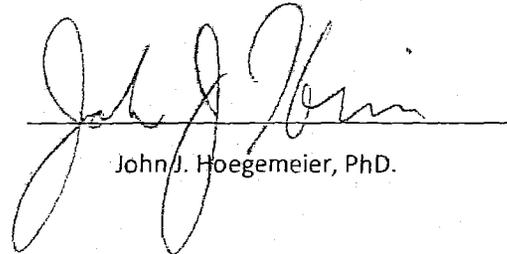
- Automotive Rail Facility Expansion Study, Pasha Automotive Group – 2016
- Analysis of BNSF Service Failures on Rail Automotive Car Supply – 2015
- Analysis of East Cost Propane Export Facilities – 2014
- LPG Marine Transportation – Comparative Cost Analysis – 2013
- NGL Pipeline Network Tariff And Netback Study – 2013
- US LPG Rail Transportation Analysis 2012 – 2013
- US Crude by Rail Transportation Analysis 2012 – 2013
- Northern Baja California LPG Market – 2012
- Crude by Rail: Options for California – 2012
- Northern Baja Freight Rail Market - 2011
- A History of Short Line Holding Company Consolidation - 2010
- San Diego Auto Terminal Capacity Analysis – 2010
- San Joaquin Valley Railroad; History & Operations - 2009
- San Diego & Imperial Counties Freight Rail Information Book – 2009
- Grays Harbor Vehicle Unit Train Feasibility Study – 2008
- Allocation of Maintenance Costs On Joint Use Rail Corridors – 2007
- Freight Rail Capacity Outlook, San Diego Subdivision, 2020 - 2007
- Evaluating the Public Benefit of California Short Line Railroads (draft) – 2007
- Evaluating Public Benefit and Cost Effectiveness of Freight Rail Projects - 2007
- San Diego Rail Capacity Issues: 2006-2025 - 2006
- San Diego Freight Rail Market Report – 2006
- Field Observation and Preliminary Assessment: Tijuana & Tecate Line, Tijuana to Garcia – 2006

- Health Risk Assessment San Diego & Imperial Valley Railroad San Diego Yard: Impact to Ballpark Village Project - 2005
- A Proposal for Allocating Track Maintenance Costs for Joint Operations of the San Diego Trolley Light Rail Transit and the San Diego & Imperial Valley Freight Railroad -2005
- Prospects for the Freight Rail Market from the Port of San Diego - 2005
- Mexican Rail Market: Rail-to-Truck Modal Diversion Potential – 2004
- Rail Freight Carload Growth by Commodity, Export to Mexico, 1999-2003 – 2004
- Economic Benefit of Diverting Truck Traffic: San Diego Freight Facilities – 2004
- Methodology for Determining Marginal Costs of Additional Truck Traffic – 2004
- San Diego Freight Rail: Options for Sustained Growth – 2003
- Evaluating Short Line Railroad Traffic Growth Rates, and Applications for Carload Pricing (Dissertation) - 2003

VERIFICATION

I, John J. Hoegemeier, PhD., Principal of SD Freight Rail Consulting, LLC, verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on August 29, 2016.



John J. Hoegemeier, PhD.

EXHIBIT "C"

Before the

SURFACE TRANSPORTATION BOARD

Docket No. FD 36005

**KCVN, LLC AND COLORADO PACIFIC RAILROAD, LLC
- FEEDER LINE APPLICATION -
IN CROWLEY, PUEBLO, OTERO AND KIOWA COUNTIES, CO**

COMMENTS OF V AND S RAILWAY, LLC

VERIFIED STATEMENT OF

RHONDA NICOLOFF

VERIFIED STATEMENT OF

RHONDA NICOLOFF

My name is Rhonda Nicoloff. I am currently, and have been since 2007, the co-owner and President of A&K Railroad Materials, Inc. (“A&K”).¹ I began my career with A&K in 1991 in the sales department. I have personal knowledge of the information set forth in this Verified Statement.

Background on A&K

A&K was formed over 50 years ago. We are an industry leader in the purchase and sale of new, used and refurbished rail and other track materials (OTM) based in Salt Lake City, Utah. A&K also has a manufacturing facility in Kansas City, Kansas, and multiple storage and distribution locations, maintaining a large inventory of new and used rail and OTM, in order to accommodate sales across the United States and internationally. A&K is one of the largest suppliers in the United States of new rail and used rail which is in good enough condition to be re-laid (called “relay rail”). In addition, affiliates of A&K own and operate five shortline railroad lines in four states, including the Towner Rail Line in this proceeding.

The Market for Relay Rail and Relay OTM

As noted above, A&K is one of the largest suppliers of relay rail and relay OTM in the United States. In particular, A&K has sold approximately 12,800 tons of relay rail per year and approximately 6,300 tons of relay OTM per year since 2014. As such, we are very familiar with the market for relay rail and relay OTM.

¹ Kern Schumacher (the Chairman and co-owner of A&K) and I are also the sole members/owners of V and S Railway, LLC (“V&S”).

A&K's customers for such materials in that time period have primarily been shortline railroads (12%), contractors (16%) and industrial rail operations (including plants with industrial rail lines, ports, shipyards, and mining companies) (72%). A&K has not sold any relay rail, similar to that found on the Towner Line, to a Class 1 railroad since 2014. (A&K sold a small amount of relay joint bars to Class I railroads in 2014.) This is consistent with A&K's customer base over the years. Typically, these customers are able to get more use out of relay rail that is available on the market than Class I railroads. In general, Class I railroads are not in the market for relay rail, but rather buy new, heavy-weight welded rail directly from the mills for their busiest main lines, and then use the rail that is being replaced elsewhere on their own system.

Evaluation of Rail and OTM

As part of its business, A&K must constantly evaluate rail, OTM and ties to determine if they are of suitable quality to sell as relay, or in the case of ties, relay or landscape. With respect to rail and OTM, we look at the weight and size, and estimate the remaining service life (measured by the wear and how they have been used). The specific age of the rail and OTM is typically not a consideration – we do not maintain our inventory by date of manufacture. Consideration is also given to how the rail was produced (such as by controlled cooling and/or vacuum treatment). Finally, whether rail or OTM are relay quality can also depend on how it will be used by the customer.

Pricing of New Rail, Relay Rail and Relay OTM

A&K maintains an inventory of new rail, relay rail, relay OTM and ties, and is constantly making sales. As such, we are constantly updating our price lists based on our evaluation of current demands for our products, and what the market will bear. At the request of R. L. Banks & Associates, Inc. ("RLBA"), who is submitting a Verified Statement on behalf of V&S in this

proceeding, A&K provided RLBA with A&K's highly confidential current and historic price lists, inventory data, and sales transaction data for their use in calculating the net liquidation value of the Towner Line. Over the past several years, the prices for relay rail and relay OTM have remained fairly consistent – they do not fluctuate nearly as much as the prices for scrap have done in the same time period.

We also provided RLBA with documentation of an August, 2014 sales contract, between A&K and a shortline customer with significant railroad track and interchanges in multiple states, for the sale of 136 lb. CWR rail from the Towner Line. This contract conclusively establishes that a substantial portion of the rail on the Towner Line is of relay quality, there is a market for the Towner Line relay rail, and the market price for that rail.²

² A&K was ultimately unable to deliver the relay rail to the shortline customer due to the temporary restraining order of the Colorado State Court. Not wanting to be in default of contract and potentially lose an important customer, A&K sought and obtained the customer's consent to supply new rail purchased by A&K on the open market, rather than the Towner Line relay rail.

VERIFICATION

I, Rhonda Nicoloff, President of A&K Railroad Materials, Inc., verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on August 29, 2016.

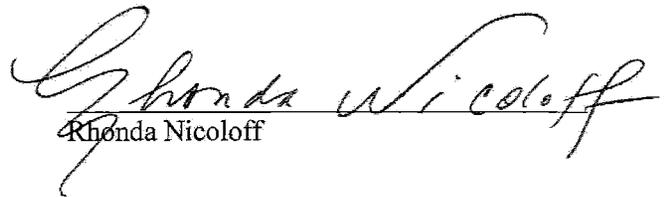

Rhonda Nicoloff

EXHIBIT “D”

EXHIBIT “D-1”

EXHIBIT “D-2”

EXHIBIT “D-3”

EXHIBIT “D-4”

EXHIBIT “D-5”

EXHIBIT “D-6”

EXHIBIT "D-7"

EXHIBIT “E”

EXHIBIT “E-1”

**KANSAS & OKLAHOMA
RAILROAD, INC.**

FREIGHT TARIFF KO 4010-AD
(Cancels Freight Tariff KO 4010-AC)

**LOCAL AND PROPORTIONAL
RATES**

APPLYING ON

GRAIN AND GRAIN PRODUCTS

**FROM
STATIONS IN COLORADO AND KANSAS
TO
STATIONS IN COLORADO AND KANSAS**

This tariff is also applicable on intrastate traffic, except where expressly provided to the contrary in connection with particular items.

ISSUED: May 10, 2016

EFFECTIVE: June 1, 2016

ISSUED BY:

**RICK BADEN, PRESIDENT
KANSAS & OKLAHOMA RAILROAD COMPANY
315 WEST THIRD
PITTSBURG, KS 66762**

RULES AND OTHER GOVERNING PROVISIONS GENERAL RULES AND REGULATIONS

ITEM 2.10**LIST OF PARTICIPATING CARRIERS**

Kansas & Oklahoma Railroad, Inc. (KO)

ITEM 10**SUPPLEMENTS AND REISSUES**

When reference is made in this tariff, or supplements, to other publications for rates or other information, it includes "Supplements thereto or successive issues thereof."

Where reference is made in this tariff to items, it includes "reissues" of such items.

ITEM 20**METHOD OF CANCELLING ITEMS**

As this tariff is supplemented, numbered items with letter suffixes cancel correspondingly numbered items in the original tariff, or in a prior supplement. Letter suffixes will be used in alphabetical sequence starting with A. Example: Item 100-A cancels Item 100 and Item 300-B cancels Item 300-A in a prior supplement which, in turn, cancelled Item 300.

SECTION I**MISCELLANEOUS RULES AND CHARGES****ITEM 100****PAYMENT TERMS**

All charges contained herein will be billed by the Kansas & Oklahoma Railroad, Inc. and paid by the responsible party in U.S. funds, in full, within seven (7) days after receipt of invoice.

A finance charge of one-and-one half percent (1.5%) per month will apply on all invoice balances which remain unpaid beyond the payment terms prescribed in this item.

ITEM 110**Grain, Grain Products, ETC.**

(See Note I)

(Applicable only when specific reference is made hereto)

STCC	DESCRIPTION	STCC	DESCRIPTION
01 131	Barley	20 418	Grain Mill By-Products
01 132	Corn	20 419	Flour or other Grain Mill Products, nec
01 133	Oats	20 421	Prepared Feed
01 135	Rye	20 449	Rice Hulls
01 136	Sorghum	20 451	Prepared Flour (phosphated, self-rising)
01 137	Wheat	20 452	Prepared Flour, Mixes
01 139	Grain, nec	20 465	Corn Oil
01 141	Cottonseed	20 467	Wet Process Corn
01 142	Flaxseeds	20 467	Wet Process Corn, Milling
01 144	Soybeans	20 619	Sugar Mill By-Products
01 149	Sunflower Seeds	20 626	Molasses Beet Pulp
01 151	Grass Seeds	20 823	Malt Extract or Brewers Spent Grains
01 159	Seeds	20 831	Malt
01 191	Fodder, Hay or Roughage	20 832	Flour Sprouts
01 196	Straw	20 839	Malt Products or By-products
01 199	Field Crop, nec	20 859	By-products or Liquor distilling
01 991	Hay	20 911	Cottonseed Oil
01 992	Alfalfa	20 914	Cottonseed Meal
20 411	Wheat Flour	20 921	Soybean Oil
20 412	Wheat Bran, Middlings	20 923	Soybean Meal
20 413	Corn Meal or Flour	20 931	Linseed Oil
20 414	Rye Flour or Flour	20 933	Oil Nuts
20 415	Buckwheat Flour or Meal	20 939	Oil Seed Cake Meal
20 416	Oat Flour or Meal		

SECTION 1

MISCELLANEOUS RULES AND CHARGES

Note 1 – Except as otherwise specifically shown, the STCC number referred to shall embrace all articles assigned additional digits listed thereunder. For example, STCC number 20 419 also embraces articles covered by numbers with a greater number of digits beginning with STCC number 20 419

ITEM 120

BILLING INSTRUCTION – NOTIFICATION

On grain shipments (STCC's as shown in Item 120) moving on rates within this tariff or rates published in any other carriers tariff, the KO must be given complete billing instructions by the customer via FAX, Email or EDI transmission, even if similar notification has already been furnished to another carrier.

ITEM 130

OVERLOADED SHIPMENTS

- 1. Carload freight must not be loaded in excess of the load limit of 263,000 lbs.**
- 2. The charges in this item are published as a deterrent to the unsafe practices of overloading rail cars and are not connected in any way with the transportation of the commodity. Such charges are NOT freight or “other lawful charges” within the meaning of Section 7 of the Bill of Lading and execution of Section 7 will not in any way relieve the loading elevator from the responsibility for the charges of this item.**
- 3. When a car is found to be overloaded in excess of the maximum load limit of 263,000 lbs, the loading elevator will be notified and a charge of \$500.00 per car will be assessed against the loading elevator.**
- 4. When the weighing of individual cars is not available due to batch weighing, the following formula will apply: The load limits of all cars in the batch will be added together and combined with a figure derived at by multiplying 2,000 lbs times the number of cars in the batch. This figure will then be subtracted from the total lading weight in all the cars in the batch. If the resulting figure is zero or less, then no overload charges of \$5.00 cwt will be assessed subject to a minimum charge of \$500.00 per batch and further subject to a maximum charge of \$500.00 times the number of cars in the batch.**
- 5. Only weights from a scale currently certified by the Federal Grain Inspection Service or certified according to The National Bureau of Standards Handbook No. 44 will be considered. Weights subject to supervision or verification by the WWIB will govern over other scale weights where applicable. Any documentation furnished by the loading elevator, for any reason, indicating that car(s) were overloaded will automatically result in the overloaded charge being applied against all cars so documented.**
- 6. The Western Weighing and Inspection Bureau (WWIB) may act as the railroads agent through inspection of weights and records on all freight moving on rates contained within this tariff.**

SECTION 1

MISCELLANEOUS RULES AND CHARGES

ITEM 140

CHARGES FOR DELAY OF CARS

A receiving carrier refusing to accept cars when offered by the KO shall pay a delay charge of \$50.00 per day for each refused car. Such charges will be in addition to all other applicable charges.

**SECTION 2
SWITCHING**

ITEM 200

DEFINITION OF TERMS

The terms shown below, as used in this tariff, are defined as follows:

“**RECIPROCAL SWITCHING**”, is a switching movement FROM an industry located on KO TO interchange track of connecting carriers, or vice versa, within the same switching district, on line-haul traffic.

“**LINE-HAUL TRAFFIC**”, is traffic transported by rail carriers from or to a point outside of the switching limits of the same station or industrial switching district.

“**INTERCHANGE TRACKS**”, are tracks on which cars are exchanged between KO and connecting rail carriers.

“**INTERSTATE TRAFFIC**”, is traffic having origin and destination in different states, or origin and destination in the same state when passing through another state, or export or import traffic.

“**INTRASTATE TRAFFIC**”, is traffic having both origin and destination and entire movement wholly within the same state.

ITEM 210

ABSORPTION OF SWITCHING CHARGES

The KO will absorb a maximum on one (1) reciprocal switch charge, not exceeding one hundred (\$100.00) dollars per car, on shipments on commodities named in Item 120 of this tariff moving on rates contained herein into Hutchinson or Wichita, KS

**SECTION 3
DEMURRAGE RULES AND OTHER CHARGES**

ITEM 300

APPLICATION

The provisions of Demurrage Freight Tariff KO 6005-series will apply.

ITEM 350-A

In addition to the local line-haul transportation charge or charges published in this or other applicable tariffs or in other specific railroad publications, a variable, mileage-based fuel surcharge will be assessed on all traffic other than regulated common carrier traffic subject to the jurisdiction of the STB from or to stations on the applicable railroad.

Fuel surcharge is to be paid by the freight payer contained on the Bill of Lading and will be shown as a separate line item on the invoice and will be collected by and accrue solely to the specific railroad.

The mileage-based fuel surcharge amount and calculation thereof are discussed in tariff WTS 9500-A available for viewing and/or printing on the WATCO Companies, Inc website (www.watcocompanies.com).

**SECTION 4
LOCAL RATES**

EXPLANATION OF REFERENCES:

[a] Applicable only to facilities switched by the KO in Wichita, KS. When to a facility in Wichita, KS that is physically served by the KO, rates shown herein will be decreased \$150.00 per car.

ITEM 400-A [I]

COMMODITY: Wheat (01137) this tariff, and as more fully described in Tariff STCC 6001-series. (Rates in dollars per car)

FROM:	To Wichita	To Hutchinson	FROM:	To Wichita	To Hutchinson
Alamota	\$1,235	\$1,185	Hutchinson	\$900	NA
Albert	\$1,121	\$1,071	Isabel	\$917	NA
Alden	\$946	\$896	Kanco	\$1,476	\$1,426
Alexander	\$1,181	\$1,131	LaCrosse	\$1,150	\$1,100
Amy	\$1,274	\$1,224	Laird	\$1,220	\$1,170
Andale	\$817	\$767	Larned	\$1,136	\$1,086
Astor	\$1,451	\$1,401	Leoti	\$1,376	\$1,326
Bazine	\$1,181	\$1,131	Lyons	\$946	\$896
Beeler	\$1,220	\$1,170	Manning	\$1,336	\$1,286
Bison	\$1,150	\$1,100	Marienthal	\$1,361	\$1,311
Burdett	\$1,181	\$1,131	McCracken	\$1,206	\$1,156
Bushton	\$1,075	\$1,025	Modoc	\$1,336	\$1,286
Cairo	\$917	NA	Nashville	\$902	NA
Calista	\$902	NA	Nekoma	\$1,151	\$1,101
Chase	NA	NA	Ness City	\$1,205	\$1,155
Cheney	\$996	NA	Nickerson	NA	NA
Clafflin	\$1,100	\$1,050	Olmitz	\$1,136	\$1,086
Coats	\$947	NA	Otis	NA	NA
Colwich	\$817	\$767	Pawnee Rock	\$1,121	\$1,071
Conway Springs	\$812	NA	Pratt	NA	NA
Cunningham	\$902	NA	Rozel	\$1,166	\$1,116
Dartmouth	\$996	\$946	Rush Center	\$1,136	\$1,086
Dighton	\$1,250	\$1,200	Sanford	\$1,151	\$1,101
Dundee	\$1,106	\$1,056	Sawyer	\$932	NA
Ellinwood	\$971	\$921	Scott City	\$1,311	\$1,261
Frederick	\$1,075	\$1,025	Selkirk	\$1,401	\$1,351
Garden Plain	\$996	NA	Silica	\$996	\$946
Garfield	\$1,151	\$1,101	Sterling	\$928	\$878
Great Bend	\$1,021	\$971	Timken	\$1,136	\$1,086
Grigston	\$1,296	\$1,246	Towner	\$1,476	\$1,426
Hanston	\$1,326	\$1,301	Tribune	\$1,426	\$1,376
Hargrave	\$1,206	\$1,156	Waldeck	\$917	NA
Haven	\$842	\$792	Walkinhood	\$1,451	\$1,401
Healy	\$1,361	\$1,311	Whitelaw	\$1,426	\$1,376
Hoisington	\$1,125	\$1,075	Wichita	\$675	\$900
Horace	\$1,426	\$1,376	Zenda	\$902	NA

**SECTION 4
LOCAL RATES**

EXPLANATION OF REFERENCES:

[a] Applicable only to facilities switched by the KO in Wichita, KS. When to a facility in Wichita, KS that is physically served by the KO, rates shown herein will be decreased \$150.00 per car

ITEM 400-C [I]

COMMODITY: Corn/Milo(01132/01136), Soybeans (01144) this tariff, and as more fully described in Tariff STCC 6001-series. (Rates in dollars per car)

FROM:	To Wichita	To Hutchinson	FROM:	To Wichita	To Hutchinson
Alamota	\$1,062	\$1,019	Hutchinson	\$900	NA
Albert	\$964	\$921	Isabel	\$788	NA
Alden	\$813	\$770	Kanco	\$1,269	\$1,226
Alexander	\$1,015	\$972	LaCrosse	\$989	\$946
Amy	\$1,095	\$1,052	Laird	\$1,049	\$1,006
Andale	\$703	\$678	Larned	\$977	\$934
Astor	\$1,247	\$1,204	Leoti	\$1,183	\$1,140
Bazine	\$1,015	\$972	Lyons	\$813	\$770
Beeler	\$1,049	\$1,006	Manning	\$1,149	\$1,106
Bison	\$989	\$946	Marienthal	\$1,170	\$1,127
Burdett	\$1,015	\$972	McCracken	\$1,037	\$994
Bushton	\$924	\$881	Modoc	\$1,149	\$1,106
Cairo	\$788	NA	Nashville	\$775	NA
Calista	\$775	NA	Nekoma	\$990	\$947
Chase	NA	NA	Ness City	\$1,036	\$993
Cheney	\$857	NA	Nickerson	NA	NA
Clafflin	\$946	\$903	Olmitz	\$977	\$934
Coats	\$814	NA	Otis	NA	NA
Colwich	\$703	\$678	Pawnee Rock	\$964	\$921
Conway Springs	\$698	NA	Pratt	NA	NA
Cunningham	\$775	NA	Rozel	\$1,002	\$959
Dartmouth	\$856	\$813	Rush Center	\$977	\$934
Dighton	\$1,075	\$1,032	Sanford	\$990	\$947
Dundee	\$951	\$908	Sawyer	\$801	NA
Ellinwood	\$835	\$792	Scott City	\$1,127	\$1,084
Frederick	\$924	\$881	Selkirk	\$1,204	\$1,162
Garden Plain	\$856	NA	Silica	\$856	\$813
Garfield	\$990	\$947	Sterling	\$798	\$755
Great Bend	\$878	\$835	Timken	\$977	\$934
Grigston	\$1,114	\$1,071	Towner	\$1,269	\$1,226
Hanston	\$1,137	\$1,094	Tribune	\$1,226	\$1,183
Hargrave	\$1,037	\$994	Waldeck	\$788	NA
Haven	\$724	\$699	Walkinghood	\$1,247	\$1,204
Healy	\$1,170	\$1,127	Whitelaw	\$1,226	\$1,183
Hoisington	\$967	\$924	Wichita	\$675	\$900
Horace	\$1,226	\$1,183	Zenda	\$775	NA

**SECTION 4
LOCAL RATES**

ITEM 400-D [I]
DESTINATION: Salina, KS
COMMODITY: Wheat (01137), Corn/Milo(01132/01136), Soybeans (01144) this tariff, and as more fully described in Tariff STCC 6001-series. (Rates in dollars per car) (See Note 1)

Origin Station:	Wheat	Corn/Milo/Soybean
Corinth	\$1,295	\$992
Denmark	\$989	\$758
Hedville	\$789	\$605
Hunter	\$1,124	\$861
Lincoln	\$694	\$532
Osborne	NA	NA
Tipton	\$1,236	\$947
Westfall	\$796	\$610

Note 1 – Rates in this Item will only apply in KO marked or leased equipment or in shipper owned equipment when zero rated to the KO

EXPLANATION OF ABBREVIATIONS AND REFERENCES

BNSF	-Burlington Northern Santa Fe Railway	[A]	-Addition	[R]	-Reduction
KO	-Kansas & Oklahoma Railroad, Inc.	[NC]	-No Charge		
UP	-Union Pacific Railroad	[I]	-Increase		

ITEM 400-E (I)

COMMODITY: Corn/Milo (Grain, Grain Products, etc., as shown in Item 120, this tariff, and as more fully described in Tariff STCC 6001-series. (Rates in dollars per car) (See Notes I and 2)

FROM:	To Leoti	To Lyons	FROM:	To Leoti	To Lyons
Alamota	\$466	\$950	Hutchinson*	\$1,075	\$422
Albert	\$782	\$540	Isabel	\$1,759	\$1,236
Alden	\$933	\$485	Kanco	\$410	\$1,336
Alexander	\$617	\$657	LaCrosse	\$979	\$651
Amy	\$426	\$957	Laird	\$557	\$806
Andale	\$1,188	\$574	Larned	\$898	\$578
Astor	\$407	\$1,333	Leoti	\$262	\$1,182
Bazine	\$599	\$694	Lincoln	NA	NA
Beeler	\$494	\$878	Lyons	\$941	\$409
Bison	\$962	\$648	Manning	\$312	\$1,175
Burdett	\$974	\$624	Marienthal	\$299	\$1,178
Bushton	\$939	\$420	McCracken	\$986	\$726
Cairo	\$1,759	\$1,236	Modoc	\$302	\$1,175
Calista	\$1,753	NA	Nashville	\$1,755	\$1,232
Chase	\$932	NA	Nekoma	\$646	\$654
Cheney	\$1,985	NA	Ness City	\$576	\$734
Clafin	\$931	\$424	Nickerson	\$1,004	\$349
Coats	\$1,799	\$1,243	Olmitz	\$955	\$573
Colwich	\$1,223	\$576	Osborne	NA	NA
Conway Springs	\$1,436	\$865	Pawnee Rock	\$860	\$539
Corinth	NA	NA	Pratt	\$1,797	\$1,241
Cunningham	\$1,756	\$1,233	Rozel	\$971	\$620
Dartmouth	\$890	\$427	Rush Center	\$741	\$617
Denmark	NA	NA	Sanford	\$969	\$618
Dighton	\$449	\$954	Sawyer	\$1,762	\$1,239
Dundee	\$858	\$502	Scott City	\$372	\$1,102
Ellinwood	\$892	\$391	Selkirk	\$300	\$1,255
Frederick	\$950	\$417	Silica	\$914	\$496
Garden Plain	\$1,988	NA	Sterling	\$949	\$414
Garfield	\$903	\$617	Timken	\$757	\$613
Great Bend	\$854	\$431	Tipton	NA	NA
Grigston	\$410	\$1,029	Towner	\$425	\$1,337
Hanston	\$1,045	\$731	Tribune	\$370	\$1,329
Hargrave	\$982	\$723	Waldeck	NA	\$1,237
Haven	\$1,148	\$431	Walkinghood	\$409	NA
Healy	\$446	\$1,178	Westfall	NA	NA
Hedville	NA	NA	Whitelaw	\$303	NA
Hoisington	\$950	\$499	Wichita	\$1,391	\$717
Horace	\$371	\$1,330	Zenda	\$1,752	\$1,228
Hunter	NA	NA			

EXPLANATION OF NOTES:

Note 1 – Rates in this Item will only apply in KO marked or leased equipment or in shipper-furnished equipment.

Note 2 – Rates in this Item only apply to cars that are delivered loaded to Seaboard Foods in Leoti, KS, or Kansas Ethanol in Lyons, KS

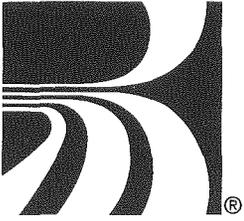
ITEM 410

MILEAGE TABLE: Mileages in this Item apply to Freight Tariff WTS 9500-A

FROM:	To Wichita	To Hutchinson	To Leoti	To Lyons	FROM:	To Wichita	To Hutchinson	To Leoti	To Lyons
Alamota	188.5	138.5	53.7	117.5	Horace	265.9	215.9	23.7	194.9
Albert	116.7	66.7	125.5	45.7	Hutchinson*	51.4	0	192.2	27.9
Alden	75	25	167.2	18.3	Isabel	90.4	134.6	325.4	161.1
Alexander	146	96.4	95.8	75.4	Kanco	278	228	35.8	207
Amy	204.8	154.8	37.4	133.8	LaCrosse	153.6	103.6	246.9	75.7
Andale	21.4	30	220.8	56.5	Laird	174.1	124.1	68.1	103.1
Astor	272	222	29.8	201	Larned	123.6	73.6	162.6	52.6
Bazine	154.1	104.1	88.1	83.1	Leoti	242.2	192.2	0	171.2
Beeler	181.8	131.8	60.4	110.8	Lyons	77.9	27.9	171.2	0
Bison	147.6	97.6	240.9	69.7	Manning	229.7	179.7	34.7	158.7
Burdett	147.5	97.5	186.5	76.5	Marienthal	234.3	184.3	7.9	163.3
Bushton	100.9	50.9	194.2	23	McCracken	168.6	118.6	261.9	90.7
Cairo	89.3	133.5	324.3	160	Modoc	227.2	177.2	15	156.2
Calista	74.5	118.7	309.5	145.2	Nashville	83.1	127.3	318.1	153.8
Chase	86.4	36.4	162.7	8.5	Nekoma	140.4	90.4	101.8	69.4
Cheney	84.8	129	319.8	155.5	Ness City	165.7	115.7	76.5	94.7
Claffin	108.5	58.5	201.8	30.6	Nickerson	60.7	10.7	181.5	17.2
Coats	105.9	150.1	340.9	176.6	Olmitz	132.2	82.2	225.5	54.3
Colwich	16.3	35.1	225.9	61.6	Pawnee Rock	114.6	64.6	153.6	43.6
Conway Springs	30.6	74.8	265.6	101.3	Pratt	99.7	143.9	334.7	170.4
Cunningham	82.6	126.8	317.6	153.3	Rozel	140.6	90.6	179.6	69.6
Dartmouth	96	46	146.2	25	Rush Center	133.5	83.5	108.7	62.5
Dighton	197.5	147.5	44.7	126.5	Sanford	135.8	85.8	174.8	64.8
Dundee	108.9	58.9	147.9	37.9	Sawyer	97.9	142.1	332.9	168.6
Ellinwood	91.5	41.5	150.7	20.5	Scott City	218.6	168.6	23.6	147.6
Frederick	93.7	43.7	187	15.8	Selkirk	252.2	202.2	10	181.2
Frontier	12.4	56.6	247.4	83.1	Silica	92.6	42.6	156.5	14.7
Garden Plain	90.8	135	325.8	161.5	Sterling	67.3	17.3	174.9	10.6
Garfield	133.9	83.9	172.9	62.9	Timken	125.8	75.8	116.4	54.8
Great Bend	101.6	51.6	140.6	30.6	Towner	281.7	231.7	39.5	210.7
Grigston	211.1	161.1	31.1	140.1	Tribune	264.1	214.1	21.9	193.1
Hanston	159	109	198	88	Waldeck	92.4	136.6	327.4	163.1
Hargrave	161.3	111.3	254.6	83.4	Walkinghood	275.6	225.6	33.4	204.6
Haven	34.1	17.3	208.1	43.8	Whitelaw	259.1	209.1	16.9	188.1
Healy	236.1	186.1	41.1	165.1	Wichita	0	51.4	242.2	77.9
Hoisington	122.1	72.1	215.4	44.2	Zenda	75.4	119.6	310.4	146.1

EXHIBIT “E-2”

BARTLETT GRAIN COMPANY, L.P.



4900 Main Street, Suite 1200
Kansas City, Missouri 64112-2807
816-753-6300

June 13, 2016

By E-Filing

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: Docket No. FD 36005 – *KCVN, LLC and Colorado Pacific Railroad, LLC – Feeder Line Application – Line of V AND S Railway, LLC, Located in Crowley, Pueblo, Otero and Kiowa Counties, Colorado*

Dear Ms. Brown:

Bartlett Grain Co., LP (“Bartlett”), which is not a party to this proceeding and is not by this letter seeking authority to intervene for any purposes, asks the Board to accept this brief response to the “Motion of V AND S Railway, LLC for Issuance of Third Party Subpoenas,” filed on May 25, 2016. One of the proposed subpoenas attached to the Motion is directed to an employee of Bartlett, Mr. Joe Griffith, Bartlett’s General Director of Transportation. Mr. Griffith provided a verified statement in support of the Feeder Line Application filed by KCVN, LLC and Colorado Pacific Railroad.

Bartlett strongly objects to V&S’s attempt to harass our company with broad and intrusive discovery requests for confidential and proprietary business information that have no relevance to the issues in this proceeding and are not justified by Mr. Griffith’s statement. Mr.

Griffith's statement merely explained what V&S already well knows: that Bartlett is a large grain shipper with elevators located on the Towner Line that has used rail service in the past, and would probably use it again if rail service was restored. Mr. Griffith's statement neither stated nor implied that Bartlett has considered any specific volumes of grain it might ship by rail, or the terms under which any future rail transportation would take place. Accordingly, the proposed subpoena is wholly unnecessary and is obviously an attempt to harass and intimidate Bartlett and Mr. Griffith. Accordingly, Bartlett respectfully asks the Board to deny the motion as it applies to Bartlett. If any subpoena issued, Bartlett will vigorously oppose it.



Robert Knief
President
Bartlett Grain Company, LP

Cc: Counsel for V&S Railway
Karl Morell, Esq.
The Honorable John P. Dring
Counsel for KCVN, LLC and Colorado Pacific Railway, LLC
Thomas W. Wilcox
(via email and regular mail)

Before the
SURFACE TRANSPORTATION BOARD

Docket No. FD 36005

**KCVN, LLC AND COLORADO PACIFIC RAILROAD, LLC
- FEEDER LINE APPLICATION -
IN CROWLEY, PUEBLO, OTERO AND KIOWA COUNTIES, CO**

COMMENTS OF V AND S RAILWAY, LLC

VOLUME II OF II

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Dated: August 30, 2016

EXHIBIT "F-1"

Verified Statement of

Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

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R. L. Banks & Associates, Inc.

We are Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland, employees and associates at R.L. Banks & Associates (RLBA), a consulting firm based in Arlington, VA. Founded in 1956, RLBA is a multidisciplinary firm providing economic, engineering and operational counsel to freight railroad, passenger railroad and governmental organizations. RLBA features more than 60 years of experience in providing expert economic, analytical, valuation and litigation support services to a nationwide group of clients representing every principal segment of the economy.

RLBA has performed dozens of asset valuations, including a large number of net liquidation valuations, on behalf of clients nationwide to facilitate financial transactions or support Surface Transportation Board (“STB” or “Board”) proceedings. RLBA is among the most experienced and trusted names in the industry. The list of satisfied RLBA railroad valuation clients include a variety of notable private and public sectors entities, including CSX Transportation, Kansas City Southern Railway, Genesee & Wyoming Inc., Watco Companies, Inc., Iowa Interstate Railroad, Ltd., New Jersey Transit, Dallas Area Rapid Transit, Florida Department of Transportation and the City of Cincinnati as well as multiple, well known, national and regional financial institutions. A summary of recent, asset valuation projects completed by RLBA is included in Appendix 1 of this statement.

Ralph Lee Meadows, Jr. P.E. Lee Meadows, P.E. associated with RLBA after a career spanning more than three decades with Norfolk Southern Corporation (NS) and its predecessor, the Norfolk and Western Railway, during which he held positions with increasing responsibility within the Engineering Department spanning management and engineering of railroad track structure, bridge and building inspection, condition assessment, maintenance, rehabilitation,

design and construction of railroad infrastructure. In his final assignment at NS, Mr. Meadows served as Division Engineer, Pittsburgh, PA, responsible for track, bridge and structure maintenance across 2,500 miles of railroad, featuring high density, freight, TOFC and coal traffic. Since associating with RLBA, Mr. Meadows has participated significantly in at least eleven rail asset valuation projects on behalf of railroads, utilities, State DOTs, local municipalities and various other types of clients. Mr. Meadows' recent railroad consulting assignments with RLBA include evaluation of track condition, review of railroad construction costs, analysis of improvements to an urban freight rail line including construction costs, on-site investigation of a derailment and various railroad infrastructure assessments.

In this assignment, Mr. Meadows inspected the condition and extent of track structure at issue and provided counsel to Messrs. Banks and Ireland, as issues arose. Mr. Meadows earned his AS and BS in Civil Engineering Technology from Bluefield State College, Bluefield, WV as well as an MS in Civil Construction Management from Wayne State University, Detroit, MI. He is a Registered Professional Civil Engineer and Professional Land Surveyor. Mr. Meadow's resume is included in this Statement at Appendix 2.

Charles H. Banks. Charles H. Banks, RLBA President, oversees and directs the firm's valuation and all other analytical efforts. Since joining RLBA in 1985, Mr. Banks also has focused on railroad negotiations, strategic planning and evaluating the economics of financing the acquisition, expansion and rehabilitation of numerous short line and regional railroads, often assessing their potential viability as part of due diligence studies performed by the firm. Mr. Banks enjoys significant experience regarding railroad valuation litigation in a variety of judicial venues, including the US Supreme Court, where his Verified Statements regarding the going concern value of the Boston and Maine Corporation proved critical to the Central Vermont

Railway's successful acquisition of the former's rail line in eastern Vermont. His notable STB valuation work includes the preparation of several Verified Statements regarding Feeder Line Applications submitted by PYCO Industries (*STB Finance Docket No. 34890*) and the Oregon International Port of Coos Bay (*STB Finance Docket No. 35160*). He also successfully argued against the Southern Pacific Transportation Company's application to abandon the Globe Branch on behalf of the Inspiration Consolidated Copper Company before the Interstate Commerce Commission (*ICC Abandonment Docket No. 12*).

Prior to joining RLBA, Mr. Banks was employed by the United States Railway Association, Conrail and Southern Pacific in various economics-related positions. Although not formerly trained in railroad civil engineering, Mr. Banks has worked on several railroad physical plant issues over the course of his career. In the Strategic Planning Department of Conrail, Mr. Banks participated significantly in a Strategic Investment Study to investigate Conrail's return on capital invested in physical plant, particularly the benefits flowing from such improvements. Later, Mr. Banks developed, organized and managed the first capital audit undertaken by Conrail to determine the financial return on hundreds of millions of dollars spent to rehabilitate Conrail main lines in the Midwest. While serving as Manager of Capital and Rehabilitation Expenditure Analysis at the United States Railway Association, Mr. Banks oversaw various rail infrastructure issues and studies, including various valuations that arose out of the Federal Government's taking of railroad assets owned by the Penn Central Transportation Company and other, bankrupt Northeast and Midwest connecting carriers, collectively referred to as the "Transferors," to establish Conrail. Since joining RLBA, he has overseen the firm's engagements with respect to the calculation of Net Liquidation Value and Going Concern Value, as well as other lines of business.

In this assignment, Mr. Banks provided guidance to Messrs. Meadows and Ireland to produce an analysis consistent with similar projects undertaken by the firm, meeting RLBA's high ethical and accuracy standards. Mr. Banks is a member of the Transportation Research Forum. He earned a BA in Economics from Haverford College and an MBA from the University of Pennsylvania, Wharton School of Business. A more extensive treatment of the applicable qualifications of Mr. Banks is included in the Statement at Appendix 3.

John D. Ireland. Since joining RLBA in 2014, John D. Ireland has been involved in numerous freight and passenger railroad operations and economics assignments on behalf of a variety of railroad and shipper clients. He has provided expert railroad operations analysis on behalf of numerous clients engaged in proceedings before the Board, ranging from Class I railroads to major rail shippers. His rail operation assignment experience covers a wide range of topics, including short line operations, hazardous material shipping, capacity simulation, shared use trackage rights as well as joint facility operations. In the 30 months he has been with the firm, Mr. Ireland has been involved in nine NLVs, including this one, working closely with field inspectors to successfully translate the track inspection field notes into RLBA's various NLV report templates, researching or requesting then current unit material prices and tailoring RLBA's standard NLV text and tables to reflect the site-specific characteristics of the rail segment at issue. Prior to joining RLBA, he served in various operational supervisory roles as an officer in the United States Navy. He is a graduate of Carnegie Mellon University of Pittsburgh, PA. A more extensive treatment of the applicable qualifications of Mr. Ireland is included in the Statement at Appendix 4.

Introduction

Since 2014, RLBA has been retained by V and S Railway, LLC (hereafter “V&S”) several times regarding the Towner Line, a stretch of railroad located in Eastern Colorado. The Towner Line is a line of railroad consisting of approximately 121.9 route miles and 134.1 track miles extending west between Towner Junction, CO at milepost 747.5 and NA Junction, CO at milepost 869.4. RLBA understands that service has been discontinued by V&S over most of the western segment of the Towner Line between milepost 808.3 near Haswell, and milepost 868.5 near NA Junction (the “Western Segment”), as authorized by the STB in Docket No. AB 603 (sub-No. 2X) (STB served June 28, 2012). We also understand that the eastern end of the Towner Line between milepost 808.3 near Haswell and Towner Junction at milepost 747.5 is currently embargoed as a result of a bridge fire.

Historically, the Towner Line was constructed by predecessors of the Missouri Pacific Railroad Company and was part of the railroad’s St. Louis, MO - Pueblo, CO line. In 1982, the Missouri Pacific merged with the Union Pacific Railroad Company (UP), and as part of that merger proceeding, UP and MP sought to abandon the Towner Line. RLBA understands that V&S purchased the Towner Line from the State of Colorado in 2005 for \$10,356,000, which, in turn, had purchased the Towner Line from UP for \$10,217,521 in 1998 to prevent abandonment.

RLBA’s first engagement regarding the Towner Line occurred on September 26, 2014, when V&S commissioned RLBA to produce a valuation of the subject rail line after the issuing of a Temporary Restraining Order preventing V&S from a planned liquidation of the line. RLBA was instructed to employ the Net Liquidation Value (NLV) methodology to value the Towner Line. The NLV methodology, as the name suggests, attempts to capture the net value of a particular railroad by first determining the gross value of salvageable railroad material and real

estate and then applying appropriate discounts to said gross values to reflect the real-world costs which would be associated with the liquidation process. The NLV methodology, historically, has been the standard methodology employed in connection with valuations associated with abandonment cases before the STB. To complete the NLV, Crew Heimer, PE, on behalf of RLBA, conducted an inventory inspection of the subject rail line on October 1, 2014. The results of that inventory, when applied to then current material market prices (as of September 30, 2014) and discounted to reflect then current liquidation costs, discounts and material unit prices produced an NLV of \$26,951,300 (hereafter referred to as the “2014 V&S RLBA Report”) as of September 30, 2014.

RLBA’s second engagement regarding the Towner Line occurred on July 30, 2015, when V&S commissioned RLBA to update the material unit prices applied to Mr. Heimer’s inventory inspection and liquidation discounts to reflect material unit prices as of August 5, 2015. Those efforts produced an NLV of \$27,023,500 (hereafter referred to as the “2015 V&S RLBA Report”) as of August 5, 2015.

RLBA understands that in the intervening time since the completion of the 2015 V&S RLBA Report, V&S elected to withdraw its Verified Notice of Exempt Abandonment filed with the STB in August 2015. Subsequently, KCVN, LLC, and its subsidiary, Colorado Pacific Railroad, LLC (hereafter “Applicants”), filed a Feeder Line Application before the STB seeking to acquire the Towner Line. As part of the Feeder Line Application, Mr. Gerald W. Fauth III of G.K. Fauth & Associates, Inc., (hereafter “Fauth”) was retained to produce an NLV of the Towner Line on behalf of KCVN/CPR as defined by Feeder Line Application requirements. In Exhibit D of FD 36055, “Verified Statement of Gerald W. Fauth” (hereafter referred to as the “Fauth VS”), Fauth produced an NLV of \$2,594,551. As relevant here, the Fauth VS largely

focused on criticisms of methodologies and assumptions employed by and results advanced by RLBA to produce the 2014 and 2015 V&S RLBA Reports which are cited in and attached to the Fauth VS.¹

As a result, RLBA was most recently engaged by V&S on April 27, 2016 regarding several issues associated with the Towner Line NLV produced as part of the KCVN/CPR Feeder Line Application. Specifically, RLBA was asked to:

- 1) produce a completely new NLV (incorporating the results of a second, on-site inventory inspection of the rail assets) of the Towner Line reflecting market prices as of May 12, 2016 (hereafter “2016 V&S RLBA Report”);
- 2) confirm the validity of the material inventories advanced in the 2014 and 2015 V&S RLBA Reports;
- 3) apply the appropriate, current material unit prices (as of May 12, 2016) to the 2014 V&S RLBA Report and 2015 V&S RLBA Reports and compare the results to the new, 2016 V&S RLBA Report; and
- 4) opine on the methodology and assumptions employed in the Fauth VS to reach his NLV.

To those ends, Mr. Meadows, P.E., conducted RLBA’s second, on-site inventory inspection of the Towner Line on May 11-12, 2016. Mr. Ireland applied appropriate liquidation discounts and material prices as of May 12, 2016 to the results of Mr. Meadows’ inventory

¹ The Fauth VS also addressed the estimated costs to rehabilitate the Towner Line to operational status, a separate issue unrelated to his NLV calculation.

inspection to produce a current NLV of \$23,931,500. To test the validity of the 2014 and 2015 V&S RLBA Reports, Mr. Ireland, working under the direction of Mr. Banks, applied May, 12, 2016 material unit prices to the results of Mr. Heimer's original inventory inspection and then compared the NLVs produced from the two inventories. Using that outlined approach, the Revised 2015 V&S RLBA Report conclude with an NLV of \$23,788,200, \$3,235,300 less than the original 2015 report, reflecting changes in the secondary railroad material market .

The Steps Necessary to Produce a Proper NLV

In light of the large variance between NLVs produced by RLBA and Fauth, RLBA feels it would be of value to the Board to briefly discuss what RLBA believes to be the required steps to properly calculate NLV in Board proceedings, and the critical skills and experience required to successfully complete an accurate valuation employing the proper NLV methodology. In this proceeding, the NLV of the rail assets constituting the Towner Line should equate to the net liquidation value of line² by utilizing five, unique steps:

- 1) completion of an asset inventory of the volumes and condition of materials in place (accomplished ideally through a thorough, physical inspection);
- 2) determination of the gross liquidation value (which is accomplished by applying appropriate market value unit prices to an asset inventory which has been adjusted to reflect some material loss during the recovery process);
- 3) determination and application of appropriate liquidation expenses;

² Given the potential retained rights of the Colorado Department of Transportation in the real property that comprises the Towner Line, neither V&S nor the Applicants have ascribed any value to the real property.

- 4) determination of the track salvage value (which is the gross liquidation value less liquidation expenses); and
- 5) determination and application of appropriate administrative, marketing and transportation expenses.

Each of the above-listed steps requires a specific skill set and appropriate information to be accomplished correctly. As described above, the RLBA infrastructure valuation team possesses those skills, and has access to proper sources of market information.

The bedrock of any sound NLV is an accurate inventory of the rail materials. To produce the most precise inventory, an on-site inspection conducted by an engineering professional with in-depth knowledge of railroad track structure is necessary. The inspector should possess a strong understanding of the various characteristics of all the types of material which may be encountered during an inspection. Likewise, the inspector needs to clearly understand the desired specifications required by customers in the secondary railroad material market to accurately determine the quality and grade of the material inventoried during the inspection. Finally, the valuation team, preferably the inspector, also needs to understand the liquidation process to reflect the unavoidable material loss during the liquidation process and to apply appropriate administrative, marketing and transportation expenses. Understanding this, NLV inventory inspections are generally only conducted by professional civil engineers, most of whom enjoy extensive experience in the rail sector, such as Mr. Meadows.³ As set forth in the *Fauth VS, Fauth*, although not an engineer, relied solely on his own “inspection” of the line.

³ Mr. Crew Heimer who conducted the 2014 inventory for RLBA is similarly qualified.

Equally important in deriving a correct inventory is the application of accurate market pricing. As demonstrated by the various RLBA Reports and the Fauth VS, even relatively minor variances in unit prices can compound on long lines (such as the Towner Line) to result in significant different gross liquidation values and, as such, produce radically different NLVs. Additionally, as again demonstrated by both RLBA and Fauth, the railroad materials market is both highly dynamic and difficult to assess from a third party perspective. As such, it is critical that any entity producing an NLV have access to real-world pricing and sales data related to different types of rail and rail materials if the results of said NLV are to hold up to any amount of scrutiny.

The Absence of Fauth Qualifications to Perform an NLV

In Appendix GWF-1, Fauth clearly demonstrates his significant experience in rail economics, rail regulation and the inner workings of the STB but glaringly fails to advance any notable experience in railroad engineering, the rail line liquidation process, or the secondary railroad material markets, disciplines within the railroad industry critical to the successful development of an accurate NLV calculation. Fauth volunteered no educational or previous employment history (including having never been employed by a railroad) that would suggest that he has any formal training, exposure or experience of any kind as it pertains to railroad engineering or the secondary railroad material markets. In fact, while Fauth specifically cites a number of STB dockets in which he made significant contributions to arguments pertaining to railroad economics or regulation, the entirety of his valuation experience provided in this proceeding is vaguely summarized as “I have extensive experience in working in STB regulatory proceedings, litigation and other projects involving railroad valuation issues. These matters have

involved railroad valuation issues on a nation-wide, system-wide, individual line and individual movement scope and basis.”

Perhaps most telling of all, at no point in Fauth’s five pages of qualification does he suggest that he has ever conducted a single NLV inventory inspection before the one at issue. Equally damning, when explaining the methodology he employed to reach the NLV value advanced in the his VS, Fauth freely admits that he has no access to current or historical relay material unit prices, instead relying on his own internally developed, extremely hypothetical and unproven approaches to produce unit prices. Simply put, Fauth does not possess the experience or information to accurately complete the various components which comprise an NLV. As one would expect given Fauth’s circumstances, RLBA found numerous incorrect assumptions and conclusions throughout the Fauth VS which severely undermine the credibility of his conclusions.

The Qualifications of the RLBA Team to Perform an NLV

In contrast to Fauth, the leading members of the RLBA team who contributed to the various V&S RLBA Reports and associated NLVs are all seasoned railroad professionals with decades of applicable experience.⁴

Lee Meadows, P.E., RLBA Director, Transportation Engineering, who conducted the second inventory inspection used in the 2016 V&S RLBA Report, enjoys 43 years of professional railroad engineering experience. Since joining RLBA in 2012, Mr. Meadows has conducted no less than eleven NLV inventory inspections in addition to a number of additional

⁴ More extensive treatments of the applicable qualifications of Mssrs. Meadows and Heimer are included in this Statement as Appendix 2 and Appendix 5, respectively.

inspections in support of various non-NLV specific engineering assignments. As previously mentioned, prior to joining RLBA, Mr. Meadows was employed in the Engineering Department of Norfolk Southern Corporation and predecessor, Norfolk and Western Railway from 1972 to 2005. Since leaving NS, Mr. Meadows has been engaged repeatedly as a freelance consulting engineer to design, permit, prepare contract documents and procure materials for the construction of various branch lines and loading tracks owned by a variety of high volume, rail shippers. Mr. Meadows is registered Professional Engineer and a member of the American Railway Engineering and Maintenance-of-Way Association (AREMA).

Crew Heimer, P.E., who conducted the first inventory inspection used in the 2014 and 2015 RLBA V&S Reports, enjoys 40 years of professional railroad engineering experience. Since first affiliating with RLBA in 1988⁵, Mr. Heimer has personally inspected or appraised over 6,200 miles of rail for a variety of clients, ranging from multiple Class 1 and short line railroads, to various public entities and agencies. Prior to RLBA, Mr. Heimer was employed by CSX Transportation for eleven years, holding the titles of Trainmaster, General Supervisor Logistics and Roadmaster. Mr. Heimer graduated from the University of Maryland with a BS in Civil Engineering.

⁵ Mr. Heimer was employed full time by RLBA from 1988 to 2000. Since 2000, as his circumstances allowed and coincided with RLBA needs, RLBA engaged Mr. Heimer as a subcontractor on a project-by-project basis. This practice is widely accepted and commonplace within the consulting industry. At that time, as Fauth asserts, Mr. Heimer indeed was an employee of another firm; Whitman Requardt and Associates, LLC. Mr. Heimer was under no obligation to work solely for that firm, nor did he have to receive permission with that firm in order to accept an assignment from RLBA. His resume was not listed on RLBA's website to minimize confusion given his employment elsewhere at the time. His title is identical to that held by Mr. Meadows today as that was Mr. Heimer's position while employed full time by RLBA.

As demonstrated above, the leading RLBA NLV team members bring substantial experience and expertise in the necessary engineering disciplines required to successfully employ the NLV methodology. The RLBA inspectors bring a combined 83 years of railroad engineering experience to these NLV estimates, providing multiple perspectives through interactions with a variety of stakeholders including Class Is, short lines, contractors and various levels of government. NLVs featuring inspections completed by Messrs. Meadows and Heimer have been used in a wide variety of applications ranging from public and private sector transactions to STB proceedings. Beyond the duo's impressive combined NLV experience, Mr. Meadows brings extensive experience procuring new and relay rail materials as part of his aforementioned freelance rail engineering experience. His strong understanding as to what type of, and in what condition, customers desire relay material is invaluable when grading material as part of an inventory inspection.

Section One: The 2016 V&S RLBA Report

Summary of RLBA's Efforts

As previously mentioned, RLBA was retained by V&S to perform a valuation of track assets constituting the entire railroad between Towner, Colorado and a location outside Avondale, Colorado. This report, dated July, 19, 2016 and formally entitled "Track Asset Valuation of the V&S Railway, Towner Junction, CO – NA Junction, CO" will be referred to as the "2016 V&S RLBA Report" to remain consistent with the terminology used in the Fauth VS. RLBA determined the Net Liquidation Value (NLV) of track assets and related materials in the subject property as of May 12, 2016 based on inventory findings recorded during a physical inspection of the assets which occurred on May 11-12, 2016 conducted by Lee Meadows, P.E. As summarized in Table 1, the NLV of the Towner Line is \$23,931,500 as of May 12, 2016. The entirety of the 2016 V&S RLBA Report, which features a detailed description of the methodology and assumptions employed, is included in this Statement as Appendix 6.

Table 1
Summary of 2016 V&S Report NLV

	Unit	Total	Cost	Total
Track Nominal Value:				
Relay Railroad Materials				\$27,775,900
Steel Scrap and Reroll OTM				\$748,000
Ties and Non-steel OTM				\$2,020,700
Gross Value				\$30,544,600
Preparation Cost Adjustments:				
Fit Rail & OTM Removal	Miles	124	\$16,000	-\$1,987,600
Scrap/Reroll Rail & OTM Removal	Miles	10	\$15,500	-\$161,100
Fit Turnout Removal	Each	23	\$800	-\$18,400
Scrap Turnout Removal	Each	7	\$500	-\$3,500
Total Adjustments				-\$2,170,600
Restoration Cost Adjustments:				
Public Highway Crossing	Each	64	\$2,000	-\$128,000
Private Highway Crossing	Each	12	\$300	-\$3,600
Total Adjustments				-\$131,600
Track Salvage Value				\$28,242,400
Administrative, Marketing and Transportation Expense:				
Relay Steel Materials	Percent Gross		13%	-\$3,610,900
Scrap, Reroll and Non-steel Materials	Percent Gross		5%	-\$138,400
Transportation to Pueblo, CO	Carload	312	\$1,800	-\$561,600
Total Estimated Expense				-\$4,310,900
Net Liquidation Value				\$23,931,500
Notes: Dollar amounts are rounded to the nearest hundred; units to the nearest tenth. Values may not appear to add due to rounding.				

NLV Methodology

This NLV was determined utilizing the same process RLBA always employs and employed in the previous Towner Line valuations through application of a multiple step process, the building blocks of which are summarized below. This approach was designed to adhere to the methodology employed by the STB, as reflected in decisions made by the Board, and its predecessor the Interstate Commerce Commission (“ICC”) involving abandonments, feeder line applications and other issues involving the prescribed use of NLV. These steps are:

1. Gross Liquidation Value (“GLV”)
 - a) Fixed Asset Ownership
 - b) Fixed Asset Inventory
 - c) Inventory Adjustment for Wear and Recovery Reductions, and
 - d) Application of Market Value Unit Prices
2. Liquidation Expenses
 - a) Removal Expenses, and
 - b) Restoration Expenses
3. Track Salvage Value (Gross Liquidation Value less Liquidation Expenses)
4. Administrative, Marketing and Transportation Expenses, and
Net Liquidation Value (Track Salvage Value less Administrative, Marketing and Transportation Expenses).

NLV Pricing Information Sources

The GLV and NLV calculations are based on the application of actual unit market prices as of May 12, 2016. To ensure accurate market prices on all of its NLVs, RLBA professionals maintain relationships with several national railroad material vendors who graciously provide RLBA with up-to-date, real-world pricing information about the relay material markets. Among the most prominent and reliable of these vendors is A&K Railroad Materials, Inc. (hereafter “A&K”). RLBA recognizes that A&K shares common ownership with V&S; however, RLBA also recognizes that A&K, founded in 1959, is the largest supplier of new and used track materials in the United States, and as such is an invaluable source of market pricing

information.⁶ For the purposes of this Report, A&K provided RLBA with, among other data, complete current and historical list price information of new and relay material, historical transactions data and historical inventory data. Furthermore, RLBA consulted other vendors to confirm the validity of the numbers provided by A&K.⁷ As such, RLBA is confident that the values produced in the various RLBA Reports are realistic reflections of not only the current market but also of the market place at the times the 2014 and 2015 V&S RLBA Reports were produced. Table 2 displays the values assigned to material identified on the Tower Line

⁶ The railroad material market is competitive. As such, most vendors which provide RLBA with market information do so under the condition of anonymity. A&K provided RLBA with market information on an anonymous basis in connection with a number of other valuations unrelated to this one. However, for the purposes of this proceeding A&K agreed to be identified as the source of the market information it provided, on the condition that the pricing information itself be kept “highly confidential.” Due to this anonymity, RLBA cannot fully disclose the sources of its pricing data used in the 2014 and 2015 V&S RLBA Reports.

⁷ Mr. Meadows and RLBA staff carefully scrutinized the pricing data A&K supplied and, in each instance in which a conflict existed, RLBA erred on the conservative side and assumed the lesser value. List prices of A&K Materials, current as of the date of the 2016 V&S RLBA Report, are included in this Statement as Appendix 7. Transactional data from A&K Materials appropriate to that timeframe also are included in this Statement as Appendix 8. Price quotes from other third party vendors during that period also are included in this Statement as Appendix 9. Finally, pricing conflicts and the solution RLBA applied to resolve them are included in this Statement as Appendix 10.

Table 2
Unit Market Prices as of May 12, 2016⁸



⁸ May 12, 2016 was the date of when the NLV inspection was performed and market prices determined from. This date was chosen based on the Applicants' original filing of their Supplemental Petition. Due to various extensions granted by the STB, the filing date for statement was rescheduled several times.

Section Two: Comparing the RLBA NLVs

The Provision of a Second RLBA Inventory Inspection and NLV

As previously mentioned, the 2016 V&S RLBA Report was commissioned by V&S to respond to the Fauth NLV, and to confirm the validity of the valuation results advanced in the 2014 and 2015 RLBA Reports that were the basis of the Fauth NLV, but which were also heavily criticized in the Fauth VS. The 2014 and 2015 RLBA Reports were based on the inventory inspection and assessment performed for RLBA by Crew Heimer, P.E.

As regards this engagement, RLBA recommended that an entirely new, independent inventory inspection conducted by a different inspector would provide the most objective and unbiased results possible. To that end, Lee Meadows, P.E., RLBA Director of Transportation, conducted an on-site inventory and condition assessment inspection of the Towner Line on May 11-12, 2016. The inspection was conducted via a hi-rail vehicle provided by V&S. A representative of V&S was present during that entire period to act as a guide and answer any questions posed by Mr. Meadows.

In preparing to undertake the inventory and condition assessment inspection, Mr. Meadows reviewed track charts of the line provided to RLBA by V&S. However, to ensure that Mr. Meadows' inventory inspection remained independent of the previous inspections, Mr. Meadows purposely was not provided with a copy of Mr. Heimer's inventory inspection and results (which were used to produce the valuations advanced in the 2014 and 2015 V&S RLBA Reports) nor the Fauth VS.⁹ Additionally, Mr. Meadows was not informed about the pending KCVN/CPR Feeder Line Application. Instead, Mr. Meadows was merely charged with

⁹ Mr. Meadows was provided with and reviewed in depth the Fauth VS only after completing his on-site inventory inspection.

preparing an NLV to compare with the NLV RLBA previously assigned to the line, specifically not specifying if the prior valuation estimate reached by RLBA was too high or too low. The only commonality between the two RLBA-sponsored inventories is the application of RLBA's standard NLV text and tabular templates, so the two inventories share certain assumptions (i.e., percentages of material lost during material recovery, etc.) which facilitates comparison. As such, RLBA is confident that the conclusions reached by Mr. Meadows in no way were influenced by Mr. Heimer's or Mr. Fauth's inventories.

The fact that the subject RLBA inventory inspections are unique and independent is critical due to the assertions in the Fauth VS that Mr. Heimer's inventory (and, by extension, the final valuation results reached in both the 2014 and 2015 V&S RLBA Reports) vastly overstate the quality of track material in place along the Towner Line. Despite the fact that Fauth did not actually complete a proper inventory inspection, and does not have the professional qualifications to undertake an inventory inspection competently (topics which will be discussed in more detail later in this Statement), Fauth concluded that most of the rail and essentially all of the other track material on the Towner Line does not command any value other than as scrap. The consistent yet independent inventories of qualified professionals, Meadows and Heimer, demonstrate that Fauth's evaluation of the inventory does not deserve any weight.

Comparison of the Heimer and Meadows Inventories

The introduction of a third inventory prepared by a highly qualified and independent inspector such as Mr. Meadows provides the Board a "measuring stick" against which the other, two inventories can be compared to determine which of the two, in fact, is the outlier. This section of this Statement compares the key elements at issue concerning the various inspection

inventories completed on the Towner Line. Since Fauth did not produce an inventory of his own, instead accepting the *quantities*, but not *qualities*, of Mr. Heimer's inspection, this comparison only can compare objectively the two inventories produced by RLBA; the one completed in 2014 by Mr. Heimer and the one undertaken in 2016 by Mr. Meadows. The following pages address and compare the inventory results advanced by RLBA's two track structure inspection experts with respect to each of the key assets inventoried.

Assessment of the Rail

As Fauth correctly suggests on page 24 of his Statement, rail is the single most valuable asset typically found along rail lines.¹⁰ Indeed, in the 2014 V&S RLBA Report, rail amounted to \$22,290,700 (66.4%) of the Gross Salvage Value (GSV) totaling \$33,549,000; in the 2015 V&S RLBA Report, rail amounted to \$22,110,100 (65.7%) of the GSV totaling \$33,650,000 and in the 2016 V&S RLBA Report, rail amounted to \$19,684,700 (64.4%) of the GSV totaling \$30,544,686. As such, it is critical that the Board be presented with a realistic, credible inventory of the amount and quality of the rail in the Towner Line. As presented in Table 3, the results of Mr. Meadow's inspection clearly demonstrate a strong correlation with those reported by Mr. Heimer.

While, as one would expect, there exists some variations between the quantities and qualities determined by Messrs. Heimer and Meadows, overall, the two rail inventories are strikingly similar, especially as regards important matters. With respect to the quantity of rail, Mr. Heimer determined there to be a total of 28,909 tons of rail in place on the Towner Line, while Mr. Meadows determined there to be 29,007 tons in place (Mr. Meadows identified 134.62

¹⁰ Fauth VS, page 24.

total miles of track, 0.52 miles more than Mr. Heimer), a difference of only 98 tons, less than 1% between the two RLBA experts and in their Reports. This impressive correlation between quantities was not just limited to the aggregate of in-place rail but extended also to the individual rail weights themselves.

*Table 3
Comparison of Heimer and Meadows Inventories, Rail In Place*

Description	Condition	Heimer Inventory		Meadows Inventory		Variance	
		Tons	Percent (Total)	Tons	Percent (Total)	Tons	Percent
136 RE CWR	Fit #1	11,802	40.82%	11,802	40.69%	0	0.14%
136 RE CWR	Fit #2	0	0.00%	574	1.98%	-574	-1.98%
136 RE	Fit #2	0	0.00%	47	0.16%	-47	-0.16%
136 RE CWR	Reroll	299	1.03%	0	0.00%	299	1.03%
136 RE CWR	Scrap	0	0.00%	32	0.11%	-32	-0.11%
136 RE	Scrap	0	0.00%	265	0.91%	-265	-0.91%
136 Total		12,101	41.86%	12,720	43.85%	-619	-1.99%
133 RE CWR	Fit #1	41	0.14%	73	0.25%	-32	-0.11%
133 RE CWR	Fit #2	41	0.14%	0	0.00%	41	0.14%
133 Total		82	0.28%	73	0.25%	9	0.03%
132 RE CWR	Fit #3	0	0.00%	174	0.60%	-174	-0.60%
132 RE CWR	Reroll	871	3.01%	0	0.00%	871	3.01%
132 RE CWR	Scrap	0	0.00%	174	0.60%	-174	-0.60%
132 Total		871	3.01%	348	1.20%	523	1.81%
115 RE CWR	Fit #1	147	0.51%	439	1.51%	-292	-1.00%
115 RE CWR	Fit #2	450	1.56%	0	0.00%	450	1.56%
115 RE	Fit #1	10,606	36.69%	10,721	36.96%	-115	-0.27%
115 Total		11,203	38.75%	11,160	38.47%	43	0.28%
113 RE CWR	Fit #2	627	2.17%	564	1.94%	63	0.22%
113 RE CWR	Scrap	0	0.00%	63	0.22%	-63	-0.22%
113 Total		627	2.17%	627	2.16%	0	0.01%
112 RE	Fit #1	3,628	12.55%	0	0.00%	3,628	12.55%
112 RE	Fit #3	0	0.00%	2,621	9.04%	-2,621	-9.04%
112 RE	Reroll	34	0.12%	0	0.00%	34	0.12%
112 RE	Scrap	14	0.05%	928	3.20%	-914	-3.15%
112 Total		3,676	12.72%	3,549	12.23%	127	0.48%
90 RA	Fit #1	71	0.25%	0	0.00%	71	0.25%
90 RA	Reroll	21	0.07%	0	0.00%	21	0.07%
90 RA	Scrap	3	0.01%	436	1.50%	-433	-1.49%
90 Total		95	0.33%	436	1.50%	-341	-1.17%
85 AS	Reroll	203	0.70%	0	0.00%	203	0.70%
85 AS	Scrap	51	0.18%	94	0.32%	-43	-0.15%
85 Total		254	0.88%	94	0.32%	160	0.55%
Grand Total		28,909		29,007		-98	

Both inspectors identified eight, discrete weights of rail in place along the line: 136, 133, 132, 115, 113, 112, 90 and 85 pound sections. What's more, when the Percent (Grand Total) of total tons of in-place rail inventoried by each inspector is compared at the Rail Weight Total level, the largest variance between the two reports, expressed as a ratio, is a mere 1.99%.

This strong correlation between the findings of the two RLBA experts extends to their assessments of the condition of the rail in place that they inspected. Messrs. Heimer and Meadows reached similar conclusions regarding the quality of the rail¹¹ in place across almost all eight weights of rail inventoried. As demonstrated in Table 4, the inventories of both RLBA experts reflect strikingly similar conclusions reached by them concerning the amount of relay material in place along the line. Mr. Heimer determined that 27,413 tons of the 28,909 tons of rail in place graded as relay (94.82% of all rail). Mr. Meadows reached a similar conclusion, determining that 27,015 tons of the 29,007 tons of rail in-place graded as relay (93.13% of all rail). Overall, the two inspectors' inventories were within 400 tons of each other with regards to tons of rail material graded as relay.

*Table 4
Comparison of Heimer and Meadows Inventories, Summary of Condition of Rail In Place*

Condition	Heimer Inventory		Meadows Inventory		Variance	
	Tons	Percent	Tons	Percent	Tons	Percent
Relay	27,413	94.82%	27,015	93.13%	398	1.69%
Reroll	1,428	4.94%	0	0.00%	1,428	4.94%
Scrap	68	0.24%	1,992	6.87%	-1,924	-6.63%
Total	28,909		29,007		-98	

¹¹ The different qualities (relay, reroll and scrap, and Fit #1, #2 and #3) are described more fully on page 6 of the 2016 RLBA V&S Railway Report, included as Appendix 6.

The similarity between the quality of rail, as reflected in both its condition assessment and disposition determined in the two RLBA inventories is not just limited to aggregate totals. In both RLBA inventories, the vast majority of tonnage was determined to be two grades of material: 1) Number One Fit 136 pound CWR rail and 2) Number One Fit 115 pound jointed rail. Together, those two items amounted to 23,215 tons, or 84.6% of all rail in Mr. Heimer's inventory and 23,879 tons, or 82.3% of all rail, in Mr. Meadows' inventory. Both inventories reflect similar conclusions regarding both types of material; both inventories reflect the determination that exactly the same amount - 11,802 tons – of Number One Fit 136 pound CWR is found on the subject line. As regards Number One Fit 115 pound jointed rail, Mr. Heimer identified 11,203 tons of rail in place while Mr. Meadows inventoried 11,160 tons. All told, the Number One Fit 115 pound jointed rail volumes between two RLBA inventories were separated by just 115 tons, an insignificant discrepancy.

While the two, RLBA inventories largely paint a similar picture regarding the condition of rail in place on the Towner Line, there are a limited number of discrepancies. However, due to their largely immaterial nature, RLBA believes that these discrepancies do not have any serious effect on the accuracy of either inventory. While there does exist some guidance regarding reusable wear on rail, to some degree, the assignment of material quality reflects the subjective opinion of the inspector; hence why employing qualified inspectors who understand the demands of the secondary railroad material market is so critical.

That said, RLBA acknowledges two differences of note. First, while Messrs. Heimer and Meadows reach very similar conclusions as to the amount of 112 pound rail in place (3,676 tons and 3,549, respectively), the inspectors reach different conclusion as to the quality of the rail, with Mr. Heimer assigning a grade of Number One Fit to almost the entirety of the rail (3,628 of

3,676 tons of in-place rail, or 98.9%) while Mr. Meadows assigned 2,621 of 3,549 tons of 112 pound rail in-place rail as Number Three Fit (73.8% of all 112 pound, in-place rail) and another 928 tons as scrap (25.1% of all 112 in-place rail). Again, RLBA accepts this deviation as an example of the unavoidable differences in the professional opinions of its two, experienced inspectors. Additionally, Number Three Fit rail, the grade assigned to the majority of the 112 pound rail in place by Mr. Meadows, sells at only a 15% discount compared to Number One Fit rail assessed by Mr. Heimer, based on the market information reviewed by RLBA. As 112 pound rail only comprises approximately 12% of rail in both inventories, the difference in Gross Salvage Value as a result of the different assessments is minimal.

The second notable difference between the two RLBA inspectors as regards condition assessment pertains to the amounts of reroll and scrap. Mr. Heimer assigned a grade of reroll to 1,428 tons of rail and scrap to another 68 tons while Mr. Meadows assigned the grade of reroll to 0 tons of rail and a grade of scrap to 1,992 tons of rail. This discrepancy is affected by new information regarding the most favorable scrap market disposition option discovered by RLBA since the completion of Mr. Heimer's inventory. Mr. Heimer's inventory reflected the assumption that both scrap and reroll material would be transported by rail to the Chicago, IL area to yield the highest disposition value. Since that time, as part of an unrelated RLBA net liquidation valuation project, RLBA became aware of a vendor in nearby Pueblo, CO (EVRAZ Rocky Mountain Steel) that will accept scrap rail but not reroll. RLBA determined that the savings realized in transporting rail to Pueblo versus Chicago would be greater than the additional revenue realized from grading rail as reroll material and so Mr. Meadows graded all non-relay material as scrap.

Assessment of Other Track Material

Following rail, the second most valuable class of materials is “other track material” (OTM), which amounted to \$9,889,200 (29.5%%) of the entire GSV totaling of \$33,549,000 in the 2014 V&S RLBA Report, \$10,088,800 (29.9%) of the entire GSV totaling \$33,650,000 in the 2015 V&S RLBA Report and \$8,702,186 (28.5%) of the entire GSV totaling \$30,544,686 in the 2016 V&S RLBA Report. While Fauth assigns a grade of scrap to all OTM on the entire Towner Line, the inventories prepared by Messrs. Heimer and Meadows strongly indicate quite the opposite. As demonstrated in Table 5, both RLBA inspectors determined there to be Messrs. Heimer and Meadows reached similar conclusions regarding the amounts of relay material on the line (98.62% versus 97.49%, respectively, regarding tie plates; 96.87% versus 89.87%, respectively, regarding joint bars, and; 92.27% versus 96.25%, respectively, regarding anchors).

*Table 5
Comparison of Heimer and Meadows Inventories, OTM In Place*

Description	Condition	Unit	Heimer Inventory		Meadows Inventory		Variance	
			Total	%	Total	%	Tons	%
Tie Plates 8 x 16 DS	Relay	Each	26,317		25,992			
Tie Plates 8 x 14 DS	Relay	Each	328,799		331,008			
Tie Plates 8 x 13 DS	Relay	Each	501,321		495,797			
Tie Plates 7 x 11 SS	Relay	Each	2,924		0			
Tie Plates 7 x 11 SS	Scrap	Each	12,021		0			
Tie Plates 5.125 x 9 SS	Scrap	Each	0		21,933			
Tie Plates Relay Total	Relay	Each	859,361	98.62%	852,797	97.49%	6,564	1.13%
Tie Plates Scrap Total	Scrap	Each	12,021	1.38%	21,933	2.51%	-9,912	-1.13%
Tie Plate Total			871,382		874,730			
Joint Bars 136#	Relay	Pair	0		712			
Joint Bars 132#	Relay	Pair	0		406			
Joint Bars 115# 36"	Relay	Pair	14,188		14,343			
Joint Bars 112# 24"	Relay	Pair	4,984		3,785			
Joint Bars 90#	Relay	Pair	144		0			
Joint Bars 112#24"	Scrap	Pair	33		0			
Joint Bars 112# 36"	Scrap	Pair	0		1,087			
Joint Bars 90#	Scrap	Pair	48		880			
Joint Bars 85#	Scrap	Pair	544		202			
Joint Bars Relay Total	Relay	Pair	19,316	96.87%	19,246	89.87%	70	6.99%
Joint Bars Scrap Total	Scrap	Pair	625	3.13%	2,168	10.13%	-1,544	-6.99%
Joint Bars Total			19,941		21,414			
Rail Anchors Welded	Relay	Each	354,004		415,642		-61,638	-8.01%
Rail Anchors Jointed	Relay	Each	196,389		181,632		14,757	3.90%
Rail Anchors	Scrap	Each	46,136		23,263		22,873	32.96%
Anchors Relay Total	Relay	Each	550,393	92.27%	597,274	96.25%	-46,881	-3.99%
Anchors Scrap Total	Scrap	Each	46,136	7.73%	23,263	3.75%	22,873	3.99%
Anchors Total			596,529		620,537			
Spikes	Scrap	Ton	679		682		-3	
Bolts & Washers	Scrap	Ton	190		99		91	

Assessment of Turnouts

While turnouts typically enjoy the single highest unit price of any salvageable material, they are usually found only in small quantities. Such is the case on the Towner Line, in which turnouts amount to less than 1% of the GSV across all three RLBA NLVs. As displayed in Table 6, while the two RLBA inventories featured some variance, the Heimer and Meadows inventories both reflect determinations that over half of all turnouts are relay. That is noteworthy, as Fauth attributed scrap grades to all turnouts.

Table 6
Comparison of Heimer and Meadows Inventories, Turnouts In Place

Description	Condition	Unit	Heimer Inventory		Meadows Inventory		Variance	
			Total	Percent	Total	Percent	Total	Percent
Turnout 136 No. 10	Relay	Each	12	41.38%	14	46.67%	-2	-5.29%
Turnout 136 No. 10	Scrap	Each	2	6.90%	0	0.00%	2	6.90%
Turnout 115 No. 10	Relay	Each	6	20.69%	9	30.00%	-3	-9.31%
Turnout 115 No. 10	Scrap	Each	6	20.69%	4	13.33%	2	7.36%
Turnout 112 No. 10	Scrap	Each	3	10.34%	3	10.00%	0	0.34%
Turnout Total			29		30		-1	

Assessment of the Ties

By some measures, the largest variance between the inventories of Messrs. Heimer and Meadows pertains to the grading of ties on the line. Again, RLBA accepts this as natural differences in the opinions of two, experienced inspectors. This is even more likely and acceptable in the case of ties than in the case of other track material, as an inspector is only seeing 25% (one out of four sides) of a tie when it is installed in a right-of-way. Since only such a small portion of the material can be observed physically and recorded by any inspector without removing the tie from the railroad (at great expense), it is the responsibility of the inspector to determine what sort of assumptions s/he is comfortable making regarding the unseen portions of the tie based on her/his personal experience and knowledge of the secondary market. For example, Mr. Meadows elected to not attempt to make a determination between grading landscape ties as either Number One (a superior grading) or Number Two (an inferior grading), while conversely, Mr. Heimer was comfortable enough with what he saw during his inspection to draw that distinction. RLBA respects this difference of opinion between its inspectors. Furthermore, ties generally amount to a distant third place contributor to NLV value (behind both rail and OTM) and, as such, the effect of the variance in ties between the two RLBA inventories is minimal.

Table 7
Comparison of Heimer and Meadows Inventories, Ties In Place

Description	Condition	Unit	Heimer Inventory		Meadows Inventory		Variance*	
			Total	Percent	Total	Percent	Total	Percent
Ties	Relay	Each	7,921	2%	61,233	14%	-53,312	-12%
Ties	Landscape #1	Each	106,934	27%	349,904	80%	-104,351	-19%
Ties	Landscape #2	Each	138,619	35%	--	--	--	--
Ties	Scrap	Each	146,540	37%	26,243	6%	120,297	31%
Ties Total			400,014		437,380		-37,367	

*Variance comparisons considers both Landscape 1 and 2 for the Heimer Inventory and Landscape 1 in the Meadows Inventory

Comparison of the Heimer and Meadows Gross Liquidation Values

RLBA is confident that the above-detailed comparison of the quantities of material in place identified in the Heimer and Meadows inventories leaves little doubt that the Fauth condition “inventory” is deeply flawed. However, RLBA elected to perform an additional exercise to understand even more conclusively the correlation between the two RLBA inventories. As discussed earlier, an NLV is comprised of two primary components, an accurate inventory and accurate pricing information. Comparing NLVs is particular difficult because these two components are highly variable; different inspectors reach different conclusions about the qualities and condition of materials in place while, at the same time, the price the market will bear for said materials is constantly changing. Essentially, comparing two NLVs side-by-side is a moving target, as both of the major components of an NLV are highly variable.

In the previous discussion, RLBA attempted to demonstrate that the inventories of Messrs. Heimer and Meadows are very similar, hence proving that the majority of the Towner Line consists of material with significant relay value. Since the two inventories were completed over two years apart, comparing the resulting NLVs or GLVs of the two inventories is of little help, as the market prices for each of the subject materials has changed over time. To adjust for

these ever-changing inputs, RLBA has attempted to treat pricing information as a constant across both inventories. To do this, RLBA applied what it determined to be current market prices as of May, 12 2016 to both the Heimer and the Meadows inventories. The results of this exercise are displayed in Table 8.

Much like the comparisons of the Heimer and Meadows inventories, a side-by-side comparison of the two GLVs paints a very similar story, with the Heimer inventory producing a GLV of \$29,961,160, as compared to the GLV using the Meadows inventory of \$30,544,686.

Table 8
Comparison of Heimer and Meadows Gross Liquidation Value¹²



¹² The quantities of both the Heimer and Meadows inventories have been reduce by applying an individual “recovery rate” percentage to each item.

Also of note, the 2014 and 2015 V&S RLBA Reports assigned negative GLV values to the scrap ties in an effort to reflect the real world cost of removal, common RLBA practice when completing non-STB NLV assignments. At the time of the first report, RLBA was not informed said report might be used as part of an STB proceeding and, as such, a negative GLV value was assigned to ties. This assumption, employed by RLBA in all non-STB NLVs, was again used in the 2015 V&S RLBA Report before being adjusted in this Statement to match Board precedent. The Meadows inventory, the associated 2016 RLBA Report and the adjusted Heimer inventory shown in Table 8, all follow established Board precedent by assigning an NLV of \$0 to scrap ties.¹³

Comparison of the Heimer and Meadows Liquidation Expenses

As discussed, the final step in the NLV process is the application of liquidation expenses and discounts. Messrs. Heimer and Meadows both utilized RLBA's standard NLV template, which includes previously determined costs incurred in connection with removing railroad materials, restoring grade crossings and additional administrative, marketing and transportation (AM&T) expenses. These values were modeled on accepted Board precedents and have been accepted by a diverse array of RLBA clients and entities including the STB and the Federal Railroad Administration (for whom, in 2014, RLBA authored a report detailing an NLV calculation) on multiple occasions and, as such, RLBA stands by their validity. A comparison of these liquidation expenses and discounts are displayed in Table 9. Since both the 2015 and 2016

¹³ Fauth also assigns a \$0 NLV to scrap ties.

RLBA Reports used the same template, it should come as no surprise that both feature extremely similar assumptions and values.

Table 9

Comparison of Liquidation Expenses Attributed to Inspections of Messrs. Heimer and Meadows

Description	Heimer 2015 NLV			Meadows 2016 NLV		
	Unit	Price	Total	Unit	Price	Total
Fit Rail & OTM Removal (miles)	127	\$16,000	-\$2,032,100	124	\$16,000	-\$1,987,600
Scrap/Reroll Rail & OTM Removal (miles)	7	\$12,000	-\$85,100	10	\$15,500	-\$161,100
Fit Turnout Removal (each)	18	\$800	-\$14,400	23	\$800	-\$18,400
Scrap Turnout Removal (each)	11	\$500	-\$5,500	7	\$500	-\$3,500
Total Preparation Cost Adjustments			-\$2,137,100			-\$2,170,600
Public Crossing Restoration (each)	64	\$2,000	-\$128,000	64	\$2,000	-\$128,000
Private Crossing Restoration (each)	12	\$300	-\$3,600	12	\$300	-\$3,600
Total Crossing Restoration Cost Adjustments			-\$131,600			-\$131,600
Relay Steel Materials	13%		-\$3,675,400	13%		-\$3,610,900
Scrap, Reroll and Non-steel Materials	5%		-\$84,500	5%		-\$138,400
Transportation - Carloads*	25	\$5,776	-\$144,400	321	\$1,800	-\$561,600
Total AM&T Expense			-\$3,904,300			-\$4,310,900
Grand Total			-\$6,173,000			-\$6,613,100

* The Heimer NLV reflects assumed transportation from NA Junction, CO to Chicago, IL. Meadows NLV reflects assumed transportation from NA Junction, CO to Pueblo, CO

RLBA does however acknowledge two differences, those being the cost to remove scrap material per mile (\$12,000 per mile in the Heimer 2015 NLV, as compared to \$15,500 per mile in the Meadows 2016 NLV), and the transportation cost (\$144,400 in the Heimer 2015 NLV, as compared to \$561,600 in the Meadows 2016 NLV). The increase in removal cost is related to the discovery of EVRAZ Rocky Mountain Steel in Pueblo, CO discussed earlier. In addition to not accepting reroll material, the EVRAZ plant also requires that all scrap rails be cut into three foot lengths. Mr. Meadows assigned an increase of \$3,500 per mile to capture the costs of additional labor and materials required to cut the rail. Mr. Heimer did not include such costs in his report because RLBA was not aware at the time that the Pueblo option was available.

The differences in transportation cost are driven by two factors. First, it is significantly cheaper to ship to EVRAZ Rocky Mountain Steel in Pueblo (as Mr. Meadows has assumed in his

Report) than to the much further way metal markets of Chicago (as assumed by Mr. Heimer in his Report). Second, much like the situation previously described regarding scrap ties, RLBA did not prepare the original V&S RLBA Report for submission before the STB, thus assuming that the cost to transport all relay material would be borne by the buyer, which RLBA considers to be standard practice in the real world market place. RLBA has adjusted the transportation cost in the 2015 V&S RLBA Report to reflect the assumption that relay rail also would be transported to Pueblo, CO, where it would be warehoused and eventually sold, likely in piecemeal fashion. This increases the expenses associated with the liquidation and reduces the NLV.

Comparison of Gross Liquidation Values in Recent Towner Line NLVs

Remembering that one of the objectives of RLBA producing an entirely new NLV was to examine the validity of Mr. Heimer’s previous work in the face of Fauth’s criticism, RLBA compared the three, most recent GLVs of the Towner Line as well as the adjusted Heimer GLV (referred to as “Heimer 2016”) as shown in Table 10. Even a cursory review of the table makes clear that Fauth’s values are strikingly lower than any advanced across the various RLBA-produced GLVs. As will be discussed in more detail below, Fauth’s GLV is more than three times lower than any of the RLBA GLVs because of his unjustified assignment of scrap values to the majority of material on the line, and the unsupported application of unrealistic unit prices.

Table 10
Comparison of Most Recent, Known Four Towner Line GLVs

Material Class	Heimer 2015	Heimer 2016	Meadows 2016	Fauth
Rail Total (a)	\$22,110,100	\$20,118,000	\$19,684,700	\$5,919,563
OTM Total (b)	\$10,088,800	\$8,675,160	\$8,702,186	\$2,166,466
Turnouts Total (c)	\$107,100	\$110,600	\$137,100	\$18,837
Non-steel OTM Total (d)	\$1,344,000	\$1,057,400	\$2,020,700	\$0
Grand Total (a+b+c+d)	\$33,650,000	\$29,961,160	\$30,544,686	\$8,104,866

Section Three: Analysis of Fauth's Faulty Methodology

Part One: Inventory Inspection and Estimation of Liquidation Expenses

Fauth's Findings on the Condition of Key Materials are Unfounded and Unsupported

Throughout the Fauth VS, he is extremely critical of the conditions previously assigned to the materials constituting the Towner Line, eventually assigning scrap grades to 79.45 miles of the rail and all of the Towner Line OTM. Fauth continually dismisses large quantities of rail and material as 'worn,' yet offers little tangible evidence other than his anecdotal, personal opinions. Several examples of Fauth making unsupported statements about the condition of the track materials at issue include:

"The remaining 136 lb. rail and other CWR is likely not suitable for relay based on the age and wear of the rail"¹⁴

"The remaining 79.45 miles of the remaining older, worn, lighter and mostly jointed 115 lb., 112 lb., 90 lb. and 1 85 lb. (sic) and 90 lb. rail would be suitable only for scrap."¹⁵

"I closely inspected the rail at many locations and measured the head wear of the rail using a calibrated rail wear gauge... I found significant head wear, especially on the older 112 lb. and 115 lb. jointed rail made in the 1940's."¹⁶

In all the above examples, Fauth makes damning statements regarding the condition of the rail, yet provides no data to support those claims. Given that Fauth does not have a railroad engineering background, it not clear that he has the training to properly measure head wear, or to know what constitutes excessive wear. Although Fauth purports to have measured head wear, he

¹⁴ Fauth VS, page 29.

¹⁵ Fauth VS, page 29.

¹⁶ Fauth VS, page 19.

supplies no specific measurements, nor does he compare any of his measurements to the AREMA Manual for Railway Engineering,¹⁷ which provides a table of acceptable rail use based on measured wear. ***In contrast to Fauth’s layman’s evaluation of the condition of the rail, the independent evaluations of Mr. Meadows and Mr. Heimer, two experienced, civil engineers, each found that significant amounts of the track qualified as “relay” quality.***

One also must view the conclusions reached by Fauth in connection with the value of the track with skepticism considering that in other parts of his Statement, he takes an entirely different view of the condition of the tracks (emphasis added by RLBA):

“Although most of the rail on the line is in fairly good condition, the entire line needs to be stabilized, resurfaced and inspected in order to restore Class 1 service to the line.”¹⁸

“Although the rail itself is adequate size and in fairly good condition, it will need to be stabilized, especially in the area that spikes and other track materials have been removed by V&S.”¹⁹

These above comments culminate in Fauth’s estimation restoration cost. When estimating the cost of restoring the Towner Line to FRA Class 1 track condition, ***Fauth includes no cost whatsoever to acquire new rail or steel OTM material.*** If the track and OTM are good enough to be reused by the Applicants, why wouldn’t it be good enough to be sold to others for the same purpose?²⁰

¹⁷ See 2012 AREMA Manual for Railway Engineering, Table 4-3-17.

¹⁸ Fauth VS, page 19.

¹⁹ Fauth VS, page 81.

²⁰ The simple fact is, either the rail is of good quality and, as such, warrants substantial relay value, or it is of poor quality and, as such, the Towner Line will require substantially more rehabilitation cost than Fauth has advanced elsewhere in his VS.

Fauth Did Not Perform a Complete, Independent, Inventory Inspection

Prior to conducting his inspection, Fauth responsibly asked V&S for permission to access the right-of-way. Along with permission to access the right-of-way, V&S also offered to provide, at a cost, a hi-rail vehicle from which to inspect the line, as well a V&S employee to act as a driver/escort, both standard procedures with which RLBA engineering staff have abided in similar situations. Fauth later advised he would not be hi-railing the line. Instead, Fauth reported that both of his separate, two-day inspections were conducted by driving from grade crossing to grade crossing. Inspection via hi-rail is common practice when conducting rail line appraisals; there is no substitute for getting out on the rail.²¹

Even in the case of lines which are generally closely paralleled by surface roads, like the Towner Line, skilled track inspectors inevitably would miss details about the line by merely sampling track at crossings, let alone an individual with little to no experience or qualifications to inspect a rail line. As just one example, during his on-site inspection of the Towner Line, Mr. Meadows identified a section of 133 pound CWR track over a bridge, away from surface roads, which was listed as 136 pound CWR on the dated track chart Mr. Meadows reviewed prior to his inspection. The ability to successfully identify discrepancies such as this is one of the primary reasons an on-site physical inventory inspection by hi-rail is preferable and more accurate when producing an NLV.

Fauth's criticism on page 27 of his VS regarding RLBA's ability to inspect the entire line in a single day is unfounded. Both Messrs. Heimer and Meadows averaged 10 route miles per hour, consuming a full 12-hour day (or more) to conduct their respective line inspections,

²¹ Indeed, of the six confirmed inspections of the rail line (1996 STB UP/SP Merger, 1998 CDOT Korve Report, 2004 CDOT PBQD Report, 2014 RLBA, 2016 RLBA and Fauth VS), Fauth's is the only instance in which a hi-rail vehicle was not employed.

physically viewing the entire line in the process. Ten miles inspected per hour is the metric that RLBA has employed for years when budgeting inspection of longer lines and, in RLBA's experience, is consistent with industry practice.²²

Even if Fauth actually got out of his vehicle and inspected the line for 200 yards in either direction at every one of the 84 grade crossings on the line (a feat that Mr. Meadows strongly believes could not realistically be accomplished in a two-day inspection), Fauth only would have physically observed 15.5% of the Towner Line, hardly enough to make definitive statements about the quality of the rail or material over the entirety of the Line. While Fauth may have "review[ed] previous the Towner Line NLV estimates and other relevant material" and "conducted extensive virtual inspections of the Towner Line using Google Earth and other computer mapping applications,"²³ such secondary and tertiary research cannot replace the quality of results flowing from a physical inspection (particularly Google Earth, which obviously lacks the necessary resolution to be of any use to the NLV process as to the condition of said assets).²⁴

As such, what Fauth did while on site in Colorado was not a true inventory inspection but, rather, a spot check of existing inventory inspections. Indeed, while Fauth complains on page 3 of his Statement about supposed inconsistencies in the RLBA inventory, he eventually accepts, in its entirety, the inventory produced by the 2014 RLBA inspection²⁵. ***The reason he***

²² In fact, RLBA's inspectors actually inspected the line more carefully than during the inspection which supported the 2004 CDOT PBQD report, which was conducted between 10 and 15 miles per hour. Fauth VS Appendix GWF-3, page 2.

²³ Fauth VS, page 9.

²⁴ Messrs. Heier and Meadows also reviewed such secondary sources, as well as historical information provided by V&S, but only to verify the conclusions from their physical on-site inspection, and not as primary sources of information.

²⁵ Fauth VS, page 26.

does so is simply because he did not inspect the entire line. For the same reason, any conclusions that Fauth reached about the condition of the materials constituting the Towner Line is at best nothing more than a generalization based on a relatively small sample size.

Fauth Largely Did Not Develop His Own Assumptions. Instead, He Relied Selectively on RLBA's Work

A major component of creating an adequately substantiated NLV is developing and supporting the various assumptions necessary to calculate the amounts and values of each material present on a rail line. Not only did Fauth not produce an inventory, he also did not develop the majority of assumptions and inputs he relied upon in his NLV calculation, instead drawing well over half of his sources from the 2014 and 2015 V&S RLBA Reports, the very Reports his entire statement attempts to discredit. As part preparing this VS, RLBA conducted an in-depth review of Appendix GWF-7 to the Fauth VS, entitled "Development of New Liquidation Value (NLV) for the Towner Line," which from what RLBA can determine, is the primary source of the NLV values advanced in the Fauth VS. As expressed in Table 11, Messrs. Banks and Ireland discovered that Fauth cited RLBA's previous reports (which he identifies as "V&S") as the source of 68% of the inputs to his calculations. This appears to demonstrate that Fauth did not, in fact, produce a self-supporting NLV but instead relied heavily on RLBA's previous work; Fauth only deviated from RLBA's assumptions when it benefited his NLV conclusion, arbitrarily altering key inputs with little tangible evidence to support his assertions.

Table 11
Instances in which RLBA Information was Used as Source in Appendix GWF-7

	Rail*	OTM	Turnouts	Ties	Removal	AM&T	Totals
Total No. Inputs	9	48	10	11	12	7	97
No. of RLBA inputs	9	31	7	5	8	6	66
% RLBA Inputs	100%	65%	70%	45%	67%	86%	68%

* mileage by weight of rail

As to the relatively few instances in which RLBA could determine that Fauth developed his own assumptions, they were essentially exclusively in circumstances in which the RLBA-produced result was not favorable to the goals of Fauth’s clients. An example of this curious phenomenon, while first offering the unsupported criticism that RLBA’s assumptions regarding material removal and crossing restoration was “too low²⁶,” Fauth then goes on to accept RLBA values in their entirety. However, on the very next page and with no explanation beyond the vague statement of “which are more reasonable considering the size of the Towner Line,” Fauth assumes values of 20% to cover administrative and marketing costs associated with relay rail and 10% to cover those associated with scrap²⁷, 7% and 5% greater, respectively, than RLBA’s amounts. While Fauth did not provide any satisfactory rationale underlying those discrepancies, RLBA believes his true motivations are fairly obvious; a higher percentage means more expense, which advances his argument for a lower NLV. In short, ***Fauth was either unable or unwilling to produce his own inputs, relying heavily on RLBA’s work unless he didn’t like the outcome it produced, in which case he arbitrarily adjusted his assumptions to meet his clients’ needs.***

²⁶ Fauth VS, page 45, 46, 48, 49.

²⁷ Fauth VS, 50.

The Age of Rail Has Little Effect on the Value of the Rail

Fauth attempts to minimize the value of the material in the Towner Line by repeatedly making reference to the age, or year of manufacture, of the rail on the Line. Fauth suggests that because some of the rail was produced in the 1940s²⁸, it is somehow unacceptable in relay use. For example, on page 70 of the Fauth VS, the statement is made:

“Although it [136 pound CWR] is fairly good quality rail, it is now over 40 years old and nearing the end of its economic service life.”

What Fauth never once addresses in the entirety of his report is what he considers the service life of rail to be. Service life is extremely relative. In the case of rail, remaining service life is not defined by years but rather by the amount of wear on the rail, a function of the volume of tonnage that has travelled over a rail line, the extent to which it is placed in curves and the extent to which it is subjected to heavier types of trains (for example, unit coal train movements) and the greater impacts on jointed rail in particular of the synchronized pounding of track structure associated with hosting unit trains. In fact, the date of manufacture factors so little into the useful utility of railroad materials, including rail, that vendors of used rail, including A&K, do not even internally track such data. Furthermore, nowhere in the AREMA Manual is there any specific mention of manufacture year as a factor to take into consideration when determining the useful remaining life of rail.

²⁸ Fauth VS, page 25.

The primary metric which dictates remaining service life is wear,²⁹ with additional consideration given to any advanced production methods, such as controlled cooling and/or vacuum treatment, employed to roll the rail. (All mainline rail on the Towner Line, regardless of weight, was controlled cooled).

Even if a particular rail suffers from significant wear, that doesn't mean the rail does not potentially possess substantial remaining utility, depending upon how/where it would be utilized if relayed. As RLBA will address in detail later in this VS, the majority of relay rail is not used to support mainline, or even necessarily branch line rail service. Most relay rail can be found in yards and on industrial spurs which host limited use. For example, if some 112 and 115 pound rail theoretically were harvested from the Towner Line and installed on a spur used to unload two or three cars a month handling lumber, the service life of the rail possibly could be another 50 years despite the fact the rail was manufactured some 60 years ago. Simply put, it is impossible to make blanket statements as Fauth has about the remaining service life of rail without defining what the future use of the rail will be. As such, the fact that certain amounts of the 115 and 112 pound rail found on the Towner Line were manufactured in the 1940s does not disqualify the track from future branch line use in the eyes of AREMA, only Fauth.

The Removal of Some Spikes and Tie Plates Did Not Adversely Affect the Value of the Rail

On page 29 of his Statement, Fauth advances an unsupported argument to the effect that 28.35 miles of 136 pound CWR rail on the Towner Line do not warrant relay classification due to V&S having removed various OTM from the line in 2014. Specifically, Fauth claims:

²⁹ Another method to determine remaining service life is through the results of ultrasonic rail flaw detection inspections, an expensive process not economically feasible to undertake in the context of an NLV, nor previously discussed in related Board decisions.

“The remaining 136 lb. rail and other CWR is likely not suitable for relay based on the age and wear of the rail and the fact that in mid-2014 V&S started removing pins and tie plates from a large segment of 136 lb. CWR, which could have easily resulted in damage to the rail because of severe temperature swings from the summer to winter months.”³⁰

First and foremost, Fauth overstates the degree to which the line was prepared for removal; some spikes (which RLBA assumes Fauth means by “pins,” but cannot be certain as the term pins is not commonly associated with track structure) were pulled from their respective ties, but once pulled, the spikes were left along the right away and could be easily reinstalled if necessary. Additionally, no other track material was altered; all rail, tie plates and associated fasteners remain installed in place today. Mr. Meadows confirmed as much during his physical inspection of the line.

Second, after reviewing the AREMA Manual, RLBA finds only passing mention of the effects of environmental factors on rail. No guidance or formal parameters pertaining to acceptable warping tolerances in unanchored rail are provided anywhere in the Manual. What’s more, in his four decades as a railroad engineer, Mr. Meadows has never observed or heard of any instance in which unanchored rail became so warped or structurally deficient as to no longer be suitable for re-use on an active railroad. In contrast, Fauth, who has no apparent, formal, railroad, civil engineering experience or training, provides no explanation or applicable examples supporting his anecdotal conclusion.

Like so many statements made by Fauth in his VS regarding the condition of materials constituting the Towner Line, his argument essentially comes down to the word of a railroad economist against that of two, experienced, professional, railroad civil engineers. RLBA asks the Board to consider the following: 1) both Messrs. Meadows and Heimer successfully passed

³⁰ Fauth VS, page 29.

over the subject 136 pound CWR during their respective hi-rail inspection trips, suggesting that even with some rail anchors having been disconnected for over two years, the track remains in gauge; 2) similarly, V&S specifically left enough fasteners in place to support the safe operation of moving railcars into and out storage along the line and 3) if there were seriously a chance of damage to the most valuable rail asset type on the line, would not V&S have replaced the pulled spikes when it became clear the line would not be liquidated quickly, if at all, rather than risk deterioration in the value of the asset?

It is the opinion of RLBA that Fauth's argument that the subject rail is mostly reroll or scrap has no merit and should be rejected by the STB. Definitively proving that a large portion of the rail is relay and not reroll/scrap, V&S's affiliate A&K, actually contracted to sell 5,385 tons of 136 relay rail on the Towner Line at a price of \$855.00 per net ton to the Great Western Railway, LLC (GWR), an affiliated railroad of OmniTRAX, Inc., pursuant to a contract dated August 11, 2014. The relay rail was to be installed and used by GWR on railroad it owns and operates in Colorado.³¹ A copy of this sale is included as Appendix 11 to this Statement.

In the face of Towner Line rail having been actually sold to GWR as relay rail, KCVN/CPR cannot seriously expect the Board to accept Fauth's view that the subject rail is mostly reroll.

³¹ Because of a Temporary Restraining Order issued by the Colorado State Court, A&K was unable to deliver the rail to GWR by the required delivery date and made other arrangements to fulfill the contract.

Section Three: Analysis of Fauth's Faulty Methodology

Part Two: Pricing in the Secondary Railroad Material Market

Fauth Clearly Does Not Understand the Customer Base Interested in Buying Relay Railroad Materials which Renders His Valuation Conclusions Useless

Beginning on page 56 of his Statement, Fauth embarks upon a long but unsupported and undocumented discussion attempting to determine the market for relay rail material, predicated on his entire rationale on the statement:

“The Class I railroads, which according to the Association of American Railroads (AAR) 2014 Class I Railroad Statistics, operate over 161,240 track miles, ***represent the largest potential customers for relay rail.***”³²

Bluntly put, this statement and the resulting argument are wrong. While Class I railroads do represent the largest, potential, *theoretical* customer base for relay rail and railroad material, they are barely a player in the *practical*, real-world, secondary railroad material market. So insignificant are the Class I railroads in the secondary railroad material market that ***A&K has not sold any relay rail similar to that found on the Towner Line to any Class I since at least 2013.*** As demonstrated in Table 12, since 2014, Class I railroad purchases from A&K of material similar to those found in the Towner Line consisted solely of various joint bars, totaling [REDACTED] in value. This amounts to just 0.05% of such material sold by A&K over the same period.

³² Fauth VS, page 56 (emphasis added).

Table 12
A&K Sales of Relay Materials Similar to that of the Towner Line Since 2014,
By Customer Class³³

This is not to say that Class Is do not use relay railroad material but, rather, that Class Is have little need to purchase relay material from a third party. The lack of activity in the secondary railroad material market among Class I railroads is largely due to the cascading process which Fauth explains on page 58 of his Statement. In short, as Class Is upgrade lines with new rail, the rail previously in place is repurposed to other lines throughout the Class I system that are less heavily used. This large stock of relay material continually being replenished by capital improvement projects largely eliminates the need by Class Is to source additional relay from third party vendors such as A&K.

In reality, the secondary railroad material market customer base is comprised primarily of short line railroads, industrial rail operations (including shipyards and mining companies) and construction contractors. While the cascading process fulfills the relay needs of Class Is, the primary, large customer groups that drive the secondary railroad material market do not carry in inventory large stocks of quality, relay material.. Those primary customers generate a constant demand for quality rail even if not in the quantities required by the Class Is. This is because, as

³³ 2016 data represents A&K sales through May, 2016.

Fauth correctly points out on page 58 of his VS, regional railroads, short lines and industrial operations all have limited capital spending capabilities and maintenance budgets as compared to their Class I counterparts. Given the nature of their businesses, it is not economical for them to purchase large quantities of new rail at added expense when third party vendors offer wide selections of relay rail at more appropriate volumes and prices.

As such, short line or industrial switching operations simply cannot justify the additional price of large quantities of new materials when relay materials will get the job done; at typical regional railroad annual traffic levels of three to five million gross tons annually (MGT), half-worn rail may last another 50 - 80 years and, as such, is a relative bargain per ton as compared to new rail in the small volumes required by non-Class I customers. From the distinct economic perspective of short lines, contractors and industries, in contrast with Class I railroads, realizing a discount on half-worn rail can provide savings because replacement expenditures are years away. It is these groups of customers which constitute the bulk of A&K's business and the secondary railroad materials in general. While these customers, combined, may not come close to approaching the yearly rail replacement figures of the Class Is, that does not mean that there is not a significant amount of market activity in catering to non-Class I clients collectively.

A good analogy to the nature of the secondary railroad material market is the relationship between Class Is and Class II/III Three railroads. As the Board knows, Class Is dominate the railroad industry across most metrics, including track miles, car miles and freight revenue. Despite that, there exist about 550 successful short lines in the United States today. As the thriving short line industry clearly demonstrates, just because certain aspects of the industry are largely dominated by the Class Is, does not mean that there isn't a robust market among non-Class I customers. To emphasize this point, Table 13 illustrates the annual Maintenance of Way

(MoW) budgets of select regional and short line railroads, as reported by a leading trade magazine, *Progressive Railroading*.

Table 13

Annual MOW Budgets of Select Short Line Railroads as Reported by *Progressive Railroading*³⁴

Year	2014	2015	2016
Number of Railroads	229	246	219
MoW Budget			
Forecasted	\$424,015,371	\$459,613,521	\$369,205,556
Actual	\$423,490,405	\$418,597,721	--

When analyzing that portion of the regional and short line industry that elected to participate in the *Progressive Railroading* survey of MoW budgets presented above, it is important to remember that short lines amount to less than 15% of A&K's total business sales. The vast majority of A&K's revenue comes from contractors and industrial operations, both potential revenue streams above and beyond the \$403,764,560 annual average captured in Table 13. Clearly, there is 'plenty to go around,' not just for A&K but also by a large number of competitors within the secondary railroad material network. This demonstrates that there is significant and steady demand for the materials found on the Towner Line from a highly diversified group of customers.

By focusing his discussion of the secondary railroad material market almost entirely on Class Is, Fauth reveals just how limited his understanding is of the secondary railroad material market. This demonstrated lack of understanding even the basic pillars of the secondary railroad material market casts serious doubt on the credibility of any unit prices or values advanced in the

³⁴ *Progressive Railroading*, Small freight railroad's infrastructure programs suggest a busy year, April 2014. *Progressive Railroading*, Small freight railroad's infrastructure target more dollars at more infrastructure improvements, April 2015. *Progressive Railroading*, 2016 MOW Spending Report – Short lines and regional railroads, April 2016.

Fauth VS; the entirety of Fauth's pricing argument is underpinned by this decidedly false assumption about the extent of Class I involvement in the secondary railroad material market. Without it, Fauth's precariously weak and unsupported, hypothetical arguments regarding pricing do not hold up to any amount of scrutiny.

Fauth's Poorly Designed Pricing "Methodology"

As he freely admits several times in the Fauth VS, "the used relay rail market is difficult to access and verify."³⁵ Hence, when completing an NLV assignment, RLBA relies on its longstanding relationships with vendors to provide accurate, real-world data. Rather than attempt to reach out to vendors active in the market to address the question of current pricing, Fauth made the curious choice of developing a highly hypothetical "methodology" which attempted to draw some sort of correlation between various steel prices and the secondary railroad material market. Fauth dedicated several pages to explaining his "methodology," but clearly had no access whatsoever to real-world pricing data and, as such, no way to verify any of his pricing conclusions. It is worth noting, that the Fauth VS NLV, of all the Towner Line NLVs, is the only report cited by Fauth without an associated prices 'as of' a given date.

Employing this questionable pricing approach, the Fauth VS advanced an NLV of \$2,594,511, or \$7,623,010 (-74.6%) less than the State of Colorado paid in 1998 to acquire the Line from Union Pacific, and \$7,761,489 (-74.9%) less than V&S paid to acquire the line from the State of Colorado in 2010. As such, *Fauth would have the STB believe that the largest and most experienced railroad material vendor in the country overvalued a rail line by about*

³⁵ Fauth VS, page 30.

300%. That is an extremely curious conclusion for Fauth to have reached given his very limited experience in the track asset valuation field. What's more, even if one accepts the unlikely conclusion that A&K (and the State of Colorado) so severely overvalued the Towner Line, surely V&S and A&K would have jumped at the opportunity to dump such a horrible asset at a slight loss when KCVN/CPR made an unsolicited offer to purchase the line for \$10,000,000 in 2014. For that matter, let us not forget that if the Board accepts Fauth's value, that would mean that KCVN/CPR made a good faith bid to buy the Towner Line in 2014 for three times what KCVN/CPR now believes the assets to be worth on a rail line which both Fauth and KCVN/CPR freely admit has no existing traffic base and a going-concern value of \$0!³⁶ In contrast, in the following pages, RLBA provides actual pricing and sales volumes data from real-world railroad material transactions proving the current NLV of the Towner Line to be \$23,931,500.

There Is No Correlation Between New or Heavier Rail and Lighter Relay Rail Prices

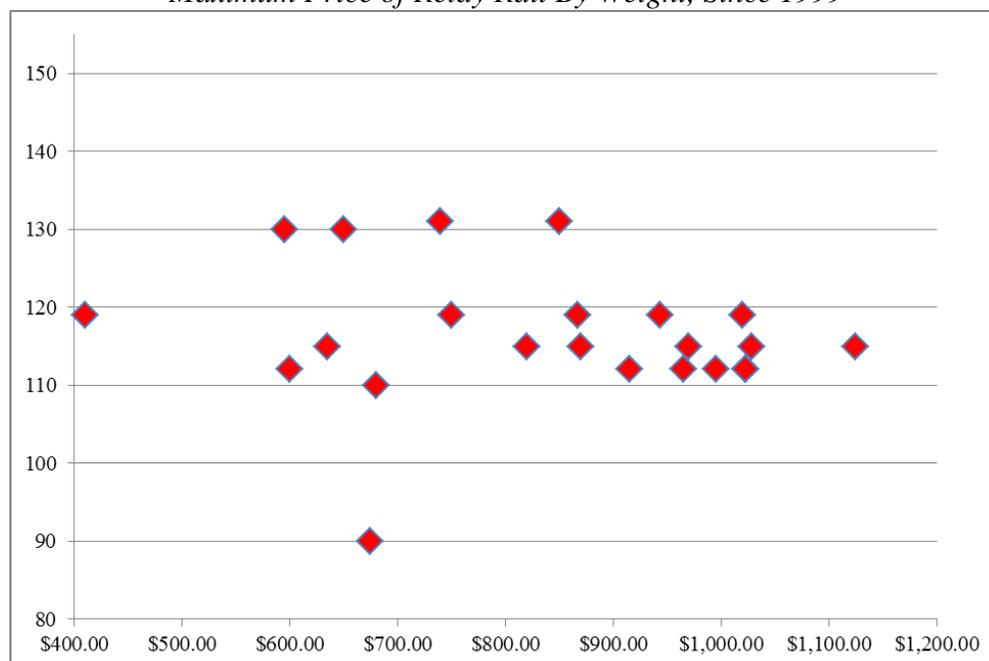
Fauth's attempt to compare the price of new rail and/or heavier rail to lighter relay rail³⁷ is misguided thanks to his fundamental misunderstanding of the marketplace. While Class I railroads buy large quantities of new rail to support large scale projects, the customer groups active in the secondary railroad material markets place much smaller orders. While a Class I might purchase rail and other materials to replace several miles of track in one order, an industrial customer might buy a single piece of rail at a time. By buying in volume, Class I may enjoy significant discounts as compared to small volume customers. For example, were an industrial customer to experience a broken rail, the customer likely would be willing to pay a

³⁶ KCVN, LLC, and Colorado Pacific Railroad, LLC, Feeder Line Application, Page 10.

³⁷ Fauth VS, page 31.

premium to buy a single, 39-foot section of lighter, used rail to match the existing in-place rail, rather than incur significant additional cost to replace all of the in-place rail with new or heavier rail. This results in a situation in which the price of a small amount of used, lighter rail can approach, or even surpass the price of a larger amount of heavier rail. In fact, as displayed in Table 14, RLBA's research show mid-weight relay rail (between 110 and 120 pounds per yard) historically have commanded higher prices than heavier relay rail (130+ pounds).³⁸

*Table 14
Maximum Price of Relay Rail By Weight, Since 1999*



There Is No Correlation Between the Relay Material and Scrap Markets

Fauth is critical of the level of pricing that RLBA has associated with relay material. The crux of Fauth's criticism, advanced on page 53 and again on page 68 of the Fauth VS, is that there exists some sort of correlation between declining scrap market prices and the price of relay

³⁸ Prices reflect highest estimated unit prices by RLBA in NLVs produced by the firm since 1999.

rail. As such, Fauth argues, since scrap prices have experienced a sharp decline, the price of relay must have suffered a similar fate. An examination of real world relay material pricing clearly demonstrates that this assertion is incorrect - the scrap metal and relay rail market prices operate largely independent of one another.

What Fauth fails to consider is that relay rail and other relay materials are finished goods and, as such, are subject to different market forces than raw scrap metal, which behaves more as a mere base commodity. Significant effort and expense goes into forming and producing rail and OTM. Market prices of reusable products always will reflect such time and effort, regardless of underlying but unrelated commodity input price movements.

To demonstrate the fact that the scrap metal and relay rail markets are largely independent of one another, RLBA compared the historical price of scrap metal between January 2014 and December 2015³⁹ with the actual, real-world transaction prices paid for several, select weights and types of relay material found in the Towner Line, as displayed in Table 15. While the average monthly price of scrap steel fell by \$110 per ton, or 34.5%, between 2014 and 2015, it had minimal effect on sales prices of relay materials. For example, 112 RE jointed rail and 8 x 14 tie plates experienced minimal price drops of [REDACTED] and [REDACTED] over the same period and 115 RE jointed rail actually experienced an increase in average sales price of [REDACTED]. Clearly, the two markets operate independently of one another and, as such, Fauth's correlation argument is erroneous and should be dismissed.

³⁹ RLBA accepts Fauth's methodology of deriving the unit price for steel scrap materials from the average price per ton for No. 1 Heavy Melting Steel Scrap, as outlined in the Fauth VS, Table 29, page 61; RLBA has updated this price to reflect the average price for May, 2016.

Table 15

***Comparison of Historical Scrap Metal Price and Select Relay Material Transaction Prices
Obtained by A&K***



Fauth Improperly Characterizes Salvageable Materials Found in the Towner Line and Applies Improper Pricing

In his NLV calculations and criticism of the previous RLBA Reports, Fauth widely misjudges the market and, as such, applies improper unit prices, for essentially all salvageable material which could be harvested reasonably from the Towner Line. Fauth incorrectly applied

scrap prices to large amounts of material on the Towner Line, using the unsupported rationale that there is no demand for the respective material types. In reality, as discussed above and below, there is significant, documented demand for the largest groups of material found on the Towner Line. In Table 16, RLBA compares the unsupported unit prices advanced in the Fauth VS of material found on the Towner Line to the current material list prices and recent average transaction prices⁴⁰ upon which RLBA relied.

Unlike the highly hypothetical, “blue sky” numbers advanced by Fauth, the transaction prices in Table 16 are grounded in numerous, real-world transactions.. With the exception of various weights of continuous welded rail and certain OTM types, A&K has sold significant amounts of all the various materials found on the Towner Line, clearly demonstrating that: 1) a market exists for these materials and 2) A&K’s prices are competitive and an accurate reflection of the prices the marketplace will bear and, as such, can be accepted by the Board as reasonable prices which could be expected to be realized in a liquidation of the Towner Line.

⁴⁰ While RLBA was provided quotes from several other vendors, RLBA relied on A&K pricing and sales data for this broader market analysis due to the large sample size of the A&K-provided data.

Table 16

Comparison of Fauth VS Prices, May 12, 2016 A&K List Prices and Average A&K Transaction Prices of Material Found on the Towner Line



Relay Rail

In his Statement, Fauth makes broad, unsupported assertions in which he characterizes the majority of rail on the Towner Line as scrap because, according to Fauth, no market exists for said material. Ironically, the only non-anecdotal analysis in the Fauth VS regarding the non-Class I secondary railroad material market actually demonstrates quite the opposite, that there is,

indeed, a strong demand for the majority of salvageable materials on the Towner Line. On page 65 of the Fauth VS, he provides examples of several rail replacement projects to be undertaken by several short line railroads in 2014, as reported by *Progressive Railroading*. Fauth intended to use these examples as proof that short line railroads prefer CWR rail to jointed and thus there is no market for lighter weight jointed rail. Specifically, Fauth cited the following examples (emphasis added by RLBA):

- “Conrail—“Rail: Install or replace 10.3 miles of rail, including new CWR installation, **136-pound RE common and heat treated, and relay CWR installation**, 127-pound Dudley.”
- Indiana Railroad—“Rail: Install or replace 10 miles of rail, including 5.8 miles of cut and slide and 4.2 miles of CWR.”
- New York, Susquehanna, and Western Railway—“Rail: Install or replace 9.6 miles of rail, with **136-pound CWR**.”
- Wheeling and Lake Erie Railway Co.—“Rail: Install or replace 13 track miles of rail, with **115- and 136-pound CWR**.”
- Carload Express, Inc.—“Rail: Install or replace 7.4 miles of rail, with **136-pound RE CWR**.”
- Wisconsin & Southern Railroad (WATCO)—“Rail: Install 11 miles of jointed rail (new construction) and rehab 8 miles of CWR.”

Upon closer inspection, of the six examples provided by Fauth, at least four of the railroads cited intended to use the same type of material that would make available in a liquidation of the Towner Line (either 136 pound CWR or 115 pound CWR rail). The other two examples (Indiana Railroad and Wisconsin & Southern) very well may also intend to use the same type of rail but the article Fauth cited is ambiguous as to the weight of CWR rail to be used.

While the excerpts selected by Fauth do not distinguish if the subject railroads intended to use new or relay 115 and 136 CWR, a larger review of the information presented in the *Progressive Railroading* article suggest that it is very likely that at least a portion, if not most, of the track used in these short line examples would be, in fact, relay. To demonstrate this point, in Table 17, RLBA tabulated the total amount of track mileages reported to *Progressive Railroading* to be installed and replaced by short lines over the last three years. According to *Progressive Railroading*, between 219 and 246 short line railroads did (or planned to) install or replace 836.97 miles of rail between 2014 and 2016. The majority of railroads that reported did not include specifics about the type, weight or condition of the rail. However, by comparing the ratios of railroads which did, it is clear that there is sustainable demand for the rail found on the Towner Line. Of miles in which rail type was reported (358.32 of 836.97), 74.66 miles of jointed rail was laid. Of miles in which rail weight was reported (216.59 of 836.97), 113.87 miles was 136 pound rail and 102.72 miles was 115 pound rail. Finally, of miles in which rail was designated as relay or new (143.90 of 836.97 miles), 128.43 miles, or 89.3% of rail was relay.

Table 17
*Miles of Rail Similar to that on The Towner Line to be Installed by Select Short Line Railroads as Reported by Progressive Railroading*⁴¹

Year	2014	2015	2016		
Number of Railroads	229	246	219		Percent Of
Rail Replaced/Installed	Miles	Miles	Miles	Total	Reported
Jointed vs. CWR					
Jointed	20.45	30.40	23.81	74.66	20.8%
CWR	72.16	168.05	43.45	283.66	79.2%
Not Reported	253.20	103.50	121.95	478.65	
Total	345.81	301.95	189.21	836.97	
136 vs. 115 lb.					
136 lb.	32.30	54.36	27.21	113.87	52.6%
115 lb.	17.50	56.65	28.57	102.72	47.4%
Not Reported	296.01	190.94	133.43	620.38	
Total	345.81	301.95	189.21	836.97	
New vs. Relay					
New	0.00	11.97	3.40	15.37	10.7%
Relay	27.00	81.88	19.56	128.43	89.3%
Not Reported	318.81	208.11	166.25	693.17	
Total	345.81	301.95	189.21	836.97	

As only a fraction of the short lines in the United States reported maintenance of way plans to *Progressive Railroading*, it is safe to assume there is even more demand in the short line industry than captured in the Table 17. Clearly, there is demand in the short line industry for both the 136 and 115 pound rail found on the Towner Line. In addition, please remember that short line railroads only makes up 12.3% of A&K's sales of the types of material found in the Towner Line (please see Table 12). Unseen in Table 17 is the demand from railroad contractors and industrial customers. In short, Fauth's arbitrary decision to downgrade large, entire groups

⁴¹ *Progressive Railroading*, Small freight railroad's infrastructure programs suggest a busy year, April 2014. *Progressive Railroading*, Small freight railroad's infrastructure target more dollars at more infrastructure improvements, April 2015. *Progressive Railroading*, 2016 MOW Spending Report – Short lines and regional railroads, April 2016.

of material on the Towner Line in the face of clearly demonstrated demand for such materials seriously undermines the credibility of Fauth's evaluation of the rail and track material inventory and thus his entire NLV calculation.

Heavier Weight Relay Rail

Based on the information presented thus far throughout this VS, RLBA is confident in the pricing numbers employed in all three RLBA NLVs. Simply put, the comparable sales data in this VS clearly shows that there is demand for types of material found on the Towner Line at the prices provided to RLBA by A&K in response to RLBA's request. But, if for some reason, there remains some doubt about the validity of comparable sales data, RLBA asks that the Board consider the extraordinary fact that, as discussed previously at pages 53 and 54, A&K contracted in August 2014 to sell the actual 136 CWR rail on the Towner Line at a price of \$855.00 per net ton. As proof of this transaction, RLBA has included a copy of the proposed bill of sale between OmniTRAX, Inc. and A&K as Appendix 11. The price is indisputable evidence of the market price at that time, within a month of the original RLBA NLV Report.

Certainly a sales price agreed to in August 2014 is no longer necessarily valid in June of 2016. However, given A&K's very active position in the marketplace, it is safe to assume that A&K understands the secondary railroad materials well enough to adjust pricing as appropriate and that its current pricing accurately reflects the current market.

Lighter Weight Relay Rail

Throughout the Fauth VS (including the reference to the six, short line rail installation examples previously discussed), the erroneous claim is repeatedly made that there is no market

for, as described by Fauth, “worn, lighter and mostly jointed 115 lb., 112 lb., 90 lb. and 1 85 (sic) lb. and 90 lb. rail ... suitable only for scrap.”⁴² As with most statements concerning the secondary railroad material market, Fauth provides no data to support his claim. As he claims to have had no access to, nor made any attempt, to gather real world market data, his testimony is limited to explaining his position entirely through his anecdotal personal assessments of markets. Despite what Fauth may believe personally, there is, in fact, an active and robust market in the lighter, jointed rail found on the Towner Line, as demonstrated in Table 18. In fact, so active is the market in lighter, relay, jointed rail that, at the current sales rate, A&K could sell all of the 115 RE and 112 RE jointed rail which could be harvested from the Towner Line in less than three years.⁴³

Table 18
Tons of Relay 115RE Jointed and 112RE Jointed Rail Sold by A&K Since 2010

Material	Total Tons Sold	Average Per Year
115RE Jointed, Relay	13,373	2,229
112RE Jointed, Relay	18,792	3,132
Total	32,165	5,361

Like most of the miscalculations Fauth made about demand in the secondary railroad material market, his gross undervaluing of jointed rail demand stems from his lack of understanding about the scale of the secondary material market’s customer bases. While focusing extensive effort on the Class I secondary railroad material market (which, as previously

⁴² Fauth VS, page 29.

⁴³ Assuming the recovery of 10,399 tons of 115 RE relay and 2,542 tons of 112 RE; the volume of recoverable rail found to be in place during the 2016 RLBA inventory inspection. This total of 12,941 tons would be sold in approximately 2.41 years, given A&K’s average annual sales volume of 5,361 tons per year.

stated, is essentially a non-factor), Fauth barely even paid lip service to the demands of the most important classes of relay customers.

Given the clear demonstration of demand for relay rail of grades and weights found on the Towner Line as compared with the lack of any definitive evidence presented by Fauth to the contrary, RLBA suggests that the Board reject the Fauth GSV of rail at \$5,919,562 (and accept the current RLBA GSV of rail of \$19,684,700).

OTM

Fauth again demonstrates a lack of understanding the secondary railroad materials markets given his decision to grade all OTM on the line as scrap. Fauth appears to make this determination based on: 1) the findings of the 2004 CDOT PBQD Report and 2) his unsupported, anecdotal opinion of the relay OTM market. Specifically, Fauth states:

“The 2004 CDOT PBQD Report also used 16,299 tons of OTM, but applied a scrap value unit price of \$155 per ton for a total gross salvage value of \$2,526,345. This indicates to me that by 2004 none of the OTM materials could be considered relay rail quality.”⁴⁴
“Certainly, there may be a small market and some of the Towner Line OTM could be reused, but it is clearly unreasonable to assume, as V&S did in 2015, that nearly all of the OTM would be sold as high-value relay OTM.”⁴⁵

There are a number of serious flaws in Fauth’s approach to and assessment of the Towner Line OTM. First, as discussed later in this VS, the NLV advanced in the 2004 CDOT PBQD Report is extremely vague in its methodology and riddled with false assumptions and methodologies pertaining to an NLV which have been rejected by the STB in earlier decisions.

⁴⁴ Fauth VS, page 33.

⁴⁵ Fauth VS, page 33.

As elaborated upon later in this VS, the errors and discrepancies in the 2004 CODT PBQD Report are so egregious that RLBA seriously doubts that there is any value at all in considering said report. Predicated on his incorrect assumption that Class Is dictate the used rail materials markets, Fauth justifies his designation of all OTM as scrap by claiming that:

“Like relay rail, there is a significant amount of competition in the OTM market and the Class 1 railroads generally purchase new and imported OTM rather than used OTM.”⁴⁶

While this statement may very well be true, it has little bearing on the relay OTM market, thanks to the fact that Class Is do not factor into the secondary railroad material market in any meaningful way. As with lighter, relay rail, there is an active market in OTM relay, as clearly demonstrated in Table 19.

Table 19
*Units of Relay OTM Comparable to that Found on the Towner Line Sold by A&K Since 2010*⁴⁷

Material	Total Units Sold	Average Per Year
Tie Plates, Relay	1,760,318	270,818
Joint Bars, Relay	92,949	14,300
Rail Anchors, Relay	802,321	123,434

Since A&K only supplies a fraction of the OTM market, the actual demand would be much greater. The bulk of the sales captured in Table 19 were to customer classes – short lines, contractors and industries - not apparently considered by Fauth, yet again exposing the critical weakness in his assumptions and seriously undermining the valuation conclusions he reached

⁴⁶ Fauth VS, page 33.

⁴⁷ Tie plate volumes include sales of tie plates of similar dimension to those found on the Towner Line, which could reasonably be used interchangeable with tie plates on the Towner Line. See Appendix 8 for complete list of similar tie plates.

based on those assumptions. Given the clear demonstration of demand for relay OTM and lack of any definitive evidence presented by the Fauth to the contrary, RLBA again suggests that the Board reject the Fauth GSV attributed to OTM of \$2,166,466 (and accept the current RLBA GSV of OTM totaling \$8,702,186).

Turnouts

In his VS, Fauth assigns the grade of scrap to all 28 turnouts on the line. As discussed previously in this report, both of the professional engineers whom inspected the line on behalf of RLBA determined that 23 of the 28 turnouts were relay quality. While A&K has not made any recent sales involving comparable turnouts, the company maintains the material in its inventory and offers a listed price of \$6,000 for 136 pound switches. Continued efforts to carry the item in stock clearly demonstrate that there exists at least some demand for relay turnouts and, as such, RLBA recommends that the Board reject the Fauth GSV attributed to turnouts of merely \$18,837 (and accept the RLBA GSV of \$137,100).

Ties

RLBA agrees with Fauth that for NLV purposes, scrap ties have no value. However, Fauth severely under-graded the quality of ties on the subject railroad during his inventory inspection, again relying to some degree on data drawn from the poorly produced 2004 CDOT PBQD Report and not from a physical inspection of the line. RLBA contends that the grading of ties by its engineering professionals, Messrs. Meadows and Heimer, is entitled to much greater weight than that done by Fauth. In his VS, Fauth generally appears correctly to accept that there is a significant secondary market involving ties, as demonstrated in Table 20. Assuming A&K

sales continue at the current pace, A&K could sell all of the relay and landscape ties which could be harvested from the Towner Line in less than five years.⁴⁸ The established secondary market for ties supports the pricing of such ties applied by RLBA. Since Fauth improperly graded all of the ties as scrap, RLBA recommends that the Board reject the Fauth GSV of ties at \$0 (and accept the RLBA GSV of ties at \$2,020,700).

Table 20
Units of Relay Ties Sold by A&K Since 2010

Material	Total Units Sold	Average Per Year
Ties, Relay	175,417	26,987
Ties, Landscape No. 1	171,724	26,419
Ties, Landscape No. 2	308,201	47,416
Total	655,342	100,822

⁴⁸ Assuming the recovery of 61,233 relay ties and 349,904 landscape ties; the volume of recoverable ties found to be in place during the 2016 RLBA inventory inspection.

Section Three: Analysis of Fauth's Faulty Methodology

Part Three: The Previous Towner Line NLVs

Comparisons to NLVs in Unrelated Transactions

On page 20 of his VS, Fauth provides a narrative about the role NLVs generally play in STB proceedings, eventually arriving at the conclusion that due to the unique nature of the track structure associated with each accepted or decided NLV the STB evaluates or accepts each NLV on a case-by-case basis. To demonstrate that point, Fauth used examples of a 2.5 mile line valued at \$125,000 and a 2.14 mile line valued at \$3,328,758, before finally citing a \$16,585,760 NLV attached to 111 miles as the highest ever accepted.⁴⁹ In addition to the largely procedural rationale provided by Fauth to explain this variance, that NLVs are “often not a contested issue in abandonment cases,”⁵⁰ it is also patently obvious that the physical characteristics of the railroad infrastructures at issue also play a significant role in valuation results. Moreover, with a fluctuating market for railroad materials, NLVs are extremely dependent on the pricing of materials at the time of the valuation.

Based on these factors, RLBA largely agrees with Fauth's initial conclusion that even STB-accepted NLVs of unique rail lines cannot be compared. However, despite the fact that Fauth appeared to hold a similar view to that of RLBA regarding NLV comparability, Fauth goes on to compare the previous RLBA NLV calculations to the other NLVs he has identified and

⁴⁹ Citing STB Docket No. FD 35160 Oregon Intentional Port of Coos Bay – Feeder Line Application of Coos Bay Line of the Central Oregon & Pacific Railroad, Inc. (Coos Bay).

⁵⁰ Fauth VS, page 22.

comments: “[t]he NLV estimates included in the 2014 and 2015 V&S RLBA Reports (\$26,951,300 and \$27,023,500, respectively) are higher than any NLV established by the STB in any proceeding in its history.”⁵¹ Not only by Fauth’s own reasoning is this statement irrelevant; it is also incorrect. If previous established NLVs of other railroads in other proceedings are to be considered as some sort of acceptable benchmark (which, as agreed upon by both Fauth and RLBA, it is not), they must at least be compared objectively. Evaluating NLVs based on their total values, without regard to the quantity and quality of material contributing to that value, as Fauth did, is not an objective comparison.⁵²

To demonstrate a more objective approach to comparing the variance in accepted NLV values, RLBA calculated the per-mile value of the 42 established NLVs advanced in Appendix GWF-8 of the Fauth VS. For purposes of reference, the 3 NLVs produced in the 2015 and 2016 V&S RLBA Reports and the Fauth VS are also included. The results organized from highest to lowest NLV per mile, are displayed in Table 21. The results reinforce the conclusion that each NLV is truly unique. Though the per mile value of the 45 examples range from a low of \$9,615 to \$1,555,507, the average value per mile is \$143,021 per mile. The Coos Bay “highest NLV ever” referenced by Fauth, is only the 12th highest on a per-mile basis. As can be seen in Table 21, the RLBA NLVs are closer to the average value per mile than the Fauth NLV on a dollar basis.

⁵¹ Fauth VS, page 23.

⁵² Moreover, the NLVs advanced in Appendix GWF-8 span three decades from 1997 to 2015, and Fauth makes no attempts to index the values in those examples to reflect changes in the relay market, inflation or other long term changes in the economic environment. Without such pricing adjustments, the various NLVs cannot objectively be compared with one another.

Table 21
STB NLV Decisions Per Mile, Plus 2015 RLBA, 2016 RLBA and Fauth VS NLVs

STB Docket Number	Service Date	Railroad	Miles	NLV	NLV per Mile
AB 6 (Sub-No. 482)	4/19/2013	BNSF	2.14	\$ 3,328,785	\$ 1,555,507
AB 1053 (Sub-No. 2X)	10/19/2011	MALR	5.45	\$ 4,879,000	\$ 895,229
AB-1020X	1/28/2009	ESPN	8.60	\$ 2,162,018	\$ 251,397
AB-103 (Sub-No. 21X)	2/22/2008	KCSR	2.35	\$ 504,615	\$ 214,730
2015 V&S RLBA Report			134.10	\$ 27,023,500	\$ 201,518
AB-565 (Sub-No. 3X)	7/12/2002	NYCL	1.91	\$ 342,361	\$ 179,247
2016 V&S RLBA Report			134.62	\$ 23,931,500	\$ 177,771
AB-33 (Sub-No.170)	6/19/2002	UP	3.72	\$ 611,046	\$ 164,260
AB-32 (Sub-No. 83)	4/2/1998	B&M	9.50	\$ 1,530,240	\$ 161,078
AB-33 (Sub-No. 112X)	12/3/1997	UP	1.88	\$ 300,947	\$ 160,078
AB 415 (Sub-No. 2X)	9/27/2010	ELS	42.93	\$ 6,519,496	\$ 151,863
FD 35160	3/12/2009	CORP	111.02	\$ 16,585,760	\$ 149,394
AB 55 (Sub-No. 727X)	10/24/2013	CSXT	0.76	\$ 111,736	\$ 147,021
AB-32 (Sub-No. 83)	7/1/1998	B&M	9.50	\$ 1,382,416	\$ 145,517
AB 55 (Sub-No. 726X)	6/6/2013	CSXT	1.55	\$ 222,031	\$ 143,246
AB-55 (Sub-No. 618)	10/28/2002	CSXT	1.10	\$ 136,000	\$ 123,636
AB-290 (Sub-No. 370X)	1/15/2015	NS	40.70	\$ 4,315,525	\$ 106,033
AB 1076X	1/18/2012	CALM	32.20	\$ 3,304,256	\$ 102,617
AB 33 (Sub-No. 13)	11/12/1997	UP	17.80	\$ 1,758,423	\$ 98,788
FD 35111	12/15/2008	SAW/WTL	3.57	\$ 345,252	\$ 96,709
AB 1072X	8/3/2012	IRRR	34.35	\$ 3,263,250	\$ 95,000
FD 34890	6/11/2010	SAW	25.30	\$ 2,350,918	\$ 92,922
AB 6 (Sub-No. 476)	8/17/2011	BNSF	45.84	\$ 4,114,689	\$ 89,762
AB 55 (Sub-No. 712X)	9/19/2014	CSXT	9.67	\$ 771,201	\$ 79,752
AB-1081X	4/13/2006	SPROC	76.20	\$ 5,632,644	\$ 73,919
AB 1043 (Sub-No.1)	12/27/2010	MMA	233.00	\$ 16,071,044	\$ 68,974
AB 31 (Sub-No. 33)	12/24/1998	GTW	18.20	\$ 1,195,225	\$ 65,672
AB 33 (Sub-No.119X)	11/12/1998	UP	15.00	\$ 978,270	\$ 65,218
AB-55 (Sub-No. 643X)	4/30/2004	CSXT	32.97	\$ 1,974,041	\$ 59,874
FD 34335	2/7/2005	KJR/TPW	76.00	\$ 4,165,742	\$ 54,812
AB-581X	10/18/2001	1411 Corp.	2.50	\$ 125,000	\$ 50,000
AB 33 (Sub-No. 140)	12/17/1999	UP	57.72	\$ 2,869,499	\$ 49,714
AB 33 (Sub-No.101)	3/28/1997	UP	99.00	\$ 4,696,468	\$ 47,439
AB 43 (Sub-No. 163)	1/17/1997	IC	21.70	\$ 918,963	\$ 42,349
FD 33285	6/24/1998	RA/DV	9.80	\$ 359,000	\$ 36,633
AB-441 (Sub-No.2X)	11/12/1997	SWKR	41.50	\$ 1,485,000	\$ 35,783
AB-491	2/20/1998	RJCP	9.60	\$ 341,774	\$ 35,601
FD 31974	5/15/1998	MLR/Conrail	127.75	\$ 4,000,000	\$ 31,311
AB-556 (Sub-No.2X)	1/7/2000	RVI	35.70	\$ 1,080,560	\$ 30,268
AB-492 (Sub-No.2X)	11/1/2001	FWRC	23.20	\$ 615,400	\$ 26,526
AB-447 (Sub-No.2X)	1/16/1998	OTC	6.00	\$ 120,500	\$ 20,083
Fauth VS			134.10	\$ 2,594,551	\$ 19,348
FD 32479	5/20/2000	CALM/AMR	52.00	\$ 961,096	\$ 18,483
AB-55 (Sub-No. 640)	12/24/2003	CSXT	23.25	\$ 261,203	\$ 11,235
NOR 41230	3/11/1997	AMR/PRC	52.00	\$ 500,000	\$ 9,615
				Average	\$ 143,021

Due to irreconcilable differences between: 1) the unique physical characteristics of each rail line and 2) the varying, historical economic factors and conditions at the time of each

valuation, RLBA believes that the Board should discount any comparison of the Towner Line NLV to that of any other railroad segment in any other STB proceeding.

Comparisons to Previous Towner Line NLVs

Prior to the 2014 and 2015 V&S RLBA Reports, there had been at least three NLV reports produced regarding the Towner Line:

- 1) the 1996 STB UP/SP Merger Report;
- 2) the 1998 CDOT Korve Report and
- 3) the 2004 CDOT PBQD Report.

Despite the fact that the most recent of those NLVs was completed over a decade ago, Fauth selectively accepts and considers findings from the reports as if somehow factual and probative. Additionally, throughout his VS, Fauth repeatedly suggests that the lower NLVs reached in those three previous reports are somehow indicative of the fact that the higher values determined in the RLBA Reports are not accurate.⁵³ Simply put, this assertion is incorrect. As in his comparison to NLVs in other proceedings, Fauth makes no attempt to adjust the previous NLVs of the Towner Line to reflect today's market prices, nor to account for any capital that may have been invested in the Line since they were prepared. Moreover, upon closer inspection, each of the previous NLVs suffer from deficiencies which would cause them to be found unreliable by today's the Board.

⁵³ Fauth VS, page 23.

Not only should the past NLVs not be compared against the RLBA Report, but given their age and deficiencies, the Board should clearly not accept any of them as probative in this proceeding and should reject any portions of the Fauth NLV based on the previous NLVs..

Issues with the Previous Towner Line NLVs

1996 STB UP/SP Merger Report

The earliest valuation of the Towner Line cited by Fauth is what he identified as the ‘1996 STB UP/SP Merger Report.’ Fauth was either unable to locate, or elected not to include, any additional documentation regarding this NLV other than a footnote on page 7 of the Fauth VS. To better understand and evaluate this first valuation cited by Fauth, RLBA located and analyzed the Verified Statement of Lynn Beck (the “1996 Beck VS”), whom at the time held the title of Manager Asset Utilization in Engineering Services at UP. The 1996 Beck VS was submitted before the Board as part of the Missouri Pacific (MP) Railroad Company’s (at that time a subsidiary of the UP) Petition for Exemption to abandon the Towner Line.⁵⁴ The 1996 Beck VS advanced an NLV of \$9,811,169 regarding the Towner Line as of November 8, 1996, the same amount accepted by the Board.⁵⁵ At the time, Mr. Beck had been employed in various roles within the UP Engineering Department since 1969. Additionally, Beck reported that he

⁵⁴ See STB Docket No. AB-3 (Sub-No 130) Missouri Pacific Railroad Company – Abandonment – Towner – NA Junction Line In Kiowa, Crowley and Pueblo Counties, Colorado.

⁵⁵ See STB Docket FD No. 32760, Union Pacific Corporation, Union Pacific Railroad Company, And Missouri Pacific Railroad Company--Control And Merger--Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSLCorp., And The Denver And Rio Grande Western Railroad Company.

personally inspected the line via hi-rail vehicle in 1995. To facilitate the Board's review of same, RLBA has included the Beck VS as Appendix 12.

There are two primary issues which affect the accuracy and usefulness of the 1996 Beck VS NLV. First, as Fauth points out, "NLV is not always an important factor and often not a contested issue in abandonment cases."⁵⁶ Indeed, the STB's acceptance of the exact value proposed by MP suggests that the subject NLV was not challenged before the STB. As such, this value, while accepted by the STB, must be approached with some skepticism, especially considering that Beck provided no source or explanation of the unit prices he assigned to the various materials. Additionally, due to the large volume of readily available relay material available to Class Is thanks to the cascading process, Union Pacific likely has much higher quality standards than the secondary railroad material market does in general. This fact is compounded by the fact that most Class I relay rail is installed on mainline or branch line track with significantly more volume (which results in more wear on the rails) than if the rail were used by a short line or in an industrial spur. As such, even though Beck assigned relay grades to the majority of material on the line, RLBA believes that an inspection of the line at the time by a representative of a third party vendor likely would have identified an even higher amount of acceptable relay material for reasons discussed earlier in this Statement.

Additionally, if reviewed closely, it can be seen that the Beck VS included both a gross salvage value applied to bridges, as well a removal cost of bridges. As pointed out both in the various RLBA Towner Line Reports and affirmed by the Fauth VS, bridges are not reflected in the standard calculation of an NLV as their removal cost almost always far exceeds any recoverable salvage value. This rule of thumb holds true in the 1996 Beck VS NLV, which

⁵⁶ Fauth VS, Page 22.

advanced a bridge value of \$138,099 but bridge removal costs of \$1,410,823. For purposes of comparison, RLBA corrected this discrepancy as shown in Table 22. Removing the erroneous bridge cost and value, RLBA recalculated a rail asset GLV of \$12,796,307 and a rail asset NLV of \$11,083,893 as of November 8, 1996.

*Table 22
Original v. Corrected for Bridges in Beck VS NLV as of November 8, 1996*

	Beck VS	RLBA
	GSV	Corrected GSV
Track Assets	\$12,796,307	\$12,796,307
Bridge Value	\$138,099	\$0
Total	\$12,934,406	\$12,796,307
	Removal Cost	Corrected Removal Cost
Track Removal	\$1,131,998	\$1,131,998
Switches & Ties	\$580,416	\$580,416
Bridge Removal	\$1,410,823	\$0
Total Removal Cost	\$3,123,237	\$1,712,414
Rail Asset NLV	\$9,811,169	\$11,083,893

Although the 1996 STB UP/SP Merger Report was filed with the Board, Fauth does not rely on it in arriving at his valuation

1998 CDOT Korve Report

The second NLV and the first relied upon heavily by Fauth, the so called ‘1998 CDOT Korve Report’ was produced by Korve Engineering for the Colorado Department of Transportation in May of 1998 and formally entitled “Colorado Department of Transportation Acquisition of the Towner – NA Junction Rail Line, Physical Inspection Report.” It should be noted that the report, by design, is not a detailed NLV calculation and was not designed to be filed with the STB but rather covers several topics pertaining to the Towner Line. As stated in its introduction:

“This report documents the results of the physical inspection of the Towner – NA Junction Railroad Line, provides an estimate of the net liquidation value (NLV) of the line, identifies repairs which require immediate attention, and items and issues which will need to be addressed in the near term.”⁵⁷

As part of the report, the line was inspected via two hi-rail vehicles between May 12, 1998 and May 15, 1998 and by private automobile between May 13, 1998 and May 15, 1998. The report makes no reference as to who conducted the inspection or what their qualifications to do so were. The report reached an NLV conclusion of \$11,616,448 as of May 27, 1998.

The 1998 CDOT Korve Report suffers from a general lack of information and vagueness specific to NLV, so much so that it is hard to glean anything of much value from it. In fact, it appears obvious to RLBA that although providing an estimated NLV was a primary stated purpose of the report, in practice, it was a secondary or even tertiary objective of the report and that it was never the expectation of either CDOT or Korve that the report would ever actually be used for NLV purposes. For an inspection which spanned multiple vehicles over four days, there is virtually no empirical data presented in the entirety of the 33 pages to support the advanced NLV of \$11,616,448. Instead, by and large, the report is a collection of inventories and observations of items which do not factor into the NLV methodology. Of the 33 pages constituting the report, 18 pages – over half the report – consist of Physical Inspection Field notes. Of the 202 entries on those 18 pages, the vast majority denote the locations and conditions of crossings, culverts and bridges – all items with little or no bearing on NLV. Only 25 entries out of 202 make any mention of rail or OTM. Of these 25, the majority denote track gauge measurements or the location of side tracks. At no point in the inspection field notes, or

⁵⁷ Fauth VS, Appendix GWF-2, page 1.

the entire report for that matter, is any attempt made to grade the condition of the track or any material components.

In addition to the 18 pages of relatively useless inspection notes, two pages are devoted to inventorying the location of highway grade crossings (materials which are not included in NLVs), two pages to an inventorying the locations of railroad signals (again, materials which are not included in NLVs), one page to a bridges inventory (again, not reflected in NLVs) and two pages addressing near-term maintenance and improvement recommendations (not included in NLVs). After being anointed as a primary ‘purpose’ of the report in the introduction to the report on page one, the next instance where the words ‘net liquidated value’ appeared was on page 28 (of 33). The entirety of the report’s NLV calculations and explanation of methodology is contained on three pages, one of which is essentially blank but for a single introductory header and paragraph denoting the start of the NLV section.

Not surprisingly, the inventory and values put forth in the 1998 CDOT Kolve Report provide essentially no explanation or clarification. As previously stated, the report does not assign any grade (relay, reroll or scrap) to any material other than ties, simply assigning a single, unjustified/unsupported/undocumented value to the entirety of rail of a certain weight. Kolve assigns different prices to each rail weight (as opposed to a single uniform price were the line considered all scrap), which suggests that the report’s author considered the entirety, or almost all, of the rail in the subject segment to be of relay quality. The only specific description as to the quality and grade of the material is the vague statement that “[o]verall, the line is in relatively good condition...the line should be capable of being safely operated at a maximum speed of at

least 40 MPH,”⁵⁸ which also suggests that at least most of the line was of relay quality. The only explanation as to pricing methodology is a single sentence which states that “[t]he NLV is based upon current scrap and typical resale prices as well as demolition cost,”⁵⁹ yet no key is given to what the report considers the current scrap price or resale prices, nor what the source of that information was.

On top of those issues with the rail material components, several other materials not accepted in the standard STB methodology were included in the salvage value including, defective equipment detectors (\$5,000), signals (\$31,000), grade crossing equipment (\$53,000) and bridge material (\$112,500). The departures from accepted STB valuation methodology continued in the liquidation expense section, in which values were assigned to both signal and bridge removal, greatly overstating the removal cost. For purposes of comparison, RLBA corrected these discrepancies as shown in Table 23. Removing those various erroneous costs, RLBA recalculated a rail asset GLV of \$16,181,748 and a rail asset NLV of \$13,545,748 as of May 27, 1998.

⁵⁸ Fauth VS, Appendix GWF-2, page 3.

⁵⁹ Fauth VS, Appendix GWF-2, page 29.

Table 23
Original v. Corrected 1998 Korve Report as of May 27, 1998

	Korve	RLBA
	GSV	Corrected GSV
Rail	\$13,996,890	\$13,996,890
Turnout	\$184,000	\$184,000
Ties	\$2,000,858	\$2,000,858
Detector	\$5,000	\$0
Signals	\$31,000	\$0
Crossings	\$53,000	\$0
Bridge Value	\$112,500	\$0
Total	\$16,383,248	\$16,181,748
	Removal Cost	Corrected Removal Cost
Track Removal	\$2,636,000	\$2,636,000
Signal Removal	\$459,000	\$0
Bridge Removal	\$1,540,000	\$0
Misc. Removal	\$131,800	\$0
Total Removal Cost	\$4,766,800	\$2,636,000
Rail Asset NLV	\$11,616,448	\$13,545,748

RLBA believes that Fauth's reliance on Korve's valuation work is testament to his inexperience with the NLV process. Simply put, reading through the entirety of the Korve report raises more questions than it answers. It is clear to RLBA that the authors of the report had no intention of producing an NLV that would satisfy the STB's scrutiny. In short, the NLV advanced in the subject report is nothing more than a 'back of the envelope' calculation and should not be considered by the Board in its determination of the NLV of the Towner Line. Therefore, Board should not accept any of the findings or values advanced in the Korve Report, in either their initial form or as adopted by Fauth.

2004 CDOT PBQD Report

Following the 1998 CDOT Korve Report, CDOT retained Parsons Brinckerhoff Quade & Douglas (PBQD) to complete another valuation of the line in 2004. Formally titled "Towner

Railroad Line Condition Inspection and Net Liquidation Value Assessment,” the stated purpose of the report was to “inspect track and facility conditions and assess the current Net Liquidation Value of the line.”⁶⁰ The report was conducted by hi-rail vehicle during the week of July 26, 2004. The report does not identify who inspected the line nor the inspector’s qualifications. The report reaches an NLV conclusion of \$7,116,869 as of August 13, 2004. Much like the 1998 CDOT Kolve Report, the 2004 CDOT PBQD Report is not specifically an NLV for STB purposes but rather an amalgamation of several tasks, including the results of a condition inspection, recommendations to CDOT concerning interim repairs, excerpts from the FRA Track Safety Standards and an NLV estimate.

While the language of the report is somewhat ambiguous, it appears that, with the exception of ties, the 2004 CDOT PBQD Report did not conduct a new inventory inspection but rather applied different unit prices to the 1998 CDOT Kolve Report, a process known as the ‘desktop approach.’ This was a curious decision by PBQD because, as discussed, the 1998 CDOT Kolve Report assigned no condition grades to the various salvable materials and was ambiguous as to whether or what material Kolve considered to be relay or scrap. Not surprisingly, PBQD followed in the footsteps of Kolve by providing almost no explanation of the assumptions or methodologies employed; the entirety of the PBQD NLV report is one and one-half pages; suggestive of how much time was spent on the NLV calculation and of its probative value.

Much like the 1998 CDOT Kolve Report, PBQD assigned no specific condition grades to any of the materials besides ties. While the language suggests through its discussion of the scrap market that the entirety of the line was valued as scrap (except ties), it does not definitely

⁶⁰ Fauth VS, Appendix GWF-3, Appendix B.

confirm this point., In the report, a uniform price of \$155 per ton is assigned to all rail and OTM. That suggests that PBQD considered the line to be scrap, a direct contradiction to the condition report in the introduction and the 1998 Korve inventory upon which PBQD presumably relied to develop what amounted to its updated NLV. That conclusion is also in contradiction to PBQD's report that the "rail is generally in good condition... meets FRA Class 3 Track Safety Standards,"⁶¹ which clearly would seem to suggest that at least a substantial portion of the track was in relay condition.

Errors in the report are not just limited to the physical inventory but also occurred in the liquidation expense calculation. The report did not reflect the assignment of any amounts to the expense of removing track assets, nor any associated administrative, marketing or transportation costs. The only removal amount provided in the entire report is a cost of \$459,000 associated with signal removal, a component to which the standard STB methodology assigns no value.

Perhaps indicative of the overall lack of probative value in the 2004 CDOT PBQD Report, there are even serious issues with the one piece of the NLV that appears to have been approached correctly – the tie inventory. Unlike their treatments of rail and OTM, both the Korve and PBQD reports provided condition grades associated with ties on the Towner Line (likely due to the fact that FRA track classes are heavily tied to tie conditions and both reports attempted to opine on the then current operating conditions of the track). However, PBQD woefully understated the value of ties thanks to a fundamental misunderstanding of the relay market. One of the few items which PBQD opined upon in its report's limited NLV methodology section is the relay tie market. PBQD reached the conclusion that "at this point in time; numerous sources indicate there is virtually no market for and no net value in used railroad

⁶¹ Fauth VS, Appendix GWF-3, page 3.

ties,” ultimately assigning a value of \$1 to ‘good’ ties and zero to ‘fair’ and ‘poor’ ties. That statement is directly contradicted by historical information provided by A&K, which suggests in no uncertain terms that there was indeed an active market for relay ties in 2004. So active was the market, that A&K priced soft wood relay at [REDACTED] as of July 26, 2004 but only if the buyer purchased ties in *full truckload* quantities.⁶²

To facilitate comparison, RLBA corrected the various PBQD NLV calculation discrepancies and arrived at a rail asset GSV of \$11,561,828 and a rail asset NLV of \$8,925,828 as of August 13, 2004 as shown in Table 24. To further correct these figures, RLBA removed the crossing salvage value as well as the signal removal value. RLBA then applied the 1998 Korve track removal cost, as the PBQD report did not include any cost associated with track removal. Finally, RLBA applied the actual market prices of ties, as recorded by A&K as of July 26, 2004 to the 425,714 ties in the Towner Line as counted by PBQD.

Table 24
Original v. Corrected 2004 PBQD Report as of August 13, 2004

	2004 PBQD	RLBA
	GSV	Corrected GSV
Rail	\$6,913,155	\$6,913,155
Turnout	\$184,000	\$184,000
Ties	\$425,714	\$4,464,673
Crossing	\$53,000	\$0
Total	\$7,575,869	\$11,561,828
	Removal Cost	Corrected Removal Cost
Track Removal	\$0	\$2,636,000
Signal Removal	\$459,000	\$0
Bridge Removal	\$0	\$0
Misc. Removal	\$0	\$0
Total Removal Cost	\$459,000	\$2,636,000
Rail Asset NLV	\$7,116,869	\$8,925,828

⁶² A&K Provided Material, Relay Ties 072604.

The 2004 CDOT PBQD Report and NLV were never submitted to the Board for its review. Given the sheer number of serious variances from the Board's NLV standard methodological approach, combined with the total lack of any explanation of reasoning or methodology or clear grading of materials, RLBA does not believe that the report's findings should be relied on by the Board in either their original form or as selectively adopted by Fauth.

An Objective Comparison of Previous Towner Line NLVs

As demonstrated above and documented in Table 25, giving serious consideration to the previously produced NLVs of the Towner Line cited by Fauth is a fruitless effort thanks to the numerous errors and omissions within each of those reports, especially so with respect to the 1998 CDOT Korve and 2004 CDOT PBQD Reports. Those two reports provide little, if any, probative value. Fauth's continued reference to and acceptance of the numbers and values advanced in those two reports is indicative of the entire approach of the Fauth VS. Similarly to Fauth's misguided attempts to compare the RLBA NLVs to others accepted by the Board, RLBA finds little use in comparing those dated and flawed reports with any recently produced valuations in this matter.

Table 25
Comparison of Discrepancies in Towner Line NLVs

Discrepancy	1998 UP/SP	1998 Korve	2004 PBQD	2015 RLBA	2016 RLBA
No Inspector Qualifications		X	X		
No Explanation of Price Sources	X	X	X		
Does Not Assign Rail Grades		X	X		
Does Not Assign OTM Grades		X	X		
Includes Non STB Accepted Values	X	X	X		
Includes Bridge Removal Cost	X	X			
Includes Signal Removal Cost		X	X		
Does Not Include Removal Expenses			X		

Even if the Board were willing to consider the findings of the earlier reports, it should not do so without adjusting the values to current market pricing. Similar to the comparison to other Board-accepted NLVs that he attempted to make, Fauth failed to provide any sort of common ground over which to compare the various Towner Line NLVs. The various Towner Line NLVs span a period of 20 years. While the physical assets valued and their utility may have remained largely the same across all the NLVs Fauth cited, the economic conditions obviously continually changed, resulting in different scrap and relay material pricing.⁶³ As an example, the A&K list price of 115 pound jointed RE rail rose from ██████ in 2004 to a current list price of ██████ an increase of ██████. Such changes in prices have a profound effect on NLV conclusions. As such, were the Board to engage in the exercise of attempting to compare the Towner Line NLVs, it should consider the changes in unit prices over time. To do just that, RLBA applied unit prices current as of May 12, 2016 to the 1996 STB UP/SP Merger Report, the 1998 CDOT Korve Report and the 2004 CDOT PBQD Report to compare them against the 2016 RLBA Report, as displayed in Table 26.⁶⁴

⁶³ This is without even considering additional capital that has been spent on the line since the PBQD 2004 Report.

⁶⁴ RLBA applied unit prices to the RLBA corrected NLVs put forth in Tables 22, 23, and 24, respectively. 1998 Korve and 2004 PBQD Reports did not provide a grade for any material except ties. Based on descriptions in both reports that the line was in good condition and could be operated at the time, RLBA assumed that all material was relay. RLBA applied RLBA's assumed removal cost of \$2,137,100 across all NLVs.

Table 26
Historical NLVs with Current Unit Prices as of May 12, 2016

NLV Name	Date	Original NLV	RLBA Corrected	Current NLV
1996 UP/SP Merger	8-Nov-96	\$ 9,811,169	\$ 11,083,983	\$ 24,285,814
1998 CDOT Korve Report	27-May-98	\$ 11,616,448	\$ 13,545,748	\$ 44,669,316
2004 CDOT PBQD Report	20-Aug-04	\$ 7,116,869	\$ 8,925,828	\$ 41,008,156
2015 Fauth VS	No Date	\$ 2,594,551	N/A	N/A
2015 V&S RLBA Report	5-Aug-15	\$ 27,023,500	N/A	\$ 23,788,200
2016 V&S RLBA Report	12-May-16	\$ 23,931,500	N/A	\$ 23,931,500
Average				\$ 31,536,597
Average w/o RLBA				\$ 36,654,429

Again, RLBA finds that any objective comparison made of the three valuation reports advanced by Fauth will conclude that it is not the RLBA Reports which are the obvious outlier, but rather the Fauth VS. What's more, all three of valuations performed prior to the first RLBA valuation, if properly adjusted to reflect current pricing, exceeded the amount advanced in the 2016 V&S RLBA Report. Of particular interest is the impressively similar value between the updated corrected 1996 UP/SP Merger Report – the only other valuation completed before 2014 which was submitted to the STB – and both the 2015 and 2016 V&S RLBA Reports. On the other hand Fauth's NLV is only about 11% of the same, updated, corrected 1996 UP/SP Merger Report NLV amount. At the same time, and rather ironically, the two CDOT reports which Fauth relies upon so heavily, when properly updated, suggest an NLV substantially higher than the NLVs calculated by RLBA.

Conclusion

The NLV of \$2,594,551 advanced in the Fauth VS suffers from such a great many errors and omissions, that the values advanced in said report cannot be considered supported or

supportable and should be rejected by the Board. Among the most serious deficiencies of the Fauth NLV are:

- 1) Fauth demonstrates no applicable experience, education or training which makes him qualified to conduct an NLV or the associated inventory inspection;
- 2) Fauth's conclusions about the condition of the Towner Line material are unfounded, unsupported and inconsistent and change over the course of the Fauth VS, depending on the argument being made;
- 3) Fauth did not conduct a proper inventory inspection, nor did he create the majority of the assumptions or sources used to produce his NLV;
- 4) Fauth did not use any real world market pricing information, instead depending on an unproven, highly (and incorrect) hypothetical methodology;
- 5) Fauth's inaccurate description of the potential customer base and demand for materials on the secondary railroad material market renders useless his valuation of those materials as scrap based on the lack of a market;
- 6) Fauth erroneously attempts to draw correlations between NLVs of rail lines in unrelated proceedings and the NLV of the Towner Line and

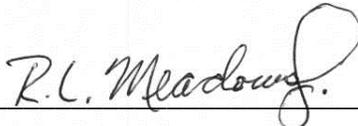
- 7) Fauth erroneously relies heavily on selected findings from two previous NLVs of the Towner Line not produced to the standards of, nor intended to withstand scrutiny from, the Surface Transportation Board.

The Board should instead accept the May 12, 2016 NLV of the Towner Line totaling \$23,931,500, as set forth in this Verified Statement and calculated by RLBA, based upon a thorough review of all applicable information, real world secondary railroad material market information, two, thorough, on-site inspections by experienced, railroad, civil engineers, and based upon NLV standards and precedents established by the Surface Transportation Board.

Verification

I, Ralph Lee Meadows, verify under penalty of perjury that I have prepared and read this Verified Statement to be filed on behalf of V and S Railway, LLC in the aforementioned proceeding before the Surface Transportation Board, that I know the contents thereof, and that the same is true and correct. Further, I certify that I am qualified and authorized to file this statement.

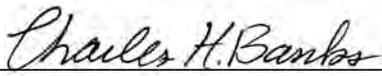
Executed on August 29, 2016



Ralph Lee Meadows

I, Charles H. Banks, verify under penalty of perjury that I have prepared and read this Verified Statement to be filed on behalf of V and S Railway, LLC in the aforementioned proceeding before the Surface Transportation Board, that I know the contents thereof, and that the same is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on August 29, 2016



Charles H. Banks

I, John D. Ireland, verify under penalty of perjury that I have prepared and read this Verified Statement to be filed on behalf of V and S Railway, LLC in the aforementioned proceeding before the Surface Transportation Board, that I know the contents thereof, and that the same is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on August 29, 2016



John D. Ireland

EXHIBIT "F-2"

Verified Statement of
Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

Appendix 1
Applicable Projects Completed by RLBA

Previous Net Liquidation Valuation and Related Work Performed by RLBA

Client	Dates	Railroad/Rail Line	Description
City of Cincinnati	September 2015 - January 2016	Indiana & Ohio Railway	Valuation of Real Estate and Track Assets
City of Denver	May - November 2015	Denver and Rock Island Railway	Going Concern, Real Estate, and Track Asset Valuations
Apache Railway Company, Inc.	June 2015	Apache Railway	Fair Market and Orderly Liquidation Valuations of rail equipment; Net Liquidation Valuation of track assets
Oklahoma Department of Transportation	February 2015	Blackwell Subdivision	Rail Asset and Real Estate Net Liquidation Valuations of OKDOT - owned, Blackwell Subdivision
Confidential Client	October 2014 - February 2015	25 miles of rail line	Valuation of Real Estate and Track Assets
A&K Railroad Materials	January 2015	Grenada Railway	Going Concern and Net Liquidation Valuations
A&K Railroad Materials	September 2014	V&S Railway; Towner Line	Net Liquidation Valuations
Law Offices of Tomas F. McFarland, P.C.	December 2013 - June 2014	75.58 miles of Carolina Southern Railroad	Valuation In Place of real estate and track assets
SANBAG and BNSF	June - August 2013	1.8 miles of BNSF's main track 4 ("the Shortway") in San Bernardino, CA	Joint real estate and rail asset appraisals associated with potential purchase
Snowflake, Arizona Community Foundation	February - March 2013	Apache Railway	Going Concern and Net Liquidation Valuations for RRIF Loan Application
San Benito Railroad	January 2013	San Benito Railroad between Hollister and Carnadero Junction	Rail asset and real estate valuations
A&K Railroad Materials	August 2012	Grenada Railway	Net Liquidation Valuation
A&K Railroad Materials	March 2012	Natchez Railway	Net Liquidation Valuation
Phil Taylor	January - April 2012	Hollister Gilroy UP Branch Line	Real Estate and Track Valuation
International Port of Coos Bay	October 2011	Coos Bay Rail Link	Updated Net Liquidation Valuations of four segments of Coos Bay Rail Link, valuing both track and real estate
Federal Railroad Administration	April 2011	Livonia Avon and Lakeville	Desktop Net Liquidation Valuation
Indiana Southwestern Railway	December 2010	17.2 Miles of Track in Posey and Vanderburgh Counties, IN	Net Liquidated Valuation of Rail Assets
Specialty Ingredients, LLC	November 2010	Watertown, Wisconsin	Net Liquidation and Going Concern Valuations
Lake State Railway Company	February 2010	Lake State Railway and Saginaw Bay Southern Railway	Net Liquidation and Going Concern Valuations
Virginia Port Authority	April 2009	33.5 Acre Norfolk Yard Owned by Norfolk and Portsmouth Belt Line	Valuation Dispute
Kansas City Southern	December 2007 - January 2008	2.5 Mile Segment of Kansas City Southern Railroad near Vicksburg, MS	Preparation of Verified Statement and Net Liquidation Value of Rail Assets
Old Dominion Mortgage	June 2007	1.5 Mile Rail Spur and Construction Debris Transload Facility	Track and Land Net Liquidation Valuation Appraisal
Foley & Lardner LLP, Mandel Group Properties LLC	June 2007	Industrial Rail Spur in Milwaukee, WI	Desktop Net Liquidation Valuation
NY State Senate High Speed Rail Task Force	July 2006 - September 2007	CSX's Hudson Subdivision	Real Estate and Track Valuation, Economic Impacts and Acquisition Counsel
Confidential Client	June 2006	CSX Main and Branch Lines in Massachusetts	Track and Land Inspections and Net Liquidation Valuation
Rocky Mount and Western Railroad Co.	April 2005	Rocky Mount and Western Railroad Branch Lines (North Carolina)	Net Liquidation Valuation
Los Angeles Dept. of Water and Power	February 2005	Nevada Northern Railroad	Net Liquidation Valuation; Evaluation of Abandonment Potential
Northeast Vermont Development Association	September - October 2004	Twin State Railroad Line Between Gilmar and St. Johnsbury, VT	Railroad Infrastructure Assessment and Cost Estimation to upgrade to Class 1
Santa Fe Trails	July - September 2004	Santa Fe Southern Railroad	Track Asset Condition Assessment, Safety Assessment and Agreements Review
WATCO Companies, Inc.	May 2004	So. Kansas + Oklahoma, Eastern Idaho, Palouse River & Coulee, Old MP Main Wichita-Colorado Border	Update and Appraisal of Net Liquidation Valuations
Lee County, Florida	April 2004	Seminole Gulf Railway Segment	Physical Inspection, NLV and Financial Analysis Support for use in STB Adverse Abandonment Proceeding
Lehigh Valley Rail Management LLC	September - October 2003	Philadelphia, Bethlehem and New England Railroad	Net Liquidation Value of Track Assets of and Replacement Cost of Track Structure

Previous Net Liquidation Valuation and Related Work Performed by RLBA

Client	Dates	Railroad/Rail Line	Description
Washington DOT	April 2003	347 miles of Palouse River and Coulee City Railroad	Net Liquidation Valuation
Transportation Agency of Monterey County	December 2001 - January 2003	UP-Monterey Branch	Rail Asset and Real Estate Valuations; Title Search
West Sacramento Redevelopment Program	October 2002	Southern Segment of Yolo Shortline Railroad	Going Concern and Net Liquidated Value of Track Assets
Iowa Northern Railway Company	September - October 2002	Segments of the Iowa Northern Railway	Net Liquidated Valuations of Track Assets Pre and Post Rehabilitation
SF&L Railway, Inc.	June 2002	72 Miles of SF&L Railway (IL)	Physical Inspection, Inventory, Net Liquidation Valuation
Mississippi State Port Authority	March 2002	KCS - Gulfport District	Assessment of Existing Infrastructure Condition
A&K Railroad Materials	January - February 2002	Kern Valley Railway	Going Concern and Net Liquidated Valuations
Lake State Railway Company	June - July 2001	Lake State Railway	Net Liquidation Value
The Bank of America	May 2001	So. Kansas + Oklahoma, Eastern Idaho, Palouse River & Coulee, Old MP Main Wichita-Colorado Border	Net Liquidation Value Review
Iowa Interstate Railroad	October - November 1999	Iowa Interstate Railroad's Milan Branch	Desktop Going Concern and Net Liquidation Valuations
Bank of Boston	December 1998	Iowa Northern	Net Liquidation Valuation for Sale-Leaseback
Nashville Metropolitan Transit Authority	November - December 1998	Three Segments in the Nashville Metropolitan Region	Cost Estimates of Track Construction and Upgrading
Roaring Fork Railroad Holding Authority	November 1998	Aspen-Glenwood Springs Line	Updated Rail Asset Valuation
South Orient Railroad Company	September - October 1998	Segment of South Orient Line	Desktop Net Liquidation Valuation
South Orient Railroad Company	April - May 1998	South Orient Line	Abandonment Application and Rail Asset NLV
Quiat Resources LLC	February 1998	Tennessee Pass Segment	Desktop Net Liquidation Valuation
Iron Road Railways	December 1997 - February 1998	Canadian American Railroad Company	Net Liquidation Valuation
Nation's Bank	November 1997	Eastern Idaho Railroad; South Kansas & Oklahoma Railroad	Going Concern and Net Liquidation Valuation
The Western Governors' Association of Colorado	September 1997	Towner and Tennessee Pass Rail Lines	Evaluation and Ranking of Five Bid Proposals for the Purchase and Operation of the Towner and Tennessee Pass Rail Lines
The Land Conservancy of Seattle and King County	July - August 1997	Redmond-Issaquah, East Lake Sammanish	Track Valuation
Quiat Resources LLC	June - July 1997	Parkdale -Texas Creek Line (Union Pacific)	Rail Asset Valuation
Quiat Resources LLC	May - June 1997	Tennessee Pass Segment	Net Liquidation Valuation
Nation's Bank	August - September 1996	Versailles Branch (KY)	Going Concern and Net Liquidation Valuations

Verified Statement of
Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

Appendix 2
Resume of Lee Meadows, PE

Lee Meadows, Jr., P.E. Director, Transportation Engineering

Education

Bluefield State College Bluefield, WV AS Civil Engineering Technology May 1970

Bluefield State College Bluefield, WV BS Civil Engineering Technology May 1972

Oregon State University Corvallis, OR Graduate Study

Wayne State University Detroit, MI MS Civil Construction Management December 1980

Professional Registrations and Affiliations

Registered Professional Civil Engineer

AREMA

Years of Transportation Experience

43

Qualifications

Mr. Meadows recently joined RLBA after more than three decades of experience with Norfolk Southern Corporation and its predecessor the Norfolk And Western Railway, during which he held positions with increasing responsibility within the Engineering Department spanning management and engineering of railroad track structure, bridge and building inspection, condition assessment, maintenance, rehabilitation, design and construction as well as railroad operations.

Areas of Expertise

- **Track and Structure Planning, Rehabilitation, Engineering and Maintenance** Planned, scheduled and supervised numerous, large track projects such as tie renewals, rail installation, track resurfacing, shoulder cleaning and undercutting operations, structure upgrading and grade/sub-grade stabilization. Supervised numerous bridge and culvert rehabilitation projects including complete renewals, extensive tunnel repairs and tunnel portal reconfigurations. Was responsible for creating capital and operating budgets and working within them. Managed tasks at all levels of engineering responsibility including third party contract work on many projects. Has extensive experience in emergency response and repair.
- **Design** Participated in the design of intermodal terminal facilities in Detroit, MI, as well as the track redesign for eliminating the westbound hump at Norfolk Southern's Conway dual hump yard near Pittsburgh, PA.
- **Grade Crossings and Other Safety Issues** Grade crossing committee member on the various divisions while serving as a Division Engineer. The committees sought to eliminate redundant grade crossings, reducing exposure to collisions. Helped facilitate a training conference for division personnel annually for engineering supervisors addressing the effect of excessive heat and drastic temperature changes that traditionally occur in the summer.
- **Operations** Experience with switching and yard operations, train performance, customer service, FRA rules, regulations and labor agreements.
- **Tunnels** During the years from 1986 to 1997 while working on the Pocahontas Division, Mr. Meadows was

involved in the removal and replacement of the track in the majority of the 99 tunnels located on that division. At the height of this work, we averaged replacing 2.5 miles of track in tunnels for each of four consecutive years between Bluefield, WV and Williamson, WV, the primary work zone for the Heartland Project. Every tunnel in this corridor was worked with the exception of Elkhorn Tunnel. Through the years, the team Mr. Meadows oversaw made adjustments from learned experiences and were able to meet the demands of operating trains within planned delay parameters whether on single or double track locations.

Relevant Project Experience

- Oklahoma DOT** Performed a Track Asset Net Liquidation Valuation of the Oklahoma Department of Transportation-owned Stillwater Subdivision extending 30.2 miles between Stillwater and Pawnee, Oklahoma. Work included performing an on-site inspection and survey of track assets and the formulation of a rail asset valuation. The final deliverable was the calculation of a Net Liquidated Value and delivery of a final written track asset report.
- New England Central Railroad (Genessee & Wyoming, Inc.)** Prepared a Verified Statement and presented its findings before the Surface Transportation Board outlining the steps taken in providing net liquidation valuations of the New England Central Railroad (NECR) rail and land assets. Specifically, performed appraisals of the following three segments of the NECR, totaling 72.8 miles: 1) a 48.8-mile segment between Windsor and Brattleboro, VT; 2) a 10.6-mile segment between Brattleboro, VT and East Northfield, MA and 3) a 13.4-mile segment between Windsor and White River Junction, VT. In the VIP, examined both rail assets and fixed infrastructure, providing a “value in place” estimate of rail and other track materials, ballast, bridges and tunnels, signals and highway crossings.
- Canadian Pacific Ltd** Assisted on a study to provide potential buyers of the 660 miles long portion constituting of the West End of the former DME Railroad to be spun off by CP. Areas of study included: 1) estimating the infrastructure capital and maintenance costs over the next decade necessary to keep the railroad in a steady state condition; 2) ascertaining the number of employees needed to maintain the physical plant of the new railroad and 3) providing opinions on changes to make the operation more efficient if operated as an independent railroad. Undertook an on-site inspection of nearly the entire DM&E West End from which engineering maintenance costs were developed.
- Natchez Railway, LLC** Physically inspected and made net liquidation value determinations of 74.05 miles of Natchez Railway track assets on main and side tracks between Natchez and Brookhaven, Mississippi.
- City of Cincinnati** Physically inspected and made net liquidation value determinations of 3.89 miles of Norfolk Southern track assets on main tracks in the vicinity of Cincinnati, Ohio.
- Grenada Railway, LLC** Physically inspected and made net liquidation value determinations of 85 miles of certain Grenada Railway track assets on main and side tracks between Canton and Grenada, Mississippi.
- Grenada Railway, LLC** Physically inspected and made net liquidation value determinations of the 11-mile Water Valley Branch of Grenada Railway between W.V. Junction and Bruce Junction, Mississippi.
- Alameda County Transportation Commission** Using Desktop methods made net liquidation value determinations of certain Union Pacific Railroad track assets on main and side tracks between Niles Junction and Melrose, California. The 23.30 miles valued were segmented as follows: 1) Segment G, between Niles

Junction and Industrial Parkway, 6.56 main track miles and 2) North Segment, between Industrial Parkway and Melrose, 13.56 main track miles.

- **Carmeuse** Designed horizontal and vertical alignment, provide contract documents for a dual loop track for outbound shipments of aggregate limestone and lime and inbound shipments of coke and non-processed lime for a quarry in northern Virginia.
- **First Energy** Surveyed and designed track expansion to accommodate 130-car unit coal trains unloading at a power generating station in mid West Virginia.
- **United Coal Company** Surveyed, designed, permitting and contract documents for a new ten-mile railroad to be constructed on an abandoned railroad right-of-way for outbound shipments of 130 car coal trains for a coal company in central West Virginia.
- **United Coal Company** Surveyed, designed, permitted, prepared contract documents and procured material for sidetrack construction for loading 120 car unit coal trains for a coal company in southern Virginia.
- **Rosebud Mining Company** Managed the design, permitting, material procurement, and construction with hired forces of a ten-mile branch rail line on a former railway right-of-way for shipment of 130-car unit coal trains for a coal company in western PA.
- **United Coal Company** Designed, provided contract documents, and procured material for sidetrack construction for shipping 100-car unit coal trains for a coal company in southern West Virginia.
- **SunCoke Energy** Designed track layout for new coke facility for inbound 130-car unit coal trains and for outbound 90-car coke trains in Ohio.
- **Vulcan Materials** Surveyed, designed, provided contract documents, and procured material for track facilities for outbound shipments from a granite quarry in eastern Virginia.
- **Warrenton Terminal** Surveyed, designed, provided contract documents, and procured material for track facilities for rail/barge facility in southern, Ohio.
- **Michigan Paving and Materials Company** Performed volumetric surveys for annual inventory of aggregates for a major asphalt producer in Michigan.

Prior Work Experience

Norfolk Southern Corporation

- **Division Engineer** Responsible for the track, bridge, and structure maintenance for 2,500 miles of railroad featuring high density freight, coal traffic and intermodal loading tracks and facilities. Pittsburgh, PA March 2000.
- **Assistant Division Engineer** Assisted in the integration of the Conrail acquisition. Pittsburgh, PA June 1999.

- **General Division Engineer** Responsible for the mechanized gangs that performed tie replacement, rail renewal, and track surfacing. Bluefield, WV June 1998.
- **Division Engineer** Responsible for track, bridge, and structure maintenance for 2,000 miles of track in the coal region of VA, WV, & KY. Bluefield, WV August 1995.
- **Division Engineer** Responsible for track, bridge, and structure maintenance for 1,500 miles of railway in KY, IN, OH, & TN. Somerset, KY October 1993.
- **Assistant Division Engineer** Internal company structure change to reduce levels in management. Bluefield, WV February 1989.
- **Division Engineer** Responsible for track maintenance of 1,000 miles of track in coal region of VA & WV. Developed methodology for removing deteriorated track in tunnels and replacing with new components while operating under traffic on high density coal routes. Bluefield, WV January 1986.
- **Division Engineer-Maintenance** Responsible for track maintenance 1200 miles of track for coal and freight traffic. Brewster, OH May 1984.
- **Assistant Division Engineer-Maintenance** Change in location to facilitate division of PA Division. Brewster, OH November 1983.
- **Assistant Division Engineer-Maintenance** Assisted Division Engineer program and execute routine maintenance of trackage in PA & OH. Bellevue, OH June 1983.

Norfolk & Western Railway

- **Division Engineer-Construction & Maintenance** Track, building, bridges, & dock maintenance responsibilities for Detroit Terminal. Detroit, MI January 1982.
- **Terminal Engineer** Managed railway construction projects for Detroit Terminal. Most notable rehab of Bascule Bridge. Detroit, MI December 1976.
- **Assistant to Regional Engineer Projects** Railway site representative on public improvement projects. Primarily the Port Authority busway adjacent to RR trackage in Pittsburgh, PA. Cleveland, OH November 1975.
- **Inspector** Performed railroad track construction and right-of-way surveys. Roanoke, VA December 1972.

Verified Statement of
Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

Appendix 3
Resume of Charles Banks

Charles H. Banks President

Education

MBA, University of Pennsylvania, Wharton School of Business, 1977
BA Economics, Haverford College, 1974

Professional Affiliations

Transportation Research Forum
Transportation Research Board Committee on Commuter Rail Transportation, AP070
American Society of Civil Engineers

Years of Transportation Experience

41

Qualifications

Since joining RLBA in 1985, Mr. Banks has provided strategic railroad line evaluation and acquisition counsel to more than two dozen clients. He has advised public clients in: 1) evaluating alternative rail line access arrangements; 2) devising rail line acquisition and negotiation strategies; 3) coordinating, managing or conducting rail line real property, rail asset and/or going concern valuations and title researches; and 4) drafting/negotiating letter of intent, interim use/construction, operating rights, purchase/sale, and sidetrack agreements in connection with new-start commuter and light rail projects. Mr. Banks also has focused on strategic planning, railroad line valuation and negotiation issues, and evaluating the economics of financing the acquisition, expansion and rehabilitation of numerous short line and regional railroads, often assessing their potential viability as part of due diligence studies performed by the firm.

Relevant Project Experience

- ***The Oregon International Port of Coos Bay*** Interviewed representatives of all major shippers on the rail line between the Port and Eugene to ascertain: 1) historical rail traffic volumes and shipper requirements so as to develop future railroad freight traffic projections; 2) determine how much more it was costing shippers to ship by a combination of a truck and rail than an all-rail haul and 3) how volume might change in the future as part of a Feeder Line Application to the Surface Transportation Board to acquire the line owned and operated by a Rail America subsidiary, Central Oregon and Pacific Railroad Inc. Prepared a Verified Statement concerning going concern value, a Joint Verified Statement concerning rail service implementation, initial service, rehabilitation, infrastructure maintenance renewal and operational structure and a Supplemental Verified Statement pertaining to service startup and mobilizing the rail operator.
- ***PYCO Industries*** Directed RLBA's participation through development and submission of testimony in support of an STB feeder line application to acquire certain South Plains Switching, Ltd. Co. (SAW) rail lines serving multiple customers in Lubbock, Texas by PYCO Industries, the largest cottonseed cooperative in the southeastern United States. Developed going concern values of three, alternative rail asset transfer scenarios as well as analyzing historical, existing and future traffic volumes. Provided four Verified Statements illustrating financial analyses of current and future rail operation viability and going concern values, considering potential rehabilitation costs to cure years of deferred maintenance. Written testimony included rebuttal statements to differing opinions offered by witnesses on behalf of SAW and a competing feeder line applicant.
- ***Southern Railway Of New Jersey*** Managed the development of: 1) a going concern valuation (GCV); 2) an appraisal of the real estate assets owned by the carrier; 3) an appraisal of the track assets owned by the carrier and 4) an appraisal of the equipment assets owned by the carrier to support the efforts of minority stockholders to acquire control of the carrier upon the death of the majority stockholder. The GCV constituted a long-term valuation of future cash flows which the shortline could expect to generate, based on a comprehensive review of the line by RLBA experts which featured: 1) an analysis of the line's physical operating characteristics; 2)

interviews with on-line customers and analysis of the revenue outlook; 3) reviews of cost and management structures; 4) calculation of estimated routine and program track maintenance costs; 5) estimated capital investment requirements; 6) an inventory of locomotive and rolling stock fleets and 7) a review of agreements with public authorities and private organizations, current debts, liens and other financial obligations.

- ***Inspiration Consolidated Copper Company*** Rebutted Southern Pacific Transportation Company's application to abandon its Globe Branch, which economic justification rested on poor prospects for continued movement of copper concentrate in unit trains across the branch. Since train service on the branch did not extend beyond the main line junction, the financial analysis was tantamount to a short line viability determination. The ICC rejected the railroad's abandonment initiative.
- ***New Jersey Transit*** Led RLBA staff in providing numerous services supporting development of the River Line, a state-of-the-art, new-start, diesel light rail system DBOM procurement. Guided real estate, rail asset and going concern valuations. Participated in numerous negotiating meetings with Conrail, CSXT and NS staff to refine numerous shared track/right-of-way operating/capital improvement plans. Drafted or oversaw development of a Letter of Intent and a Construction Agreement governing the rights and responsibilities of the freight carrier/track owners, project sponsor, New Jersey Transit, and a DBOM consortium.
- ***Maryland Mass Transit Administration*** Oversaw the development of real estate, rail asset and going concern valuations in connection with negotiations to acquire seven miles of a short line to host Baltimore's Central Light Rail Line. Interviewed existing and prospective freight customers to determine their rail service requirements, which information affected the going concern valuation, the rehabilitation schedule and cost, and shaped both a shared use operating agreement and the level of capital improvements necessary to minimize interference between freight and passenger services.
- ***Dallas Area Rapid Transit (DART)*** Oversaw the provision of professional rail asset and real estate valuation consulting services regarding four DART-owned line segments in the Dallas/Fort Worth area. Used this information to develop access fees to all, or a portion of those rail lines or potential sale in the alternative. Made recommendations to DART staff and a presentation to its Board as to how the fair market value could be incorporated into a fair and reasonable annual fee for use of the rail lines by other rail passenger service agencies.
- ***Roaring Fork Railroad Holding Authority (CO)*** Conducted an Acquisition Planning Seminar re a rail line linking Aspen and Glenwood Springs and oversaw development of real estate and rail asset valuations. Edited multiple drafts of a Letter of Intent and Purchase and Sale Agreement. Ultimately a transaction was consummated with Union Pacific Railroad at the valuations established by RLBA.
- ***San Diego Association of Governments*** Directed the analysis of alternative access arrangements and joint passenger/freight use planning for a commuter rail project and separate light rail new-start and extension initiatives. Headed RLBA's right-of-way valuation and successful rail line access negotiation activities sufficient to initiate Coaster commuter rail service.
- ***Orange County Transportation Commission*** Participated in numerous negotiations to secure access between Orange County stations and Los Angeles for the purpose of instituting commuter rail service. Managed real estate and rail asset valuations.
- ***New York City Economic Development Authority*** Oversaw the development of rail asset and real estate valuations, conducted a Rail Line Acquisition Planning Seminar, and supported negotiations resulting in public sector acquisition of a rail line linking the mainland with an intermodal port facility built on Staten Island.

- **Virginia Railway Express (VRE)** Managed RLBA's provision of on-call Economic and Operations Consulting Services. Led several railroad right-of-way Alternative Access Arrangement Seminars examining the economics of acquiring the Norfolk Southern rail line over which some VRE trains operate and analyzed the economics of various types of coaches deployed in U.S. commuter rail services, which analysis supported the exercising of an option to acquire VRE's first bi-level coaches. Sponsored Verified and Rebuttal Verified Statements to inform the STB as to the adverse impacts on VRE service of granting the absorption of Conrail by CSXT and NS.
- **Iowa Northern Railway Company** Assisted in preparation of valuation of railroad right-of-way between Cedar Rapids and Waterloo, Iowa, and between Cedar Falls and Manly, Iowa, so that net liquidation values were included in RRIF application.
- **Watco Companies** Analyzed short line railroads in Oklahoma and Idaho as part of a refinancing package. Developed a going concern valuation of each railroad, based upon physical inspections of the existing property conditions; proposed track maintenance plans, analyzed historical data and projected future financial performance. (CAPV)
- **Massachusetts Bay Transportation Authority** Managed real estate, rail asset and going concern valuations to assist MBTA in determining a range of likely acquisition access costs in connection with starting commuter rail services between Boston and both New Bedford and Fall River over CSXT.
- **Grafton and Upton Railroad Company** Led a strategic disposition analysis of a short line railroad between North Grafton and Milford, Massachusetts for a private investor and co-owner. Examined and reported on the carrier's prospects as a going concern as compared with net liquidation values that could be realized from sale of company-owned locomotives, rail and land assets. Physically inspected the line.
- **Railroad Development Corporation** Managed a going concern valuation of the Iowa Interstate Railroad, Ltd. for the international, railroad holding company. Forecasted carloadings and freight revenues after conducting detailed analyses of the carrier's traffic performance at both individual customer and commodity levels.

Prior to joining RLBA, Mr. Banks was Director of Strategic and Financial Planning at the United States Railway Association (USRA), a public entity which restructured several Northeast railroads into Conrail. There, he identified Conrail's competitive advantages and rebutted valuation claims exceeding \$1.3 billion, including extensive testimony as an Expert Witness. Previously, he worked in Strategic Planning and the Costing and Economic Analysis section of Conrail's Finance department. Prior to Conrail, at the Bureau of Transportation Research at Southern Pacific, he completed numerous capital budgeting assignments, prepared abandonment studies and testified before public utilities commissions. He also worked in the Operating and Market Research Departments of railroads subsequently acquired by Norfolk Southern, CSX Transportation and Union Pacific.

Verified Statement of
Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

Appendix 4
Resume of John Ireland

John D. Ireland Project Manager

Education

B.A., Carnegie Mellon University, Pittsburgh, PA, 2009

Years of Transportation Experience

2

Qualifications

Since joining RLBA in 2014, Mr. Ireland has provided a wide array of railroad related operations and economics assistance to a variety of clients including Fortune 100 companies, Federal & State agencies, commuter railroads, private investment firms, banking intuitions and small volume shippers. He has managed a number of rail valuations projects, working closely with clients to develop and select methodologies appropriate for each unique situation. Valuation assignments which he has participated have proven to be instrumental not only in several private rail right-of-way transactions, but as well as several proceedings before the Surface Transportation Board (STB).

Relevant Project Experience

- **Federal Railroad Administration** Authored a chapter pertaining to the valuation of rail assets as part of a larger effort to create a standard template of collateral valuation in connection with the FRA's Railroad Improvement Financing Program (RIIF). The text discussed the various discounts a lender should consider when considering accepting an existing rail line as physical collateral backing a loan, as well as factors which may negatively impact the value of the physical rail assets offered as collateral over the life of said loans. The text considered historical prices of both scrap and reusable track assets as well the physical operational wear and tear which impacts the value of rail assets.
- **New England Central Railway** Project Manager of a Maintenance Cost Estimation Study, as well as a Value In Place Valuation of real estate and rail assets, regarding 74 miles of the New England Central Railway, a Genesee & Wyoming, Inc. subsidiary, primarily in Vermont. As Project Manager, he was responsible for the day-to-day operations of the project, interacting with the client and subcontractors as well as final composition of the deliverables. Upon completion of the valuation, he coauthored a joint Verified Statement which was submitted before the Surface Transportation Board, explaining the methodologies and conclusions reached in the study and valuation.
- **Confidential Client** A large company not in the railroad sector had acquired 25 miles of out of service right-of-way for a project which was never realized. While the corridor had been out of service for some time, the client retained all easements required to reactive the line to a recently discovered large mineral despite adjacent to the right-of-way. The client was looking to divest themselves of the property and engaged RLBA to assist. Mr. Ireland served as the project manager, working with the client to identify the most appropriate valuation methodology to reflect the value of the right-of-way, finally deciding on a combination between a Net Liquidation and Value of Railroad Improvements in Place valuation. This combination of valuation methodologies was chosen due to its ability to demonstrate to potential buyers the significant savings that could be realized by utilizing the existing railroad specific improvements along the right-of-way in any effort to rehabilitate the line. Once the project was underway, as Project Manager, he was responsible for the day-to-day operations of the project, interacting with the client and subcontractors as well as the final composition of the deliverables.

- **Confidential Client** A client which had previously engaged RLBA to conduct a valuation of an out of service rail corridor further engaged RLBA to assist in the sale of said corridor, in addition to a large mineral resource adjacent to the corridor. RLBA concluded that the most likely path to restoring service along the line would be to sell the combined resource and corridor in a single transaction to a mining entity, which could then restore and operating the rail corridor as said entity saw fit. Mr. Ireland served as the project manager, leading RLBA's efforts to conduct an in-depth investigation into potential buyers across the specific mineral industry, to determine not only interest in the mineral resource, but also the rail and community relations experience of potential buyers. Along with other RLBA and client key staff, he spoke with carefully chosen industry leaders to both advertise the impending sale and to understand what issues and barriers might affect the value of the joint property. After communicating with a variety of mining entities, Mr. Ireland drafted and delivered to the client an Offer of Sale, which was circulated to a number of companies RLBA had earlier identified as likely to be interested in purchasing the property.
- **Law Office of Thomas F. McFarland, P.C.** Assisted in the calculation of a Net Liquidation Valuation of the Carolina Southern Railway on behalf of a consortium of local North and South Carolina economic development interests seeking to purchase the line. Mr. Ireland was responsible for managing subcontractors, constructing the final documents and fact checking.
- **A&K Railroad Materials, Inc.** Performed a heavily abbreviated Net Liquidation Valuation (NLV) and Going Concern Valuation (GCV) to determine if the value of a partially in-service railroad owned by A&K Railroad Materials, Inc. was worth more than a monetary bid submitted by a local public entity to purchase the line. By considering the macro level economics and particulars of the rail line in question, determined that the bid was acceptable and that a more lengthy and expensive valuation was not a worthwhile investment.
- **A&K Railroad Materials, Inc.** Assisted in the completion of a Net Liquidation Valuation of the V&S Railway in eastern Colorado. Responsible for editing final document, fact checking and final composition.
- **A&K Railroad Materials, Inc.** In advance of an upcoming abandonment request before the STB, updated a NLV performed by RLBA approximately 10 months earlier by adjusting the track material unit prices to reflect at the time market prices.
- **Oklahoma Department of Transportation** Assisted in the completion of a Net Liquidation Valuation of the Blackwell Subdivisions in northern Oklahoma. Responsible for editing final document, fact checking and final composition.
- **Prosperity Bank** Performed a desktop valuation to determine the scrap value of approximately 1,300 rail cars owned by Pan American Railway Company. Additionally, worked with the Surface Transportation Board (STB) to remove outdated liens on said car fleet from the Board's Recordation Registry while simultaneously filing new liens on behalf of Prosperity Bank.

Prior to joining RLBA, Mr. Ireland was a Surface Warfare Officer in the United States Navy, serving in various operational and engineering management and supervisory positions. He successfully led three shipboard divisions on two separate deployments to the Middle East and Southeast Asia. In addition to a lifelong interest in the railroad industry, Mr. Ireland brings expertise in management, operational planning, critical analysis and railroad operations.

Verified Statement of
Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

Appendix 5
Resume of Crew Heimer, PE

Crew S. Heimer, P.E. **Director of Transportation Engineering**

Education

BS in Civil Engineering, Cum Laude, University of Maryland, 1976

Professional Registration

Professional Engineer, West Virginia, # 9099

Professional Certifications and Affiliations

AREMA, American Railway Engineering and Maintenance Association and past Committee Chairman of Committee 16 - Economics of Railway Engineering & Operations. While Committee Chairman, my committee put on a day-long seminar about Rail Line Capacity Modeling with 35 attendees.

Years of Transportation Experience

40

Qualifications

Since joining RLBA in 1988, Mr. Heimer has inspected or appraised over 6,200 miles of track, conducting numerous rail and bridge physical asset inspections to determine costs to obtain a state of good repair as well to estimate various railroad capital and operating costs. To this end, over 4,600 miles of these inspections have been by hi-rail while more than 1,600 miles have been completed by walking and driving. These physical inspections of many railroads have addressed audit of adherence to safe practices, compliance with FRA track safety standards, track condition, maintenance requirements and rehabilitation costs. Mr. Heimer has inspected/ appraised rail lines owned by the following: Amtrak, BNSF Railway, Canadian Pacific, Conrail, CSX Transportation, Delaware & Hudson Railway, Iowa Interstate Railroad, Kansas City Southern, Norfolk Southern Railway, San Pedro & Southwestern, Soo Line Railroad, Union Pacific Railroad, Vermont Railway, Wheeling & Lake Erie Railway and Wisconsin Southern Railroad.

Relevant Project Experience:

- **Johnson County Public Works Department (KS)** Conducted a physical inspection of existing rail facilities as a point of departure for developing minimum and maximum Kansas – suburban commuter rail investment scenarios. Assisted in selection of station sites.
- **San Diego Association of Governments, Orange County Transportation Commission, San Bernardino Associated Governments, Riverside County Transportation Commission** Inspected track and prepared asset valuations, prior to public agency rail line acquisition. Evaluated cost estimates of upgrading freight trackage to accommodate commuter rail operations, recommended station design standards, and analyzed operating issues, including dispatching, in support of a trackage rights agreement drafted by RLBA
- **Nashville Metropolitan Transportation Authority** Inspected five Nashville area rail lines to assess condition and track capacity to develop and analyze alternative commuter rail alignments. Assisted in selection of station sites.
- **Chittenden County (Vermont) Metropolitan Planning Organization** Evaluated and inspected the infrastructure in the Burlington-Essex corridor as part of a regional rail feasibility study. Assisted in selection of station sites.

- **Tri-County Regional Planning Commission and the McLean County Planning Commission** Inspected the existing rail lines, evaluated alternatives, identified possible station sites, and calculated capital and costs reflecting various levels of service in connection with exploring the feasibility of providing regional rail passenger transportation service along a corridor between Peoria and Bloomington/Normal combining tracks of the Norfolk Southern, Union Pacific, and Peoria and Pekin Union railroads.
- **LAKETRAN (OH)** Inspected Norfolk Southern and Conrail trackage potentially useful in the development of a cost-effective commuter rail service linking Cleveland with cities in Lake and Ashtabula counties. Determined capital improvements and investment cost necessary to develop attractive commuter rail alternatives.
- **Pennsylvania Department of Transportation** Directed consulting team evaluating Keystone Corridor right-of-way physical plant. Assessed infrastructure condition and costs associated with bringing it to a state of good repair as well as increasing speed. Inspected and reported on the Philadelphia-Harrisburg route bridge condition and rehabilitation costs.
- **Santa Clara Valley Transportation Authority (CA)** Estimated all infrastructure capital costs associated with analyzing the feasibility of linking San Jose with the Bay Area Rapid Transit (BART) system via any one of three routes and more combinations.
- **Northeast Indiana Regional Planning Commission** Inspected three alternative rail corridors as to feasibility and cost of diverting rail traffic from a fourth corridor. To avoid increasing rail traffic on a line with many highway crossings, identified three alternative corridors, evaluated and detailed additional tracks required to hand rail traffic if moved from the existing corridor, developed length and potential speed of required rail connections, evaluated the reductions in highway crossing conflicts and estimated costs for each alternative.
- **Confidential Client** Developed a computerized format with standard activities and unit costs to apply in annual maintenance planning so that improved maintenance efficiency may be realized through a planned approach. Provided counsel to prioritize and prepare a coherent long term plan that would also provide information to the finance and transportation departments and executive management.
- **Orange County Transportation Commission (OCTC)** Examined the feasibility and cost of alternative approaches to accessing right-of-way owned by The Atchison, Topeka and Santa Fe Railway Company (Santa Fe) to host an enduring commuter rail operation between Orange County transit centers and the Los Angeles Union Passenger Terminal. Access was obtained via a combination of operating trackage rights and a sale transaction. Appraised the value of rail assets.

Prior Work Experience

At CSXT Transportation (1976-87), Mr. Heimer held several engineering and operating posts, starting as an Assistant Engineer surveying and designing track installations. As a Roadmaster on passenger main line and terminal territories, he prepared maintenance programs, managed track forces and oversaw construction. As Trainmaster, he directed Yardmasters in switching and train delivery and prepared proposals to expedite train movements. Additionally, Mr. Heimer served at the Passenger Rail Manager/Principal Project Manager for the Georgia Regional Transportation Authority (2000-2012), where he directed various projects supporting the regional bus system (Xpress) totally in over \$625 million of capital investments. He also assembled a State negotiating team to purchase a Norfolk Southern Railway line, in addition to drafting purchase and operating agreements for Macon-Atlanta commuter rail.

Verified Statement of

Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

Appendix 6

RLBA Report “Track Asset Valuation of the V&S Railway, Towner Junction, CO – NA
Junction, CO” July 19, 2016



**Track Asset Valuation
of the
V&S Railway
Towner Junction, CO - NA Junction, CO**

**Prepared
By
R.L. Banks & Associates, Inc.
July 19, 2016**



WASHINGTON, D.C. AREA OFFICE

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Track Asset Valuation of the V&S Railway

Introduction

The V&S Railway (V&S) is a currently inactive railroad consisting of 121.9 mainline miles and 134.62 total miles of track in eastern Colorado. The railroad extends from west Towner Junction at milepost 747.5 to NA Junction at milepost 869.4. R.L. Banks & Associates, Inc. (RLBA) was retained by A&K Railroad Materials of Salt Lake City, UT to perform a valuation of track assets constituting the entire railroad between Towner, Colorado and a location outside Avondale, Colorado.

This effort determines the Net Liquidation Value (NLV) of track assets in the subject property as of May 12, 2016 based on findings recorded during a physical inspection of the assets which occurred on May 11-12, 2016 conducted by Lee Meadows, RLBA's Director, Transportation Engineering. This report presents findings of the research and discusses the factors which influence the value of railroad rail, other track material (OTM), ties and ballast.

A summary of the track evaluated appears in Appendix Seven, which identifies key rail asset characteristics by milepost location. The evaluation covers rail, ties, ballast, switches and other track material (OTM) including joint bars, anchors, tie plates and spikes.

Map of the V&S Railway



Net Liquidation Value

As summarized below in Table 1 and seen in greater detail on Appendix Two with respect to each segment, the NLV is \$23,931,500 as of May 12, 2016. That figure was determined via desktop application of current market prices to the physical inventory.

RLBA arrived at this NLV as a result of four principal steps: first, computation of Gross Liquidation Value (GLV), the market value of salvageable assets (primary components with a value greater than related salvage expenses); second, calculation of various liquidation expenses; third, Track Salvage Value (TSV), that value remaining after deductions of Liquidation Expenses due to removal and restoration as necessary to render assets saleable and preparation of the corridor for non-rail use and fourth, Net Liquidation Value (NLV), that value remaining after deductions of administration/marketing expense and conduct of the sales process such as transportation of materials.

Methodology to Compute NLV

NLV was determined utilizing exactly the same process RLBA always employs as in the previous valuation through application of a multiple step process, the building blocks of which are summarized below:

1. Gross Liquidation Value
 - a) Fixed Asset Ownership
 - b) Fixed Asset Inventory
 - c) Inventory Adjustment for Wear and Recovery Reductions and
 - d) Application of Market Value Unit Prices
2. Liquidation Expenses
 - a) Removal Expenses and
 - b) Restoration Expenses
3. Track Salvage Value
4. Administrative, Marketing and Transportation Expenses and
5. Net Liquidation Value.

That approach, by design, adheres to the methodology employed by the Surface Transportation Board (STB), as manifest in decisions made by its Commissioners involving abandonments and other, related issues involving the prescribed use of NLV.

Gross Liquidation Value

GLV in the context of this analysis was defined as current retail market value (with the exception of ties, which would be wholesaled) of all fixed assets as if they were available for immediate sale.

TABLE 1: V&S Railway Net Liquidation Value Summary

	Unit	Unit Cost	Total	Grand Total
Track Nominal Value:				
Relay Railroad Materials			\$27,775,900	
Steel Scrap and Reroll OTM (net of transportation)			\$748,000	
Ties and Non-steel OTM			\$2,020,700	
Gross Value				\$30,544,600
Preparation Cost Adjustments:				
Fit Rail & OTM Removal (miles)	124	\$16,000	-\$1,987,600	
Scrap/Reroll Rail & OTM Removal (miles)	10	\$15,500	-\$161,100	
Fit Turnout Removal (each)	23	\$800	-\$18,400	
Scrap Turnout Removal (each)	7	\$500	-\$3,500	
Total Adjustments				-\$2,170,600
Restoration Cost Adjustments:				
Public Highway Crossing (each)	64	\$2,000	-\$128,000	
Private Highway Crossing (each)	12	\$300	-\$3,600	
Total Adjustments				-\$131,600
Track Salvage Value				
				\$28,242,400
Administrative, Marketing and Transportation Expense				
Relay Steel Materials - 13 percent			-\$3,610,900	
Scrap, Reroll and Non-steel Materials - 5 percent			-\$138,400	
Transportation - Carloads to Pueblo, CO	312	@	\$1,800	-\$561,600
Total Estimated Expense				-\$4,310,900
Net Liquidation Value				\$23,931,500
Notes: Dollar amounts are rounded to the nearest hundred; units to the nearest tenth. Values may not appear to add due to rounding.				

Bridges, highway crossing devices, ballast and culverts, as will be explained later, yield no positive NLV value because of high removal costs.

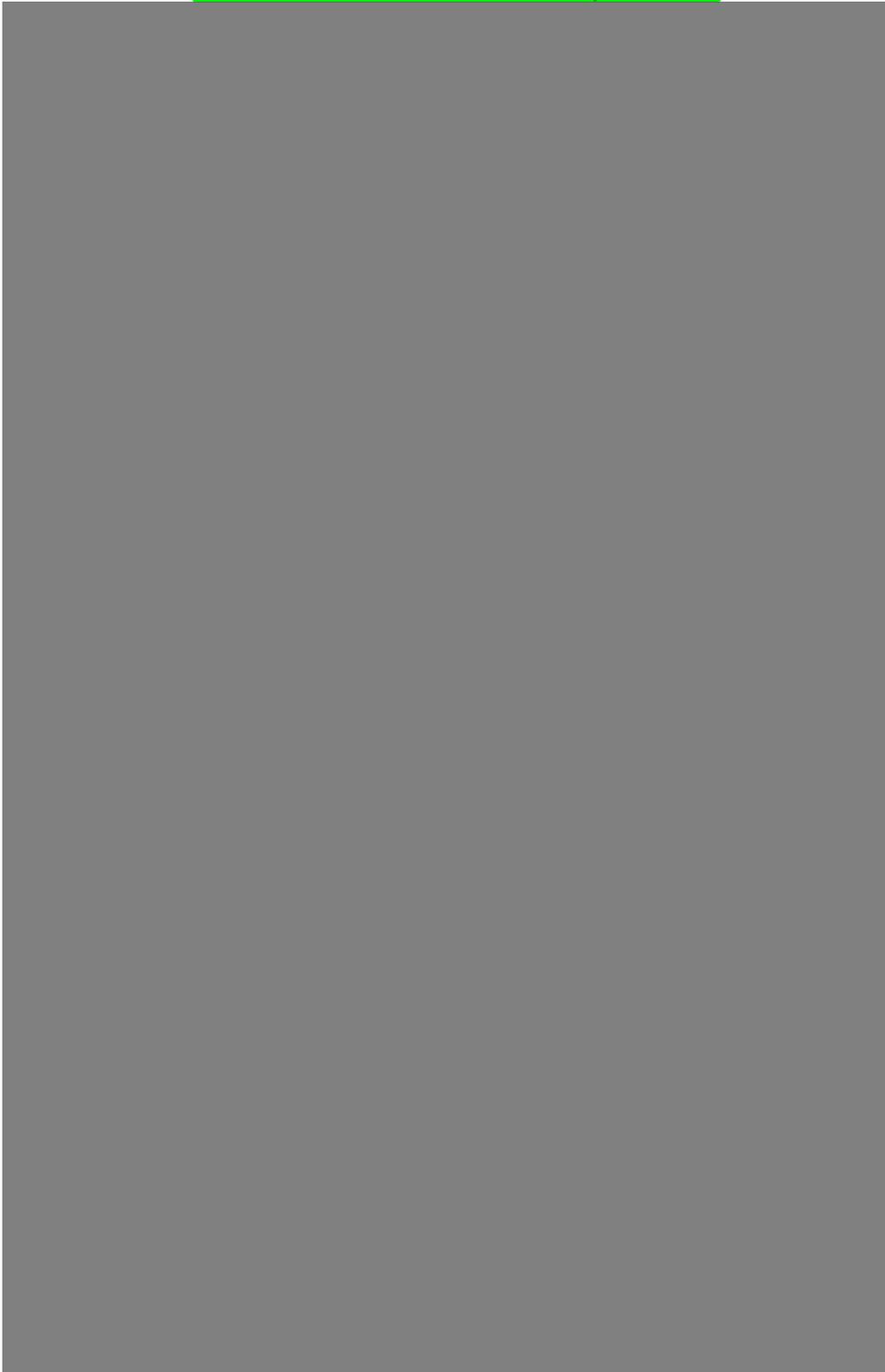
Fixed Asset Ownership In performing this track-related NLV evaluation, RLBA assumed that V&S owns all the rail assets in fee simple including all yard, siding and industry spur tracks.

Fixed Asset Inventory To assess the physical condition of the track assets, the valuation was based on field inspections. Data concerning track condition and inventory obtained during that field inspection was used to inform the development of this NLV report.

Steel. The most significant marketable materials reflected in this valuation were steel track components, assumed to be sold for railroad reuse or as steel mill scrap, depending upon condition. Generally, rail in the main track designated as "fit" or "relay" can be reused in other railroad applications, if it weighs at least 85 pounds per yard or greater. Rail may have a functional use and life with wear up to and exceeding ½ inch vertical or horizontal head wear but is not generally considered worth installing again into a relay, (cascading) position if it exhibits more than 1/4 inch wear. At the time of this valuation it was found that certain V&S rail met two suitable, relay categories: Fit #1, which includes all rail with less than 1/8 of an inch head wear and Fit #2, all rail with less than 3/16 of an inch head wear. The retail price of Fit #1 is set at a premium relative to Fit #2. If not suitable for rail relay, the next highest value application is as reroll, where rail is rolled into new, non-rail products. Rail not suitable for reroll because of excessive side head wear, excessive metal flow, holes mid-rail, short length or attached asphalt or concrete is suitable only as scrap. Reroll rail generally brings higher dealer prices than scrap subject to market demands by the US electric steel mills. Scrap is divided into two categories: rail and other track material (OTM) such as joint bars, tie plates, rail anchors, nuts, bolts, washers and spikes. OTM commands a higher price than rail because the melting of OTM avoids the extra effort required by mills to cut rail into sections suitable for melting. Table 2 displays the values assigned to each rail and OTM classification.

Turnouts were determined or estimated as scrap or relay if their rail size was of 115 pounds per yard or heavier. All relay switches were #10 turnouts having rail-bound manganese (RBM) frogs in good condition. All double shoulder main track tie plates used on 132 pound rail were classified as relay, even if the rail they supported was classified as scrap because they would be matched with other relay rail featuring less desirable tie plates. If rail reuse as relay was warranted, joint bars and rail anchors were assumed reused whereas if rail were assumed scrapped or rerolled, the joint bars and rail anchors were assumed to be scrapped. All other track material (OTM) such as nuts, bolts, washers and spikes were valued as scrap.

TABLE 2: Unit Market Prices, May 12, 2016



Ties. Because tie installation costs often approach tie material costs, only recently installed ties are suitable for rail reuse. The cost to sort, handle, transport and inventory ties is high, and in comparison with the wholesale prices they command, generally yield only a low net salvage value. RLBA typically assigns a negative value to scrap ties to account for disposal costs and assigned a unit value of -\$2.00 in its 2014 NLV of the V&S line. However, as this NLV must adhere to STB methodology, RLBA has assigned a value of \$0 to all scrap ties. Overall tie condition on the inspected V&S track was fair to poor.

Ballast. There is not a substantial quantity of ballast on the track bed; therefore, recovery of ballast was not considered.

Other Track Assets. No net salvage value was assigned to signals and communications facilities, highway crossing signals, highway crossing panels, bridges or culverts on the line in the calculation of the NLV. Highway crossing signals generally yield little or no alternative use value. Use by even a short line railroad to replace a damaged signal is unlikely; typically, no inventory is kept on-hand and new replacements are ordered from standard suppliers and immediately installed. Marketing costs to inform railroads of second-hand availability and handling costs likely would exceed the amount that could be recovered through sale. Signal materials scrap value would not exceed salvage costs. Likewise, there is no ready market in which to sell used, highway crossing panels and so they are not included in NLV calculations.

Bridge and culvert removal costs and proceeds traditionally approximate each other and therefore have no net effect on NLV and so are omitted from NLV calculations.

Inventory Adjustment Reflection of Wear and Recovery Reductions

Due to material age, condition and the economics of expedited removal procedures, it was determined that not all railroad assets in the existing right-of-way would be recovered. Instead, liquidation of the property was assumed to yield the following recovery rates, based on the theoretical weight of new rail:

- 97 percent of fit rail;
- 97 percent of scrap and reroll rail;
- 97 percent of tie plates on fit rail;
- 95 percent of tie plates on scrapped rail;
- 97 percent of joint bars on fit rail;
- 95 percent of joint bars on scrapped rail;
- 100 percent of scrap turnout material;
- 80 percent of fit rail anchors and
- 80 percent of rail anchors, bolts, spikes, washers and other scrap materials.

The recovery rate assumption as to scrap and reroll rail reflects a three percent reduction applied to gross rail weight as an adjustment recognizing average rail wear. Fit tie plates and joint bars were assumed sold by unit; therefore no weight reduction was assumed. However, five percent of OTM gross weight was judged likely to be lost as a result of the removal process. Ninety-five percent of OTM was assumed to be recovered in connection with scrapped rail. Rail anchors salvaged from fit rail were assumed to be fifty percent acceptable as relay. Finally, twenty percent of anchors, bolts, spikes, washers and other materials were estimated as rusted or lost during salvage operations, leaving only eighty percent to be salvaged as scrap.

Application of Market Value Unit Prices

The GLV and NLV estimates were based on the application of actual unit market prices as of May 12, 2016, as supplied by specifically identified market participants and displayed in Table 2.

RLBA assumed that the seller would use its own personnel and/or contract out efforts to remove, organize and sell released materials as opposed to a single bulk transaction to a rail or scrap broker at an in-place price. However, used crossties were assumed sold in bulk to a broker at a net wholesale price reflecting removal by the broker. As is readily apparent, relay steel (rail and OTM) materials are the significant components of the NLV.

RLBA determined that reroll rail and railroad scrap loaded in railcars in the NA Junction, CO area and delivered to the Pueblo, CO area would command larger net value based on metal prices and rail transportation costs.

Liquidation Expenses

Two fundamental assumptions were employed in development of expenses that were netted against gross liquidation values:

- 1) costs associated with removal, sorting and transporting railroad materials reflected a deliberate and efficient liquidation and
- 2) restoration expenses were assumed to be required in connection with highways, including coordination with local governments.

Removal Expenses

The cost of taking up track, including disassembly, sorting, stacking and loading of materials for shipment and disposing of ties was estimated at \$16,000 per mile where rail was classified as relay and \$15,500 per mile where classified as scrap. In its 2014 NLV of the V&S line, RLBA had previously cited scrap removal costs at \$12,000 per mile. RLBA has since identified an alternative scrap buyer in Pueblo, CO, which requires scrap rail to be broken out into three foot lengths prior to delivery. As such, RLBA has adjusted its estimate to extract and process scrap rail from \$12,000 to

\$15,500 per mile. Turnout removal was estimated at \$800 per fit turnout and \$500 per scrap turnout.

Restoration Expenses

As a condition of service termination and non-rail reuse of the real property, governments frequently require correction of some existing conditions that might cause the public sector to incur future expense. Such regulations affect the subject NLV determination in three principal asset categories: 1) bridges and culverts, 2) highway crossings and 3) structures.

RLBA assumed that the cost to remove bridge superstructures would approximate salvage proceeds, resulting in no impact on NLV. While removal expense likely could exceed salvage proceeds, because some trestles are constructed of timber and may be in environmentally sensitive areas, it is not unusual for bridges and culverts to be left in place in the event a line is converted to a trail. Such a disposition would yield the same NLV as that assumed in the estimate. Supporting and sub-structures are assumed to be allowed to remain in place, thereby generating neither proceeds nor expenses.

All tracks in roadways and crossing protection devices must be removed and pavement restored as a condition of service termination. The removal of track materials from pavement and restoration of pavement was estimated at \$2,000 per public highway crossing and \$300 per private highway crossing. Removal of crossing protection devices was estimated to equate to salvage value.

Track Salvage Value

Track salvage value is equal to gross liquidation value less liquidation expense.

Administrative, Marketing and Transportation Expenses

RLBA's standard methodology to determine cost to administer liquidation and market steel assets so as to achieve retail prices arrived at an estimation of fifteen percent of retail GLV (excluding transportation) regarding relay steel materials and five percent of GLV re scrap, reroll and non-steel materials. This methodology assumes liquidation is either performed by the railroad itself, which presumable has limited liquidation experience, or by a hired, third party at a premium. However, because liquidation and marketing of rail assets is one of A&K's primary lines of business, RLBA assumes the company could complete the liquidation process more efficiently and at less cost. As such, RLBA has decreased cost to administer liquidation and market steel assets to thirteen percent in an effort to reflect the more efficient practices of an experienced liquidator such as A&K. Transportation of reroll and scrap steel materials was assumed to be shipped by rail to Pueblo to maximize income with carload transportation costs reflecting same. Relay materials were estimated to be shipped to Pueblo by rail to obtain maximum, net market prices. In its 2014 NLV of the V&S line, RLBA omitted relay rail in its transportation cost summary. This report reflects the transportation of relay rail material, seen in Appendix Eight.

Net Liquidation Value

NLV is the remainder after liquidation expenses were deducted from GLV. This is a reasonable expectation of what a seller (acting as its own broker) could receive were the line liquidated in May 2016.

Railroad Rail Market

The predominant component of railroad track asset value is the rail itself. The rail market consists of four primary products: new rail and the three, previously described grades of used rail: relay, reroll and scrap. Since the V&S line is entirely comprised of older, second-hand rail, the discussion which follows is limited to the used rail markets. The NLV depends not only on the wear experienced on the subject rail but also on the situation in those markets.

Relay Rail

Rail replaced because of wear or defects on a busy or fast main track is eminently suitable to install on slower speed or lighter traffic lines. At the slow speeds operated in yards, few broken rails result in derailments. In turn, welded replacement rail installed on secondary lines is superior to older rail still in use in some yards. Relay rail tonnages installed consistently exceed new rail tonnages because rail removed from a main line and installed on a branch line frequently generates an additional rail cascade to yard tracks. At each step, however, a portion of the rail is scrapped, usually resulting in short lengths of rail (from cuts made at road crossings and switches) or rail with excessive curve wear.

Through the cascading process, relay rail is generated by installing new rail (or other relay rail). In addition, some liquidated rail lines generate relay rail, though abandonment rail is frequently light, worn sections which are scrapped. While most relay material generated by a railroad is used on its own lines, there is a very active commercial relay market; several brokers supply material to regional and short line railroads and shipper-owned spurs, which neither require nor can justify the cost of new rail.

At lower levels of remaining useful life, rail becomes unattractive to sell in the relay market because the expenses of marketing, transportation and installation of rail on a regional or short line railroad would constitute an excessive share of total value.

Most rail relay programs include welding the rail before installation. Welding significantly reduces maintenance expenses incurred in the joint area associated with surfacing and bolt tightening. In addition, by removing the location of greatest rail wear, rail life is extended.

Reroll and Scrap Rail

Rail is a premium scrap grade because it is hard steel with known chemistry. While the scrap steel market includes many grades, used rail enters the scrap market as reroll or as charging material (heavy melting scrap) to be melted in furnaces and made into other steel products. Reroll is the designation attached to clean lengths of rail that can be rerolled into new products (construction rebar, fence posts, etc.). Scrap material is required in charging both integrated mills and in mini-mill electric furnaces. The mini-mill demand for scrap is expected to remain strong. While most mills will accommodate rails up to five feet in length, some buyers prefer shorter lengths of two or three feet.

User Categories

The primary categories of rail users are Class I (large), regional, short line railroads and industrial plants with rail sidings and/or yards. Class I railroads primarily purchase new rail and generate relay rail internally with light weight rail sold as scrap.

Use of relay rail by weight depends on specific railroad practice but, in general, on Class I (major) railroads, 112 pounds per yard and heavier will be reinstalled on secondary main lines if within wear limits, otherwise it will be installed in yard tracks. Good relay rail is required in yard turnouts. Rail between 100 and 112 pounds per yard is suitable in yard and industry tracks, though if generated in abundance in any one year, it may be sold into the second-hand market. Rail sections less than 100 pounds per yard are generally scrapped when taken up by Class I railroads.

Regional railroads are in need of second-hand rail and demand for repair rail has propelled second-hand prices on medium and heavy rail to a high value proportionate to prices of new rail with respect to remaining life as indicated by rail wear. This anomaly results because at typical regional railroad annual traffic levels of three to five million gross tons (MGT), half-worn rail may last another 50 - 80 years.

From the distinct economic perspective of regional railroads, by contrast with Class I railroads, paying one-half to three-quarters the price of new rail for half-worn rail can provide savings because replacement expenditures are years away. Rail weighing 115 pounds per yard or greater is preferred for replacement. Rail designated 132RE or greater (RE designation representing rail that adheres to AREMA specifications) would be considered if the costs, including shipping and other track materials, were the same or less than a 115RE section of rail. Similar economics drive the decision of Class I railroads to cascade worn rail, with little in-place economic life to another line on the system with lower traffic density rather than continuing to wear the rail down to scrap condition at its original location.

Short line railroads use any rail from new 136RE to second-hand 85 pounds per yard rail, depending on traffic volume and financial strength. Generally, 100 pounds per yard rail or heavier is preferred

but some lines still install less than 100-pound rail (to replace even lighter weight installments). If predominant traffic is carried in 100 ton cars, 100 pounds per yard is a minimum standard although some western railroads in dryer climates, and hence better subgrade conditions, use 90 pounds per yard section. (The demand for relay quality 90 and 100 pounds per yard rail is still there but appears to be more regionalized, resulting in decreasing value due to the shift of the railroad industry toward being able to handle even greater axle loads.) Only a few short lines, generally those owned by the primary company they serve, can finance new rail purchases.

Industrial users can use any weight rail but prefer 100 pounds per yard or heavier section. A nearly universal specification by civil engineering firms of 115RE rail (instead of 115RE or heavier) on new sidetrack construction has driven the relay price per ton of that rail section higher than most other sections. The high volume of 115RE rail installed in mainline tracks during the 1950's and 1960's followed by a shift to heavier 119, 132 and 136RE rail has led to a scarcity of available 115RE repair rail. During the last few years, the relative bargain of 119 and 132RE rail has been recognized and those prices also have risen to match that of 115RE at least on a lineal foot basis.

Qualifications to Estimate

The findings of this cost estimate are subject to several qualifications and limiting conditions which are stated as follows:

It is assumed that all rail valued was manufactured according to AREMA and ASCE recommended practices and that the rail assets are in full compliance with all FRA standards;

Further, RLBA assumes full compliance with all applicable Federal, state and local regulations and laws;

RLBA takes no responsibility for changes in market conditions which may occur after the date of valuation or for the inability of the rail owner to identify a qualified purchaser;

With regards to the valuation, RLBA has not conducted any title search or verification of legal ownership. RLBA has conducted this valuation under the assumption that the entire rail described herein is owned by V&S free and clear of any liens and encumbrances;

No employee or representative of RLBA will be required to give testimony or attend court or appear at any governmental hearing with reference to the subject rail material, unless prior arrangements have been made directly with RLBA;

RLBA takes no responsibility for changes in track structure under portions of the railroad that were covered by material obstructing physical inspection or areas not inspected;

RLBA has not conducted any environmental remediation investigation and as such has not factored in any environmental remediation costs that may result from actual liquidation of line.

Certification

I, Lee Meadows, do hereby certify that to the best of my knowledge and belief:

The statements of fact contained in this report are true and correct.

The reported analyses, opinions and conclusions are limited only by the reported assumptions and limiting conditions and is my personal, unbiased, professional analyses, opinions and conclusions.

I have no specified or unspecified present or prospective interest in the properties that are the subject of this report and I have no personal interest or bias with respect to the parties involved.

My compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result or the occurrence of a subsequent event.

I made a personal inspection of the property that is the subject of this report on May 11-12, 2016.

Submitted,

A handwritten signature in black ink that reads "R.L. Meadows". The signature is written in a cursive style with a large, looping initial "M".

Lee Meadows

Appendix One

Net Liquidation Value of Track Assets

V&S Railway

Mile Post 747.5 - Mile Post 869.4

May 11 - 12, 2016

	Unit	Unit Cost	Total	Grand Total
Track Nominal Value:				
Relay Railroad Materials			\$27,775,900	
Steel Scrap and Reroll OTM (net of transportation)			\$748,000	
Ties and Non-steel OTM			\$2,020,700	
Gross Value				\$30,544,600
Preparation Cost Adjustments:				
Fit Rail & OTM Removal (miles)	124	\$16,000	-\$1,987,600	
Scrap/Reroll Rail & OTM Removal (miles)	10	\$15,500	-\$161,100	
Fit Turnout Removal (each)	23	\$800	-\$18,400	
Scrap Turnout Removal (each)	7	\$500	-\$3,500	
Total Adjustments				-\$2,170,600
Restoration Cost Adjustments:				
Public Highway Crossing (each)	64	\$2,000	-\$128,000	
Private Highway Crossing (each)	12	\$300	-\$3,600	
Total Adjustments				-\$131,600
Track Salvage Value				\$28,242,400
Administrative, Marketing and Transportation Expense				
Relay Steel Materials - 13 percent			-\$3,610,900	
Scrap, Reroll and Non-steel Materials - 5 percent			-\$138,400	
Transportation - Carloads to Pueblo, CO	312	@	\$1,800	-\$561,600
Total Estimated Expense				-\$4,310,900
Net Liquidation Value				\$23,931,500

Notes: Dollar amounts are rounded to the nearest hundred; units to the nearest tenth. Values may not appear to add due to rounding.

Appendix Two

Gross Liquidation Value of Track Assets

V&S Railway

Mile Post 747.5 - Mile Post 869.4

May 11 - 12, 2016



Appendix Two

Gross Liquidation Value of Track Assets

V&S Railway

Mile Post 747.5 - Mile Post 869.4

May 11 - 12, 2016



Appendix Three

Summary of Rail Evaluated
V&S Railway
Mile Post 747.5 - Mile Post 869.4
May 11 - 12, 2016

Main Track:

Milepost		Rail				Miles
South	North	Section	Rolled	Type	Control Cooled	
747.50	750.65	113REHF	1944	CWR	YES	3.15
750.65	770.18	115RE	1950	JTD	YES	19.53
770.18	770.25	115RE	1949	CWR	YES	0.07
770.25	770.42	115RE	1949	JTD	YES	0.17
770.42	770.73	133RE	1985	CWR	YES	0.31
770.73	772.48	115RE	1949	JTD	YES	1.75
772.48	772.59	115RE	1950	CWR	YES	0.11
772.59	772.85	115RE	1949	JTD	YES	0.26
772.85	773.30	115RE	1950-57	CWR	YES	0.45
773.30	773.60	115RE	1949	JTD	YES	0.30
773.60	773.66	115RE	1950	CWR	YES	0.06
773.66	774.25	115RE	1949	JTD	YES	0.59
774.25	774.63	115RE	1950-52	CWR	YES	0.38
774.63	805.00	115RE	1949	JTD	YES	30.37
805.00	808.60	112RE	1947	JTD	YES	3.60
808.60	808.77	115RE		CWR	YES	0.17
808.77	809.31	112RE	1947	JTD	YES	0.54
809.31	809.48	115RE		CWR	YES	0.17
809.48	809.98	112RE	1947	JTD	YES	0.50
809.98	810.46	115RE		CWR	YES	0.48
810.46	815.78	112RE	1947	JTD	YES	5.32
815.78	815.94	115RE		CWR	YES	0.16
815.94	819.26	112RE	1947	JTD	YES	3.32
819.26	819.38	115RE		CWR	YES	0.12
819.38	820.10	112RE	1947	JTD	YES	0.72
820.10	869.40	136RE	1979	CWR	YES	49.30
Main Track Total						121.90

Appendix Three

Summary of Rail Evaluated
V&S Railway
Mile Post 747.5 - Mile Post 869.4
May 11 - 12, 2016

Yard Tracks and Sidings:

Milepost		Rail					Miles
South	North	Section	Rolled	Type	Control Cooled		
752.40	753.60	136RE	1955	CWR	YES	1.20	
757.66		90ARA-A	1926	JTD	NO	0.37	
765.70		90ARA-A	1929	JTD	NO	0.25	
771.10	772.40	136RE	1952-68	JTD	YES	1.30	
784.60	786.10	132RE	1950-55	CWR	YES	1.50	
785.60	786.01	90ARA-A		JTD	NO	0.41	
785.61	785.86	85		JTD	NO	0.25	
	799.19	90ARA-A		JTD	NO	0.07	
806.40	807.73	136RE	1968	CWR	YES	1.33	
807.15	807.79	90ARA-A		JTD	NO	0.64	
821.29		90ARA-A		JTD	NO	0.15	
829.60	830.90	112RE	1946	JTD	YES	1.30	
840.90	841.55	90ARA-A		JTD	NO	0.65	
846.31		90ARA-A		JTD	NO	0.21	
846.55	848.02	112RE	1947	JTD	YES	1.47	
	852.14	85	1906	JTD	NO	0.20	
857.07		85	1907	JTD	NO	0.18	
862.30	863.54	112RE	1936	JTD	NO	1.24	
Yard Track & Siding Total						12.72	
Track Miles Grand Total						134.62	

Source: RLBA On-site Inspection

Appendix Four

Summary of Turnouts
V&S Railway
Mile Post 747.5 - Mile Post 869.4
May 11 - 12, 2016

Location	Rail		Frog		Condition		Switch Points			Switch Stand		
	MP	Weight	Type	Size (#)	Weight	Relay	Scrap	Plain	Sampson	Lead	Manual	Power
752.40	115RE	RBM	10	115RE			1	X			X	
753.60	115RE	RBM	10	115RE				1	X		X	
757.66	115RE	RBM	10	115RE	1			X			X	
765.70	115RE	RBM	10	115RE	1			X			X	
766.40	115RE	RBM	10	115RE	1			X			X	
771.10	115RE	RBM	10	115RE	1			X			X	
772.40	136RE	RBM	10	136RE	1			X			X	
784.60	115RE	RBM	10	115RE	1			X			X	
785.60	115RE	RBM	10	115RE	1			X			X	
785.61	115RE	RBM	10	115RE			1	X			X	
785.86	115RE	RBM	10	115RE				1	X		X	
786.01	115RE	RBM	10	115RE	1			X			X	
786.10	115RE	RBM	10	115RE	1			X			X	
799.19	115RE	RBM	10	115RE	1			X			X	
806.40	136RE	RBM	10	136RE	1			X			X	
807.15	112RE	RBM	10	112RE			1	X			X	
807.73	112RE	RBM	10	112RE				1	X		X	
807.79	112RE	RBM	10	112RE					1	X	X	
821.29	136RE	RBM	10	136RE	1			X			X	
829.60	136RE	RBM	10	136RE	1			X			X	
830.90	136RE	RBM	10	136RE	1			X			X	
840.90	136RE	RBM	10	136RE	1			X			X	
841.55	136RE	RBM	10	136RE	1			X			X	
846.31	136RE	RBM	10	136RE	1			X			X	
846.55	136RE	RBM	10	136RE	1			X			X	
848.02	136RE	RBM	10	136RE	1			X			X	
852.14	136RE	RBM	10	136RE	1			X			X	
857.07	136RE	RBM	10	136RE	1			X			X	
862.30	136RE	RBM	10	136RE	1			X			X	
863.54	136RE	RBM	10	136RE	1			X			X	
Sub Total	Weight 136						14	0				
	Weight 115						9	4				
	Weight 112						0	3				
Grand Total							23	7				

Source: RLBA On-site Inspection

Appendix Five

Summary of Tie Condition
V&S Railway
Mile Post 747.5 - Mile Post 869.4
May 11 - 12, 2016
(Sample Blocks of 100)

Location	Condition			
	MP	Relay	Landscape #1	Landscape #2
748	8	90	0	2
753	15	83	0	2
762	19	77	0	4
767	16	84	0	0
772	12	65	0	23
777	12	88	0	0
784	6	82	0	12
788	16	84	0	0
793	23	75	0	2
800	12	83	0	5
805	8	89	0	3
815	16	84	0	0
820	21	76	0	3
825	18	80	0	2
830	19	77	0	4
836	8	84	0	8
841	6	85	0	9
846	8	80	0	12
851	6	81	0	13
856	11	87	0	2
862	28	68	0	4
868	28	49	0	13
Average Total (%)	14	80	0	6
With tie spacing of	19.5	inches		
Inches on center equates to :	3,249	ties per mile		
Estimated average of	467	Relay ties per mile		
	2,586	Landscape #1 ties per mile		
	0	Landscape #2 ties per mile		
	182	Scrap ties per mile		

Notes: Units are rounded to the nearest integer.
Source: RLBA On-site Inspection

Appendix Seven
Track Material Unit Prices
V&S Railway
Mile Post 747.5 - Mile Post 869.4
May 11 - 12, 2016



Appendix Eight

Summary of Shipmnet Volumes
 V&S Railway
 Mile Post 747.5 - Mile Post 869.4
 May 11 - 12, 2016

	Total	Rail Weight															
		60	70	78	80	85	90	100	105	110	112	115	119	131	132	133	136
Tons per gon (stacked relay rail) =		74	83	92	79	79	69	91	96	86	87	90	93	92	93	93	95
Tons per gon (scrap & reroller rail) =		100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
Net Tons of Relay Rail (Welded) =	13062	N/A	N/A	N/A	N/A	N/A	0	0	0	0	0	439	0	0	174	73	12376
Net Tons of Relay Rail (Jointed) =	13389	N/A	N/A	N/A	N/A	N/A	0	0	0	0	2621	10721	0	0	0	0	47
Number of cars (relay rail) =	281	N/A	N/A	N/A	N/A	0	0	0	0	0	30	121	0	0	2	1	127
Net Tons of Reroller Rail =	0	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	0	0	0	0	0
Number of cars (reroller rail) =	0	N/A	N/A	N/A	N/A	0	0	0	0	0	0	0	0	0	0	0	0
Net Tons of Scrap Rail =	1929	0	0	0	0	94	436	0	0	0	928	0	0	0	174	0	296
Number of cars (scrap rail) =	19	0	0	0	0	1	5	0	0	0	10	0	0	0	2	0	3
Total cars for each rail weight (rail) =	302	0	0	0	0	1	5	0	0	0	40	121	0	0	4	1	130
Net Tons of Scrap OTM (tie plates) =	350	0	0	350	0	0	0	0	0	0	0	0	0	0	0	0	0
Number of cars (scrap tie plates) =	4	0	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0
Net Tons of Scrap OTM (jt. bars) =	71	0	0	0	0	6	25	0	0	0	40	0	0	0	0	0	0
Number of cars (scrap jt. bars) =	1	0	0	0	0	1	1	0	0	0	1	0	0	0	0	0	0
Net Tons of Scrap OTM (anchors) =	11																
Number of cars (scrap anchors) =	1																
Net Tons of Scrap OTM (spikes/bolts) =	624																
Number of cars (spikes/bolts) =	7																
Net Tons of Scrap Turnouts =	53																
Number of cars (scrap Turnouts) =	1																
Total cars (relay rail) =	281																
Total cars (reroller rail) =	0																
Total cars (scrap rail) =	19																
Total cars (scrap OTM) =	12																
Railcars Grand Total	312																
Shipping Cost																	
Routing		Railroad Price (per car)															
NA Junction to Pueblo		\$1,800															
Cost to ship rail car from NA Junction, CO to Pueblo, CO =		\$1,800															

Notes: Use full 100 ton gon, stacked rails per gon varies by size (one inch board between layers) and 100 .ton load for OTM. Assume tie plate weights of 12# for < or = 90# rail, 15# for 100# rail, 17# for 105/110# rail, 21# for 112/113/115/119/127/130# rail, 23 # for and 35# for 131/132/133/136/140/141# rail (big). Assume joint bar weights (per pair) of 40# for rail up to 85# rail, 50# for 85# rail, 65# for 90/100/105/110# rail, 105# for 112/113/115/119/127/130# rail, 115# for 131/132/133/136/140/141# rail. Tie plates are grouped together by base width with the predominate size showing the total number. Assume all relay ties, OTM and turnouts transported off-site at cost of purchaser. Cost to dispose of scrap ties on-site is reflected in valuation.

Source: Gross Liquidation Value of Track Assets (Attachment Two)

Verified Statement of
Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

Appendix 7

Current A&K Railroad Materials, Inc., Price Listings

Verified Statement of
Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

Appendix 8

Recent Transactional Data from A&K Railroad Materials, Inc.

Verified Statement of
Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

Appendix 9

Applicable Third Party Vendor Price Quotes

Verified Statement of
Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

Appendix 10

RLBA Unit Price Calculation Methodology

Verified Statement of

Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

Appendix 11

Bill of Sale Between A&K Railroad Materials, Inc., and OmniTRAX, Inc.



Great Western Railway of Colorado, LLC
 950 Taylor Avenue
 LOVELAND CO 80538
 UNITED STATES OF AMERICA

Public Version
 Page 1 of 2
 07/16/2014
 15:34:58

PURCHASE ORDER

Billing Address Great Western Railway of PO Box 460669 Glendale CO 80246 USA
Supplier Address A&K RAILROAD MATERIALS PO BOX 30076 SALT LAKE CITY UT 84130 UNITED STATES OF AMERICA Phone 80197454840000
Shipping Address Great Western Railway of Colorado, LLC 950 Taylor Avenue LOVELAND CO 80538 UNITED STATES OF AMERICA

Information	
Document Number	4500117742
Date	07/11/2014
Vendor No.	106022
Currency	USD
Payment Terms	Per Agreement
Buyer	Robert Guinan
Phone	303 398-4538
Fax	866 831-1186
Email	rguinan@omnitrax.com
Delivery/Promise Date	08/01/2014
Inco Terms	FOB
Description	Free on board
Inco Terms (Part 2)	Origin

Item	Material/Description	Quantity	UM	Net Price	Net Amount
10	200983 TIE PLATES 6" BASE	69,565.00	EA	9.50	660,867.50
20	201557 136#RE relay rail-CWR ***Subject to terms and conditions of the contract to include payment details of A&K quotation QS-14-08532-5**** Contact SVP Ken Koff @ 720-300-2990 for inspection criteria and unloading coordination	5,385.00	TON	855.00	4,604,175.00
Net Value					5,265,042.50
Tax					177,799.21

By accepting this Purchase Order, Seller agrees that this Purchase Order shall be subject to the provisions of the Purchase Order Terms and Conditions of Purchase executed by Seller.

By: _____ Date: _____



Great Western Railway of Colorado, LLC
 950 Taylor Avenue
 LOVELAND CO 80538
 UNITED STATES OF AMERICA

Public Version
 Page 1 of 1
 07/11/2014
 10:18:02

PURCHASE ORDER

Billing Address Great Western Railway of PO Box 460669 Glendale CO 80246 USA
Supplier Address A&K RAILROAD MATERIALS PO BOX 30076 SALT LAKE CITY UT 84130 UNITED STATES OF AMERICA Phone 80197454840000
Shipping Address Great Western Railway of Colorado, LLC 950 Taylor Avenue LOVELAND CO 80538 UNITED STATES OF AMERICA

Information	
Document Number	4500117742
Date	07/11/2014
Vendor No.	106022
Currency	USD
Payment Terms	
Buyer	Robert Guinan
Phone	303 398-4538
Fax	866 831-1186
Email	rguinan@omnitrax.com
Delivery/Promise Date	08/01/2014
Inco Terms	FOB
Description	Free on board
Inco Terms(Part 2)	Origin

Item	Material/Description	Quantity	UM	Net Price	Net Amount
10	200983 TIE PLATES 6" BASE	69,565.00	EA	9.50	660,867.50
20	201557 136#RE relay rail-CWR	5,385.00	TON	855.00	4,604,175.00
Net Value					5,265,042.50
Tax					152,686.24
Total Amount					\$ 5,417,728.74

By accepting this Purchase Order, Seller agrees that this Purchase Order shall be subject to the provisions of the Purchase Order Terms and Conditions of Purchase executed by Seller.

By: _____ Date: _____



Great Western Railway of Colorado, LLC
 Taylor Avenue
 LOVELAND CO 80538
 UNITED STATES OF AMERICA

PURCHASE ORDER

Billing Address GREAT WEST RAILWAY OF CO PO Box 460669 Glendale CO 80246 USA
Supplier Address A&K RAILROAD MATERIALS PO BOX 30076 SALT LAKE CITY UT 84130 UNITED STATES OF AMERICA Phone 80197454840000
Shipping Address Great Western Railway of Colorado, LLC 950 Taylor Avenue LOVELAND CO 80538 UNITED STATES OF AMERICA

Information	
Document Number	4500117742
Date	07/11/2014
Vendor No.	106022
Currency	USD
Payment Terms	
Buyer	Robert Guinan
Phone	303 398-4538
Fax	866 831-1186
Email	rguinan@omnitrax.com
Delivery/Promise Date	08/01/2014
Inco Terms	FOB
Description	Free on board
Inco Terms (Part 2)	Origin

Item	Material/Description	Quantity	UM	Net Price	Net Amount
				Total Amount	\$ 5,442,841.71

By accepting this Purchase Order, Seller agrees that this Purchase Order shall be subject to the provisions of the Purchase Order Terms and Conditions of Purchase executed by Seller.

By: _____ Date: _____

Quotation



**A&K Railroad
Materials, Inc.**

Quotation No: QS-14-08532-5
Date Quoted: 7/16/2014
Your Reference:
Customer Acct No: 002574

2134 South 74th Street
Kansas City, KS 66108

Phone: (800)527-5276 Fax: (913)631-1279 Email: bwyatt@akrailroad.com

Buyer: OMNI-TRAX, INC.*
PO Box 460669
Glendale, CO 80246 0669
US

Ship To: OMNI-TRAX, INC.*
950 TAYLOR AVE.

Loveland, CO 80539

Requested By: ROBERT GUINAN
E-mail: rguinan@omnitrax.com

Phone: 303-398-4538
Fax: 866-831-1186

Cell Phone:

We thank you for your inquiry and are pleased to quote as follows:

Quantity	Unit	DESCRIPTION	Unit Price	Price	Ship Via
5,385.60	NT	RAIL RELAY 136 RE #1 GRADE AVERAGE WELDED RAIL	855.00	4,604,888.00	Rail Train

(ALTERNATE PRICING: \$19.38/LF, \$31,044.12/1600')

PAYMENT/CREDIT TERMS FOR RAIL:

-Credit for Sale of NKCR Materials and GWR Materials. The purchase price for the NKCR Materials and the GWR Materials shall be in the form of credits against the purchase price for the A&K Materials (collectively, the "Credits"), as follows:

- (a)GWR Materials removed from the Windsor Line -- \$274,400.00.
- (b)NKCR Materials removed from the Oberlin Line -- \$1,546,000.00.
- (c)NKCR Materials removed from the Almena Line -- \$1,217,000.00.

Refer to contract that outlines the details of the transfer of NKC abandonments.

-Payment Schedule for A&K Materials. OmniTRAX shall make payments for the A&K Materials, with the Credits being applied first, as follows:

- (a)Ten percent (10%) of the Credits, the receipt of which are hereby acknowledged, upon the execution of this Agreement. - \$156,728.80
- (b)Twenty percent (20%) of the Credits upon A&K loading the first train of the A&K Materials at their place of origin. - \$313,457.60
- (c)Thirty percent (30%) of the Credits upon A&K completing the delivery and unloading of all three trains of the A&K Materials. - \$470,186.40
- (d)Thirty percent (30%) of the Credits upon the earlier to occur of (i) OmniTRAX completing the installation of the A&K Materials, or (ii) one hundred twenty (120) days after A&K has completed the delivery and unloading of all three trains of the A&K Materials. - \$470,186.40
- (e)Ten percent (10%) of the Credits upon A&K completing the loading of the GWR Materials. - \$156,728.80

69,565.00	EA	PLATES RELAY 6 DS 8X14 8 HOLE 5/8 1:40	9.50	660,867.50	GON
-----------	----	--	------	------------	-----

~~Sales tax not included in quote. At time of order, sales tax will be charged in accordance with state and local tax laws.~~

Prices in material/transportation shall be subject to change without notice

CONDITIONS: All material quoted is to the conditions on the reverse side or attached sheet. All material quoted is subject to prior sale. Due to drastic variances in fuel prices we reserve the right to re-quote & adjust freight rates at time of shipment as necessary.

TERMS
SHIPMENT
F.O.B.

Special Terms - see Memo
All in stock unless noted
Destination Loveland CO 80539

QUOTED BY _____

Beth Wyatt
Vice President Central Region

The opportunity of quoting is appreciated and we hope that we may be favored with your order
Visit our Website at www.AKrailroad.com

Quotation

Page 2 of 3
Public Version



**A&K Railroad
Materials, Inc.**

Quotation No: QS-14-08532-5
Date Quoted: 7/16/2014
Your Reference:
Customer Acct No: 002574

2134 South 74th Street
Kansas City, KS 66108

Phone: (800)527-5276 Fax: (913)631-1279 Email: bwyatt@akrailroad.com

Buyer: OMNI-TRAX, INC.*
PO Box 460669
Glendale, CO 80246 0669
US

Ship To: OMNI-TRAX, INC.*
950 TAYLOR AVE.

Loveland, CO 80539

Requested By: ROBERT GUINAN
E-mail: rguinan@omnitrax.com

Phone: 303-398-4538
Fax: 866-831-1186

Cell Phone:

We thank you for your inquiry and are pleased to quote as follows:

Quantity	Unit	DESCRIPTION	Unit Price	Price	Ship Via
----------	------	-------------	------------	-------	----------

PAYMENT TERMS FOR PLATES IS NET 30

Sales Balance	Total Discount	Freight Charges	Sales Tax	Total
5,265,555.50	0.00	0.00	0.00	5,265,555.50

USD

Sales tax not included in quote. At time of order, sales tax will be charged in accordance with state and local tax laws.

Prices in material/transportation shall be subject to change without notice

CONDITIONS: All material quoted is to the conditions on the reverse side or attached sheet. All material quoted is subject to prior sale. Due to drastic variances in fuel prices we reserve the right to re-quote & adjust freight rates at time of shipment as necessary.

TERMS
SHIPMENT
F.O.B.

Special Terms - see Memo
All in stock unless noted
Destination Loveland CO 80539

QUOTED BY _____

Beth Wyatt
Vice President Central Region

The opportunity of quoting is appreciated and we hope that we may be favored with your order
Visit our Website at www.AKrailroad.com

PRICES— All prices herein quoted or proposed, shall be adjusted to the Seller's prices in effect at the time of shipment.

TAXES – Any taxes which the Seller may be required to pay or collect, under any existing or future law, upon or herein with respect to the sale, purchase, delivery, storage, processing, use or consumption of any of the material covered hereby, including taxes upon or measured by the receipts from the sale thereof, shall be for the account of the Buyer, who shall promptly pay the amount thereof to the Seller upon demand.

PAYMENT - Buyer agrees to pay the Net Amount set forth on the face of this Agreement.

If transportation charges from point of origin of the shipment to a designated point are included in the prices herein named or heretofore quoted-

- (a) any changes in such transportation charge shall be for the account of the Buyer;
- (b) except as otherwise stated in the Seller's quotation, the Seller shall not be responsible for switching, spotting, handling, storage, demurrage or any other transportation or accessorial service, nor for any charges incurred therefore, unless such charges are included in the applicable tariff freight rate from shipping point to the designated point.

RISK OF LOSS – Buyer assumes risk of loss or damage upon delivery of the material by the carrier.

INSPECTION – The Buyer may inspect, or provide for inspection, at the place of origin. Such inspection shall be so conducted as not to interfere unreasonably with the suppliers operations, and consequent approval or rejection shall be made, before shipment of the material. Notwithstanding the foregoing, if upon receipt of such material by the Buyer, the same shall appear not to conform to the contract between the Buyer and the Seller, the Buyer shall immediately notify the Seller of such condition and afford the Seller a reasonable opportunity to inspect the material. No material shall be returned without the Seller's consent.

PERMISSIBLE VARIATIONS, STANDARDS AND TOLERANCES – Except in the particulars specified by Buyer and expressly agreed to in writing by Seller, all materials shall be produced to meet an exact specification, shall be subject to tolerances and variations consistent with usages of the trade and regular mill practices concerning; dimensions, weight, straightness, section, composition and , mechanical properties, normal variations in surface, internal conditions, and quality; deviations from tolerances and variations consistent with practical testing and inspection methods; and regular mill practices concerning over and under shipments.

All materials sold in units measured by weight will be invoiced on theoretical weight unless otherwise stated on the reverse side.

Seller shall not be liable for delays due to strikes, fires, floods, accidents, delays in transportation, shortages of cars, governmental regulations or any other cause beyond our control.

Shortages of 1,000 pounds or more in gross or tare weight must be reported immediately. In the event this contract is not completed on or before agreed expiration date, the contract will remain in full force and effect until completed, unless specifically cancelled in writing.

CREDIT APPROVAL – Shipments, deliveries and performance of work shall at all times be subject to the approval of the Seller's Credit Division. Seller may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment or security or upon terms and conditions satisfactory to such Division.

TERMS OF PAYMENT – Subject to the provisions of CREDIT approval, above, terms of payment are as shown on the reverse side hereof and shall be effective from date of invoice.

Verified Statement of
Ralph Lee Meadows, Jr. P.E., Charles H. Banks and John D. Ireland

Appendix 12
Verified Statement of Lynn K. Beck

Towner - NA Junction, Colorado

VERIFIED STATEMENT

OF

LYNN K. BECK

My name is Lynn K. Beck. I am Manager Asset Utilization in Engineering Services at UP. My office address is 1416 Dodge Street, Omaha, Nebraska 68179. I hold a Bachelor of Science Degree from Boise State University. I have been employed by UP in the Engineering Department continuously since 1969. I have held various maintenance-of-way jobs and worked as an Assistant Engineer (1976), Inventory and Cost Control Supervisor (1978), Project Planning Engineer (1986), Construction Planning Engineer (1987), Track Planning Engineer (1989), and Manager Asset Utilization (1995). In my current position, I have responsibility throughout the 23-state UP system for the preparation of estimates for net liquidation values on various different types of track structures and for determining the costs of engineering programs and projects.

I am very familiar with the Towner - NA Jct. Line (portion of the Hoisington Subdivision) that is the subject of this abandonment application. I personally inspected the line in a hy-rail trip on September 6, 1995. I walked various segments of the line at intervals of approximately three to five miles for approximately 200 feet. The main track (122.40 track miles, mile posts 747.0 - 869.4) is constructed with 136 pound continuous welded rail for a total of 49.40 miles, 112 pound rail (jointed) for 16.50 miles, and 115 pound rail (jointed) for 56.50 track miles. There is an additional 9.92 track miles of sidings. The line has maximum operating speeds ranging from 25 to 40 mph. The track is

classified at FRA Class 2, Class 3 and Class 4 standards. The track is maintained at these levels because the line is used for overhead traffic. If operated only for local traffic, the track would not need to be maintained at levels higher than FRA Class 1. Therefore, the costs used in the abandonment application for maintenance-of-way and structures (1993, 1994, Base Year and Forecast Year) include estimated annual costs to maintain the track to FRA Class I standards on a "normalized" basis. The rail line does not require any track rehabilitation to meet FRA Class 1 standards.

DESCRIPTION OF ENGINEERING EXHIBITS

Exhibit LB-1 - Normalized Maintenance Costs - This exhibit details the costs which are included in my estimate of annual costs to maintain the Towner-NA Junction line over the long term to FRA Class I standards. It is based on my inspection of the line and on costs incurred by UP for the various categories of work and materials shown. The exhibit calls for annual maintenance costs of \$613,650, which works out to an average of \$5,013 per main track mile. For comparison, combined UP/CNW/SP system average expenditure for maintenance of way and structure accounts in 1994 was \$21,822 per track mile (includes main, side and yard tracks).

The maintenance expenditures contained in Exhibit LB-1 fall into two broad categories -- "Program" and "Non-Program" track maintenance. "Program" maintenance is work that would be done on a regular cycle, and consists of tie replacement, surfacing and alignment of track, and road crossing work. A brief discussion of each of these areas follows.

The tie replacement costs assume replacement of crossties on an eight-year cycle of approximately 160 crossties per mile, an average of 20 crossties per mile per year. The annual replacement rate for crossties would be 0.62 per cent, based on 2708 crossties in a mile. Similarly, switch ties would be replaced at a 20 percent rate every eight years, which works out to an annual replacement rate of 2.5 percent. The costs associated with tie replacement consist of the cost of the materials themselves and the costs associated with installing them. The cost to purchase an ordinary crosstie and four spikes is \$25.90 and the cost to purchase each switch tie and spikes (the number of spikes per tie varies, depending on the location of the tie in the switch) is \$52.54. The installation costs include crew costs, work train service, tie unloading (contract forces), picking up and disposing of scrap ties (contract forces), material store expense (MSE) and sales tax. The cumulative cost for tie replacement in the Forecast Year is \$936 per track mile.

Surfacing and lining track is the second group of programmed maintenance costs. I have assumed that any needed surfacing and lining would be done in conjunction with programmed tie replacement on an eight-year cycle. The work would consist of what we call a "skin lift" (approximately ½ to 1 inch, when required), and would require about five carloads of ballast per mile. On an annual basis, this works out to 0.625 cars per mile per year. Other related expenses include ballast unloading, the actual surfacing and alignment of the track after the ballast is dumped, crew cost, work train expense and sales tax. The cumulative expenditure for surfacing and lining track on an annualized basis is \$809 per main track mile.

The third group of programmed maintenance costs consists of expenditures associated with public road crossings. These include periodic replacement of the crossing surfaces themselves, as well as warning devices and other appliances associated with the crossings. There are 66 crossings on this line, 13 of which are signalized with a pair of flashing lights. On an annualized basis, total programmed maintenance cost for road crossings for the Forecast Year is an average of \$511 per main track mile.

The remaining maintenance expenditures are for "Non Program" track and structure maintenance. This consists of the work needed to keep the line in service between program maintenance cycles. It includes a 3-person section gang, the services of a track inspector to inspect the line once per week as required by FRA track rules (40 miles per day), labor for signal maintenance (including grade crossing signals), signal material, rail replacement for damaged rails (1 rail every 3 miles), vegetation control, bridge inspection, bridge maintenance and material, material store expense and sales tax. The cumulative expenditure for non-program maintenance in the Forecast Year is \$2,757 per main track mile.

As can be seen from the Exhibit, costs for the Forecast Year have been developed by applying an index value called the "DRI Rate" to the amounts shown in the column entitled "Ave Cost Per Mile". The values shown in the latter column are actual costs for the materials and associated work as of October, 1995. The values shown in the "DRI Rate" column are derived from the DRI Forecast, a publication of DRI/McGraw Hill's Transportation Consulting Practice which publishes rail costs and projections on a

quarterly basis. The details of how the DRI rates were applied to the various cost items are listed in Exhibit 1 are shown in my workpapers.

Exhibit LB-2 - Net Liquidation Value (Material) - This exhibit details my estimate of the value of the materials in the line (primarily track materials) that UP/SP could expect to realize if the line were abandoned. The exhibit shows current prices for the various types of material as of October, 1995, and are the values used for the Forecast Year (which begins November 1, 1995). The value of track materials may fluctuate, depending on market requirements for specific materials at the time of release. The values shown were obtained from recent UP sales and from telephone contacts with dealers of track materials. DRI rates were applied to the current values to arrive at a Base Year value as of December, 1994 (the Base Year for this application is July 1, 1994 - June 30, 1995).

Rail from abandoned lines is classified as scrap, reroll, or No. 1 - No. 2 quality. The No.1 - No. 2 quality rail is suitable for use elsewhere on the UP/SP system in secondhand rail replacement and construction projects. Reroll rail is one classification grade better than scrap. This rail would be sold to reroll mills for making fence posts or "rebar" (used to reinforce concrete). Rail not suitable for reuse or for reroll is scrap rail that would be sold to a salvage dealer.

The Towner - NA Jct. Line contains reroll rail which is valued at \$192.07 per net ton, scrap rail which is valued at \$155 per net ton, No. 1 quality continuous welded relay rail which is valued at \$395 per net ton, and No. 2 quality rail which is valued at \$351.20 per net ton. Scrap material other than rail is valued at \$120 per net ton. The

reusable crossties have a value of \$6.25 each and the landscape ties have a value of \$4 each.

The Towner - NA Jct. Line consists of 122.40 miles of branch line trackage and 9.92 miles of miscellaneous sidings. Exhibit LB-2 shows that the line contains 36,471.72 net tons of rail, other track material and switches. The track (main track and sidings) consists predominately of 115 pound and 136 pound rail with some segments of 112 pound and 85 pound rail (sidings). There are a total of 429,938 crossties and switch ties, of which 150,478 ties are reusable. The current market value (based on fourth quarter 1995 values) for the track materials is \$12,796,307. When bridge values are added, the total value is \$12,934,406. Removal costs for track, switch and crossties, and bridges are \$3,123,237, for a current net liquidation value of \$9,811,169. The current net liquidation value of the track material to be retained by the railroad is \$9,749,146 (gross liquidation value of \$10,545,765 less \$796,619 removal costs).

The Net Liquidation Values shown in Exhibit LB-2 are for materials only and do not include the value of the underlying real estate. The real estate value is not discussed in this statement.

NON-PROGRAM TRACK MAINTENANCE:	COST	UNIT	QUANTITY	AVE. COST PER MILE	FORECAST YEAR % DRI RATE	THE FORECAST TOTAL
3 man Section Gang (Foreman & 2 Sectionmen)	\$723	/Day	205	\$1,210	0.10	\$1,211
Track Inspector (Inspect Weekly) (40 miles/day)	\$335	/Day	159	\$436	0.10	\$436
Signal Maintenance - Crossing Protection-Labor	\$1,577	/Each	13	\$167	0.10	\$168
Signal Material	\$394	/Each	13	\$42	2.30	\$43
Rail Replacement 1 rail/3 miles	\$7.76	/LF	1,591	\$101	2.30	\$103
Vegetation Control	\$394.46	/Mile	122	\$394	2.20	\$403
Bridge Inspection	\$0.61	/LF	5,037	\$25	0.10	\$25
Bridge Maintenance	\$4.25	/LF	5,037	\$175	0.10	\$175
Bridge Material	\$4.30	/LF	5,037	\$177	0.10	\$177
MSE				0.80 %		\$3
Sales Tax				4.00 %		\$13
						<u>\$2,743</u>

NORMALIZED MAINTENANCE COST PER MILE PER YEAR = \$4,972 \$5,013

11/8/95

TOTAL NORMALIZED MAINTENANCE COST PER YEAR = \$608,564 \$613,650

NET LIQUIDATION VALUE OF TRACK & BRIDGES HOISINGTON SUBDIVISION

8-Nov-95

M.P. 747.00 TO 869.40 = 122.40 TRACK MILES NA Jct. to Towner
 MISCELLANEOUS SIDINGS = 9.92 TRACK MILES
 132.32 TOTAL T.M.S

TRACK COMPONENTS -

Rail Weight	RAIL		OTM	SWITCHES			Net Tons	NET TONS
	Track Miles	Net Tons	Net Tons	No. 7	No. 8.5 & No. 9	No. 10		
136#	49.40	11824.38	3321.70			13	74.48	15220.56
133#		0.00	0.00				0.00	0.00
132#		0.00	0.00				0.00	0.00
131#		0.00	0.00				0.00	0.00
119#		0.00	0.00				0.00	0.00
115#	57.65	11668.36	3534.75			14	80.21	15283.32
112#	19.08	3761.05	1096.73			4	18.50	4876.29
110#		0.00	0.00				0.00	0.00
100#		0.00	0.00				0.00	0.00
90#		0.00	0.00				0.00	0.00
85#	6.19	926.02	165.52				0.00	1091.55
80#		0.00	0.00				0.00	0.00
75#		0.00	0.00				0.00	0.00
Total:	132.32	28179.82	8118.70				173.19	36471.72

TIES

	EA	CURRENT MARKET VALUE 4th Qtr 1995	BASE YEAR VALUE Dec - 1994
SWITCH TIES	2511 EA		
CROSS TIES	427427 EA		
TOTAL TIES	429938 EA		

VALUE OF TRACK COMPONENTS

				DRI RATE	VALUE
MAIN & SIDE TRACKS:	4,628.82 N.T. x	\$192.07 /N.T. =	\$889,058	Reroll Rail	0.991 \$881,056
MAIN & SIDE TRACKS:	1,517.24 N.T. x	\$155.00 /N.T. =	\$235,173	Scrap Rail	0.991 \$233,056
MAIN & SIDE TRACKS:	11,233.16 N.T. x	\$395.00 /N.T. =	\$4,437,100	No 1 SH CWR Rail	0.991 \$4,397,166
MAIN & SIDE TRACKS:	10,800.59 N.T. x	\$351.20 /N.T. =	\$3,793,166	No 2 Qual Rail	0.991 \$3,759,028
O.T.M. & Turnouts:	3,653.42 N.T. x	\$120.00 /N.T. =	\$438,410	Scrap Material	0.991 \$434,464
Tie Plates	321,100 ea. x	\$3.50 ea. =	\$1,123,850	Tie Plates 8x14	0.991 \$1,113,735
Tie Plates	74,750 ea. x	\$3.36 ea. =	\$251,160	Tie Plates 8x13	0.991 \$248,900
SWITCH & CROSS TIES :	150,478 ea. x	\$6.25 ea. =	\$940,489	Reusable Ties	0.991 \$932,025
SWITCH & CROSS TIES :	171,975 ea. x	\$4.00 ea. =	\$687,901	Landscape Ties	0.991 \$681,710
SWITCH & CROSS TIES :	107,485 ea. x	\$0.00 ea. =	\$0	Scrap Ties	\$0
TOTAL TRACK VALUE			\$12,796,307		\$12,681,140

BRIDGE VALUE

\$138,099 0.991 \$136,856

TOTAL VALUE

\$12,934,406 \$12,817,996

REMOVAL COSTS

TRACK REMOVAL	132.32 T.M.s @	\$8,555 Per Mile	\$1,131,998	0.961	\$1,087,850
SWITCH & CROSSTIES	429938 Ea. @	\$1.35 Ea.	\$580,416	0.961	\$557,780
BRIDGE REMOVAL COSTS			\$1,410,823	0.961	\$1,355,801
TOTAL REMOVAL			\$3,123,237		\$3,001,431

NET LIQUIDATION VALUE

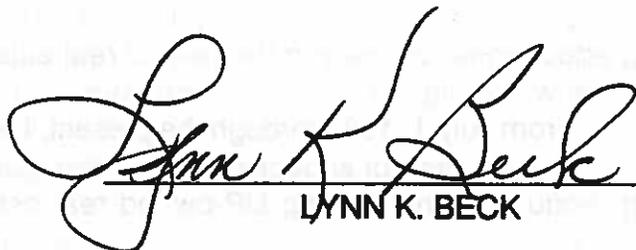
\$9,811,169

\$9,816,566

VERIFICATION

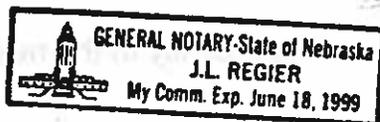
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

LYNN K. BECK, being first duly sworn, deposes and states that he has read the above document, knows the facts asserted therein, and that the same are true as stated.


LYNN K. BECK

SUBSCRIBED AND SWORN to before me this 14 day of
November, 1995.


Notary Public



My Commission expires:
