

LAW OFFICES OF  
**LOUIS E. GITOMER, LLC.**

LOUIS E. GITOMER  
Lou@lgraillaw.com

MELANIE B. YASBIN  
Melanie@lgraillaw.com  
410-296-2225

600 BALTIMORE AVENUE, SUITE 301  
TOWSON, MARYLAND 21204-4022  
(410) 296-2250 • (202) 466-6532  
FAX (410) 332-0885

March 10, 2014

235598

Ms. Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D. C. 20423

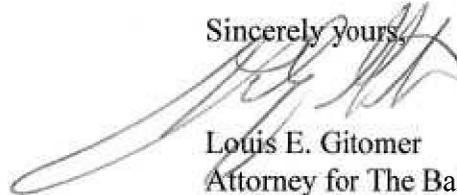
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Office of Proceedings  
March 10, 2014  
Part of  
Public Record

**RE: Docket NOR 42138, *Horry County, et al. v. The Baltimore and Annapolis Railroad Company, d.b.a. Carolina Southern Railroad Company***

Dear Ms. Brown:

Enclosed for e-filing is the PUBLIC Version Reply of The Baltimore and Annapolis Railroad Company, d.b.a. Carolina Southern Railroad Company. If you have any questions, please call or email me.

Sincerely yours,



Louis E. Gitomer  
Attorney for The Baltimore and Annapolis  
Railroad Company, d.b.a. Carolina  
Southern Railroad Company

Enclosure

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Docket No. 42138

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HORRY COUNTY, SOUTH CAROLINA, MARION COUNTY, SOUTH CAROLINA,  
COLUMBUS COUNTY, NORTH CAROLINA, CITY OF CONWAY, SOUTH CAROLINA,  
TOWN OF FAIR BLUFF, NORTH CAROLINA, TOWN OF CHADBOURN, NORTH  
CAROLINA, TOWN OF TABOR CITY, NORTH CAROLINA, CITY OF WHITEVILLE,  
NORTH CAROLINA, AND METGLASS, INC.

v.

THE BALTIMORE AND ANNAPOLIS RAILROAD COMPANY, d.b.a. CAROLINA  
SOUTHERN RAILROAD COMPANY

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REPLY OF THE BALTIMORE AND ANNAPOLIS RAILROAD COMPANY, d.b.a.  
CAROLINA SOUTHERN RAILROAD COMPANY

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**PUBLIC VERSION**

Louis E. Gitomer  
Law Offices of Louis E. Gitomer, LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
(410) 332-0885 (fax)  
[Lou@lgraillaw.com](mailto:Lou@lgraillaw.com)

Thomas C. Brittain  
A. Preston Brittain  
The Brittain Law Firm, P.A.  
4614 Oleander Drive  
Myrtle Beach, SC 29577  
(843) 449-8562  
(843) 497-6124 (fax)  
[tommy@brittainlawfirm.com](mailto:tommy@brittainlawfirm.com)  
[preston@brittainlawfirm.com](mailto:preston@brittainlawfirm.com)

Attorneys for The Baltimore and Annapolis Railroad Company, d.b.a. Carolina Southern  
Railroad Company

Dated: March 10, 2014

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Docket No. 42138

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COLUMBUS COUNTY, NORTH CAROLINA, CITY OF CONWAY, SOUTH CAROLINA,  
TOWN OF FAIR BLUFF, NORTH CAROLINA, TOWN OF CHADBOURN, NORTH  
CAROLINA, TOWN OF TABOR CITY, NORTH CAROLINA, AND CITY OF WHITEVILLE,  
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REPLY OF THE BALTIMORE AND ANNAPOLIS RAILROAD COMPANY, d.b.a.  
CAROLINA SOUTHERN RAILROAD COMPANY

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The Baltimore and Annapolis Railroad Company, d.b.a. Carolina Southern Railroad Company (“CALA”) replies to the Opening Statement filed on February 10, 2014 (the “Opening”) by Complainants Horry County, SC (“Horry”), Marion County, SC (“Marion”), Columbus County, SC (“Columbus”), City of Conway, SC (“Conway”), Town of Fair Bluff, NC (“Fair Bluff”), Town of Chadbourn, NC (“Chadbourn”), Town of Tabor City, NC, City of Whiteville, NC (“Whiteville”), and Metglas, Inc. (“Metglas”); and Interveners City of Loris, SC (“Loris”), City of Myrtle Beach, SC (“Myrtle Beach”), and New South Companies, Inc. (“New South”) (collectively “Complainants”).<sup>1</sup>

CALA has not unlawfully failed to provide common service. Complainants have not

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<sup>1</sup> It is unclear from the Opening whether BP Amoco Chemical Company (“BP”) is a party to the Opening.

proven otherwise. CALA respectfully requests the Surface Transportation Board (the “Board”) to deny the relief requested by Complainants and dismiss the Formal Complaint filed by Complainants on August 27, 2013 (the “Complaint”).

## **BACKGROUND**

In the accompanying verified statement, Mr. Pippin, President and owner of CALA, provides a detailed history of CALA and refutes the facts alleged by Complainants in the Opening.

CALA embargoed the operation over its 76.4-mile rail line (the “Line”), between Mullins, SC, milepost 325, Whiteville, NC, milepost 292, and between Chadbourn, NC, milepost 296, and Conway, SC, milepost 336, in Horry and Marion Counties SC and Columbus County, NC on August 26, 2011<sup>2</sup> and renewed the embargo on August 27, 2012, and August 19, 2013. CALA currently runs trains between its connection with CSX Transportation, Inc., at Mullins, SC, and milepost 318, but no further because of the defects in the bridges on the Line.

After inspecting the CALA bridges, the Federal Railroad Administration (“FRA”) issued a Bridge Safety Inspection Report dated May 24-26, 2011 (the “Report”) and determined that several 10 bridges had critical defects that required immediate repair.<sup>3</sup> From May 26 through August 8, 2011, CALA spent about \$200,000 to repair the bridges. FRA reinspected the Line on August 24, 2011 and found that there were still critical defects. In light of the prohibitively

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<sup>2</sup> The embargoes included an approximately 14 mile line between Conway and Myrtle Beach, SC, that CALA was operating pursuant to a Modified Certificate of Public Convenience and Necessity (the “Waccamaw Line”). As explained by Mr. Pippin, CALA terminated its operation over the Waccamaw Line on February 9, 2014. *See Waccamaw Coast Line Railroad—Modified Rail Certificate*, STB Docket No. FD-34064 (STB served Feb. 3, 2014). The Waccamaw Line is now abandoned and the responsibility of its owner, Horry County.

<sup>3</sup> The Report is attached as Exhibit A to the Pippin VS.

expensive repairs required by FRA, the substantial losses CALA was incurring in 2011, and at the advice of FRA, CALA voluntarily stopped its operations on the affected portion of the Line and issued its first embargo on August 26, 2011.

CALA has tried to obtain financing for the repairs to the bridges. After the embargo was imposed, CALA began working with the counties it served to obtain funding from the FRA. In October 2011, Horry County, SC, Marion County, SC, and Columbus County, NC (the “Counties”) filed an application for TIGER III funding. This application was denied in December 2011. Again, in March 2012, the Counties filed an application for TIGER IV funding. Unfortunately, this application was denied in June 2012. CALA attempted to obtain private funding to repair the bridges and provide service. However, these efforts have not been successful.

The Counties continue to demand that service be restored. However, they have been unwilling to provide funding. In fact, parties to this proceeding blocked funds that were designated for CALA from the North Carolina Department of Transportation. Moreover, in May 2013, the Counties told CALA that they would no longer seek funding that is available from Federal and or State resources to help CALA repair the bridges and restore service. Once CALA was informed that the Counties would not sponsor another federal application for funding and all attempts by CALA to obtain private funding for the needed infrastructure repair had been unsuccessful, CALA continued discussions with potential buyers for all or a portion of the Line.

On April 2 and 3, 2012, Crouch Engineering P.C. (“Crouch”) at the request of CALA inspected the Line and provided a report on April 9, 2012 of the needed bridge repairs (the

“Crouch Report”).<sup>4</sup>, See Exhibit 1. Using the Crouch Report, Railworks Track Systems, Inc. (“Railworks”) provided a proposal of the cost to repair the bridges of approximately \$1.85 million. See Exhibit 2.

Prior to the embargo, traffic on the Line had fallen off significantly due to the recession of 2008. As Complainants have noted “[p]articularly hard hit were the construction and housing industries, both of which provided significant traffic for CALA.” Opening, Exhibit HL-1 page 4. Martin Marietta, the shipper responsible for approximately 40 percent of all carloads moving over the Line in 2008, has idled its plant and does not currently have any plans to reopen it. Santee Cooper and Georgia Pacific were the two largest shippers on the Line. The Santee Cooper facility will be leveled and there are no plans to reopen the Georgia Pacific facility.

The Complainants are not willing to contribute to the costs to fix bridges. Despite claiming that it has spent over \$1.3 million for alternative service<sup>5</sup>, Metglas states that it is not willing to enter a take or pay contract with CALA to guarantee use of the Line until CALA is reimbursed for the cost to repair the bridges.<sup>6</sup> New South is not willing to enter into a take or pay contract with CALA to guarantee use of the Line until CALA is reimbursed for the cost to repair the bridges despite New South’s claim that it has paid \$191,104 for alternative service.<sup>7</sup> The government entities have acknowledged that in the past they have not offered financial assistance to repair the bridges.<sup>8</sup> And based on their refusal to continue supporting CALA’s applications for

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<sup>4</sup> Crouch is a leader in railway engineering for Short Line Railroads and has worked with many Short Line Railroads on FRA bridge compliance issues.

<sup>5</sup> See Opening, Appendix 4 Verified Statement of Kevin Phillips.

<sup>6</sup> See Discovery Response Attached as Exhibit 3.

<sup>7</sup> See Discovery Response Attached as Exhibit 4.

<sup>8</sup> See Discovery Response Attached as Exhibit 3.

federal funding, the government entities will not contribute funding to repair the bridges in the future.

## ARGUMENT

As described below, the Board requires complainants to meet certain criteria to prove that a railroad is not fulfilling its common carrier obligation. Complainants have not met those criteria as discussed below.

### I. REQUEST FOR RAIL SERVICE UNDER 49 U.S.C. §11101(a).

Complainants do not provide any evidence that a shipper has made a specific request for rail service as required under the statute. Rather, Complainants rely on two cases that are easily distinguished from the facts in this proceeding because of their unusual facts involving a general request for service. In the cases cited by the Complainants the requests for service were made on behalf of the shipper, either by the owner of the company<sup>9</sup> or the cooperative<sup>10</sup>. In this proceeding the request for service to CALA came from government entities who have acknowledged that they do not ship on the Line.<sup>11</sup> Unlike in *Groomes* and *Overbrook Farms*, the government entities do not have an economic interest in the shipments and are not involved in the shipments.

The Answer acknowledged that the Complainant government entities requested CALA to restore rail service, but none of those entities have shipped or intend to ship on the Line. Nor do they have a direct economic interest in the use of rail service. The one shipper who was part of

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<sup>9</sup> *Groome & Associates, Inc. v. Greenville County EDC*, STB Docket No. 42087 (STB served July 27, 2005) (“*Groome*”).

<sup>10</sup> *Overbrook Farmers Union—Petition for Dec. Order*, 5 I.C.C.2d 316 (1989) (“*Overbrook Farms*”).

<sup>11</sup> See Discovery Response Attached as Exhibit 3.

the Complainant group at the time, Metglas, is not located on CALA's embargoed Line. Metglas is located on the Waccamaw Line.

But even if there had been a reasonable request for rail service under 49 U.S.C. §11101(a), CALA contends that it lawfully embargoed the Line and that the embargo of the Line has continued to be lawful at all times, therefore, Complainants are not entitled to the relief they seek.

## II. APPLICABLE STANDARDS

Under 49 U.S.C. 11101(a), railroads have a duty to provide service on reasonable request. An embargo of service is permitted as an emergency measure when for some reason a railroad is unable to perform its duty as a common carrier. Although a valid embargo temporarily excuses the duty to provide service on reasonable request, it does not permanently eliminate the common carrier obligation under 49 U.S.C. 11101(a). To be relieved of its common carrier obligation, a railroad must seek discontinuance or abandonment authorization under 49 U.S.C. 10903. Thus, a valid embargo is an appropriate defense to an action for a breach of the common carrier's duty, but an embargo cannot be used by a railroad to unilaterally abandon or discontinue service on a line at its own election.<sup>12</sup>

The Board then stated:

What constitutes a valid embargo is a fact-specific inquiry to be determined on a case-by-case basis. Embargoes are typically valid if justified by physical conditions affecting safety such as weather and flood damage, and tunnel deterioration, or operating restrictions such as congestion. But to be valid, an embargo must at all times be reasonable. Whether an embargo is reasonable is determined by balancing a number of factors, including the length of the service cessation, the intent of the railroad, the cost of repairs, the amount of traffic on the line, and the financial condition of the carrier. Thus, for example, if the disability that prevented the carrier from performing its duty is eliminated, the carrier is financially able to remedy the disability, and there is no apparent reason why the disability should not be remedied, an embargo may become unreasonable and no longer valid. If an embargo becomes unreasonable, the carrier is no longer

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<sup>12</sup> *Bar Ale, Inc. v. California Northern Railroad Co. and Southern Pacific Transportation Company*, STB Finance Docket No. 32821 (STB served July 20, 2001) ("*Bar Ale*"), at 6.

excused from its duty to provide service and may be liable to shippers for damages.<sup>13</sup>

CALA will address the factors cited by the Board to show that the embargo was reasonable when imposed and remains reasonable now.

**A. The Initial Embargo Was Reasonable.**

CALA initially embargoed the Line on August 26, 2011, because FRA had determined that even after CALA had spent about \$200,000 to repair the bridges, FRA concluded that five of the bridges on the Line had critical defects that needed immediate repair. Complainants acknowledge that “[t]here is no contention in the present case that the CALA embargo was invalid when it was first imposed.” Opening at 7.

The parties agree that the imposition of the embargo by CALA was reasonable. CALA also contends that the embargo has remained reasonable under the Board’s criteria.

**B. The Embargo Remained Reasonable At All Times.**

The embargo remained reasonable at all times and is reasonable at the present time. In *Bar Ale* the Board recognized that it must weigh and balance several factors to determine whether an embargo has become unreasonable. Under the *Bar Ale* criteria, as explained in later proceedings, CALA contends that the embargo is reasonable at the present time and has remained reasonable at all times.

*1. Traffic on the Line does not provide sufficient revenue to repair the bridges.*

There is minimal traffic moving over a portion of the Line prior to the bridge at milepost 317.4. There is no traffic moving over the east of milepost 317.4. Even if the bridges were

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<sup>13</sup> *Id.*, at 6-7.

rehabilitated and the embargo was lifted, there is no guarantee that shippers would ship over the Line. Railroads are entitled to earn sufficient revenues “to cover total operating costs, including depreciation and obsolescence, plus a reasonable and economic profit or return (or both) on capital employed in the business.” 49 U.S.C. 10704(a)(2). CALA would have to charge rates that would allow it to recuperate its costs in repairing the bridges. Metglas and New South have made clear in their responses to discovery they are not willing to enter an agreement that would allow CALA to recover those costs. The other Complainants do not ship anything over the Line and would not be contributing in any form to the rehabilitation of the bridges.

Complainants content that if the embargo were lifted approximately 2,400 carloads per year would move over the Line. This number was derived by Complainants’ expert Dr. Lowenstein, who interviewed 15 shippers who had used the Line. Complainants claim that the 2,400 carload number is conservative because there are agricultural commodities that generate another 500 carloads, and there is potential passenger traffic. Mr. Pippin addresses all of the shortcomings of Dr. Lowenstein’s Report in his Verified Statement and demonstrates that the projected traffic is just a guess, not based on any expertise, not realistic, and most importantly does not even begin to address the net revenue that would be generated, much less whether there is sufficient revenue to cover CALA’s costs and the cost to repair the bridges.

Nowhere in his analysis does Dr. Lowenstein take into account the fee per carload that CALA would have to charge to recover its costs for repairing the bridges. Nor does Dr. Lowenstein take into account how those fees would affect whether the shippers he spoke with would use the Line, when determining the number of potential carloads.

Complainants have not produced any evidence in support of the traffic levels they submit, nor have they submitted any evidence of the revenue that would be generated from this traffic. It is the revenue created by the traffic, not the number of cars that is determinative of whether CALA can fund the repair of the bridges. Rather than providing evidence that if the embargo is lifted the revenue generated from the Line would cover the costs of repairing the bridges, Complainants' expert has tried to revive the abandoned 34-car rule that existed prior to the Staggers Rail Act. Pre-Staggers, the Agency would determine the reasonableness of an abandonment by whether there were more or less than 34 carloads per mile operated on the line in question. If there were less than 34 carloads per mile, there was a presumption supporting abandonment. Post Staggers, the Agency moved to a revenue model to determine whether abandonment was reasonable. If the revenue generated by the shippers does not cover the costs associated with the line then an abandonment is granted, absent exceptional circumstances. Here, Complainants would have the Board resurrect pre-Staggers thinking and rely on an unsupported estimate of the number of carloads that may or may not move over the Line, rather than applying current agency analysis that relies on the revenue that would be generated.

Complainants have not provided evidence to support the carload levels Dr. Lowenstein sites. Only 9 of the 15 shippers interviewed are located on the Line. All of the other shippers are located on the Waccamaw Line. Thus, using Complainants numbers, CALA would have to divide the revenue for the movement of approximately 659 carloads with the operator of the Waccamaw Line and CSXT.

It is highly unlikely that the potential agricultural commodities that Dr. Lowenstein states could take advantage of rail service would ever materialize. CALA has owned the Line since 1995, and there has never been a significant use of the Line by agricultural commodities. As Mr. Pippin explains, the agricultural shippers, except for one, do not have the facilities to load and unload agricultural commodities to and from railroad cars. Even the exaggerated volumes suggested by Dr. Lowenstein are insufficient for a shipper to invest in the necessary infrastructure, much less a cash strapped railroad like CALA that has no guarantee that it will recoup its investment.

Finally, Dr. Lowenstein's assertion that potential passenger traffic could generate significant revenue and traffic is both unsupported and unrealistic. Dr. Lowenstein has presented no evidence to show that passenger service to the Myrtle Beach area is part of a state transportation plan or even an "opportunity" that Amtrak would consider. The report provided no evidence of State or Amtrak interest in a rail corridor to Myrtle Beach. But, even assuming there is a market for train service, there is currently no connection from the Northeast Corridor or Charleston to the Line. As Dr. Lowenstein points out, the Amtrak service intersects on the CSXT line in Dillon, SC, not the CALA Line. There is no passenger station in Mullins. The closest passenger station is in Dillon, more than 16 miles from the Line.

The report does not provide any information on the cost of building a passenger station at Mullins or transferring passengers from Dillon to the Line. Dr. Lowenstein's analysis also ignores the costs to upgrade the Line from excepted track to FRA Class 1 (allowing passenger train speeds up to 15 miles per hour), much less to FRA Class 3 or 4 (60 to 80 miles per hour)

speeds that might compete with car travel. The report does not address upgrading the Waccamaw Line, currently operated as excepted track, to an appropriate FRA Class to allow for passenger rail. If the Waccamaw Line is not upgraded, there would be no way for passenger trains coming from the Northeast Corridor or Charleston to reach Myrtle Beach.

Dr. Lowenstein's report ignores the costs associated with passenger service and simply but wrongly assumes that saving money is the only consideration a family from New York makes when determining whether to take a train or plane to Myrtle Beach. It is unrealistic to assume that individuals traveling from the Northeast Corridor: (1) would drive as far as Mullins (approximately 1 hour from the beach), park and unload their cars, get on a train that in all likelihood would be slower than driving a car, get to Myrtle Beach and carry all of their stuff from the train to their final destination; or (2) would take a train with its longer travel time over an airplane. There is also no guarantee that overnight train service would be less expensive than a one to two hour flight.

Even if there was evidence that 2,400 carloads would move over the Line, it is not the number of carloads but the revenue generated by the carloads that is in question. Complainants have failed to provide any evidence that the revenue created by these 2,400 carloads would be sufficient to cover operating costs and rehabilitation of the bridges. Complainants cannot guarantee that any traffic will run over the Line once the bridges have been rehabilitated much less that any revenues generated from that traffic will cover the cost of operations and bridge repair.

2. *It will cost between \$1.85-\$2 million to rehabilitate the bridges on the Line.*

On April 2 and 3, 2012, Crouch, at the request of CALA inspected the Line and provided a report of the bridge repairs that were needed on the Line. See Exhibit 1. Using the Crouch report, Railworks determined that it would cost approximately \$1.85 million to repair the bridges. See Exhibit 2.

Complainants do not present any evidence to contradict CALA's calculation of \$1.85 -\$2 million to rehabilitate the bridges on the Line to FRA standards. Indeed, Complainants appear to accept the estimate. Opening at 12. It is difficult to conclude that CALA will earn \$1.85-\$2.0 million over costs once the bridges are repaired and the Line reopened based on the paucity of traffic expected to actually move over the Line.

3. *CALA cannot afford to rehabilitate the bridges without additional funding.*

Complainants contend that CALA has enough revenue to cover the cost of the required bridge repairs and points to CALA's 2012 Income Statement. Complainants, however, fail to take into account CALA's expenses for the Line. Exhibit B to Mr. Pippin's Verified Statement is CALA's full HIGHLY CONFIDENTIAL Income Statement for 2012 and includes non-railroad costs and revenues, which are responsible for CALA's minimal net profit, which did not even cover CALA's cost of capital. CALA's losses in 2011 were substantial as seen on the 2011 HIGHLY CONFIDENTIAL Income Statement in the same Exhibit B.

CALA takes great offense at Complainants' attempt to mislead the Board concerning CALA's financial condition.<sup>14</sup> Footnote 5 of Complainants' unmarked HIGHLY CONFIDENTIAL version of the Opening only presents the Board with CALA's revenues. Complainants are clearly trying to mislead the Board by providing only a portion of the document that CALA produced in discovery in order to convince the Board that CALA can afford the required bridge repairs. In Exhibit B to Mr. Pippin's Verified Statement, CALA has provided the Board with the exact same document produced to Complainants so that the Board can review all of the facts, not just the revenue side of the equation.

The Board has found an embargo to be reasonable when a profitable Class I railroad would have had to spend \$200,000 to repair a bridge. Here, the cost to repair the bridges is approximately \$2 million. CALA urges the Board to follow its reasonable precedent that it was unreasonable to require a profitable Class I to fund a \$214,500 repair if the projected traffic on the line would not pay for the repairs in the year they were made.<sup>15</sup> CALA contends that it would be equally, if not more, unreasonable to require a Class III railroad that is losing money or barely earning a profit, to fund \$2 million worth of repairs when there is no evidence that the projected traffic will cover the cost of the bridge repairs after all other costs are accounted for.

4. *CALA intends to provide rail service over the Line.*

It is and always has been CALA's intent to provide rail service over the Line. CALA has attempted to find the necessary funding to repair the bridges on the Line by applying for multiple TIGER grants and RRIF funds. These funding sources have not materialized. CALA has also

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<sup>14</sup> See 49 CFR 1103.27(b).

sought funding from private sources, but has been denied loans. These are not the acts of a railroad that has imposed an embargo for the purpose of abandoning a rail line. Indeed, if CALA had intended to abandon the Line, it would have been rational to have sought abandonment soon after the embargo took effect in order to avoid all of the costs incurred since August of 2011 and to recoup, at a minimum, the net liquidation value of the Line.

CALA is willing to sell the Line to a willing buyer with readily available funds for a reasonable price. CALA is also contemplating selling or abandoning the portion of the line south of Tabor City and using those proceeds from salvaging that portion of the Line to repair the bridges on the rest of the Line. However, no willing buyer has materialized.

5. *Length of the Embargo.*

When describing the reasonableness of the length of time of an embargo, the Board has stated “[t]he length of an embargo must be examined in the context of how long it would take to arrange for and complete the necessary repairs and what actions the carrier has taken while the line is embargoed.”<sup>16</sup>

CALA’s experts have stated that repairs would take 6-8 weeks once funding was available. However, the length of the embargo is not unreasonable in light of the need to find a funding source to finance the bridge repairs. The repairs cannot be made if there is no money to pay for the repairs.

Complainants assert that applying for government and/or private funding should not take

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<sup>15</sup> *Bolen-Brunson-Bell Lumber Company, Inc. v. CSX Transportation, Inc.*, STB Docket No. FD- 34236, (STB served May 15, 2003) at 5.

<sup>16</sup> *Id.* at 8.

as long as the length of current embargo. Complainants seem to be arguing that after the 9-month period ending June 2012, where CALA's two TIGER grant applications had not been granted, CALA should have abandoned the Line instead of continuing to search for funding. But Complainants continued to discuss additional funding with CALA almost a year later. In April of 2013, Brad Lofton, President of Myrtle Beach Regional Economic Development, sent an email to Sandy Davis of CALA, among others, seeking a sponsor for a new TIGER grant with a deadline of June 3, 2013. CALA was not informed by the Horry, Marion, or Columbus Counties that they would no longer apply on CALA's behalf for Federal funding until May 2013. Up until that point, CALA believed it could find government funding. Since that time, CALA has sought private funding, but been denied.

The Complainants next assert that the embargo has gone on longer than it reasonably could have taken to complete the process of attempting to sell the Line. Complainants ignore several key facts when making this statement. First, simply because you wish to sell something does not mean there is a buyer out there. Second, even if CALA had a buyer lined up in May 2013, and there is no reason it should have, it would still have taken several months to complete the purchase agreement. When CALA purchased the Line from Mid-Atlantic Railroad Company, Inc. it took more than seven months from the time the parties entered an Asset Purchase Agreement to the time a deed was filed in CALA's name. The seven months does not include the timeframe for negotiations that occurred prior to entering the Asset Purchase Agreement. Additionally, it took ten months to negotiate the lease of the Waccamaw Line from Horry County.

Finally, Complainants argue that the embargo has lasted longer than it would have taken the Board to complete the abandonment process. While this statement may be technically accurate it is disingenuous because it ignores the fact that CALA is trying to find funds to repair the bridges and activate rail service. Moreover, Complainants have not said that they would not oppose an abandonment. CALA estimates that it would take nine months or more to prepare an abandonment request in accord with the Board's rules and obtain a decision from the Board. Beyond that, there could be delays arising from environmental conditions imposed by the Board and offers of financial assistance along with litigation before the Board as to the value of the Line, assuming the abandonment were granted.

The length of the embargo is but one factor that when weighed in light of the other factors (approximately \$1.85 million cost of repair, poor financial condition of CALA, little likelihood of future traffic to pay for the repair, and intent of CALA to keep operating) in this proceeding clearly shows that the embargo continues to be reasonable.<sup>17</sup>

6. *Conclusion.*

CALA imposed a valid embargo on the Line in August 2011. Since that time, the embargo has remained reasonable. It would cost CALA at least \$1.85 million to repair the bridges for operations, money it does not have and has not been able to obtain despite significant efforts. Complainants have produced no evidence to show that were the embargo lifted, CALA would receive enough revenue from rail traffic to cover the cost of repairing the bridges and operating the Line. CALA faces "dim prospects for obtaining new traffic", and is "facing

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<sup>17</sup> See *Decatur County Commissioners, et al. v. The Central Railroad Company of Indiana*, STB Docket No. 33386 (STB served Sept. 29, 2000) *aff'd* *Decatur County Comm'rs v. STB*, 308 F.3d 710 (7th Cir. 2002).

financial difficulties, so that there was little justification for expending the resources needed to make the necessary repairs.”<sup>18</sup>

7. *Complainants are Not Entitled to the Relief they seek.*

Complainants do not request damages from CALA as relief in this proceeding.

Therefore, CALA urges the Board not to impose damages on its own motion.

Complainants do request the Board to order CALA either to remove the embargo by either repairing the bridges or filing for abandonment of the Line. CALA cannot repair the bridges without funding and the Complainants have made it clear that they have no intention of contributing to repairing the bridges or even assisting CALA in its efforts to acquire federal funds intended to repair the bridges. CALA does not have the resources to fund the bridge repairs. Were the Board to order CALA to repair the bridges, the financial results would be catastrophic to CALA and the potential shippers.

Complainants are asking the Board to order CALA to seek abandonment. Complainants have not demonstrated that the embargo is improper. Moreover, abandonment of the Line is more likely than any other step to permanently end rail service along the Line. The Complainants have not provided any evidence that there is a ready, willing, and able buyer who would purchase the Line under the offer of financial assistance process at the fair market value or under any other circumstance.

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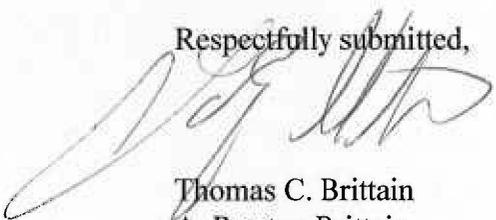
<sup>18</sup> *Id.* at 20.

## CONCLUSION

CALA respectfully requests the Board to find that the embargo of the Line has at all times been lawful and dismiss the complaint. CALA urges the Board to give substantial weight to the cost to repair the bridges, CALA's weak financial condition, CALA's intent to continue railroad service, and the inability of realistic traffic on the Line to pay for the repairs to the bridges in one year, five years or ever, versus the length of the embargo, which is the only argument that Complainants have demonstrated to be true and deny the relief sought in the Complaint.

Respectfully submitted,

Louis E. Gitomer  
Law Offices of Louis E. Gitomer, LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
(410) 332-0885 (fax)  
[Lou@lgraillaw.com](mailto:Lou@lgraillaw.com)

  
Thomas C. Brittain  
A. Preston Brittain  
The Brittain Law Firm, P.A.  
4614 Oleander Drive  
Myrtle Beach, SC 29577  
(843) 449-8562  
(843) 497-6124 (fax)  
[tommy@brittainlawfirm.com](mailto:tommy@brittainlawfirm.com)  
[preston@brittainlawfirm.com](mailto:preston@brittainlawfirm.com)

Attorneys for The Baltimore and Annapolis Railroad Company, d.b.a. Carolina Southern Railroad Company

Dated: March 10, 2014

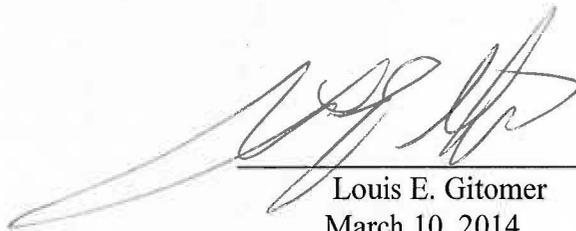
**CERTIFICATE OF SERVICE**

I hereby certify that I have caused the foregoing document to be served electronically

upon:

Thomas F. McFarland, Esq.  
Thomas F. McFarland, PC  
208 South LaSalle Street, Suite 1890  
Chicago, IL 60604  
tmcfarland@ameritech.net

Michael F. McBride, Esq.  
Van Ness Feldman, PC  
1050 Thomas Jefferson Street, NW  
Washington, DC 20007  
mfm@vnf.com



\_\_\_\_\_

Louis E. Gitomer  
March 10, 2014

**EXHIBIT 1-CROUCH REPORT**

**CONFIDENTIAL**

**REDACTED**

**EXHIBIT 2-RAILWORKS REPORT**

**CONFIDENTIAL**

**REDACTED**

**EXHIBIT 3-COMPLAINANTS DISCOVERY RESPONSES**

**PUBLIC**



**Response:** None.

2. *Identify all studies or reports that have been conducted by or on behalf of Complainants that identify the costs of repairing the Bridges so that they will pass an inspection by the Federal Railroad Administration. Produce copies of all such studies or reports and the work papers underlying such reports.*

**Response:** None.

3. *Identify all requests from each Complainant for rail service over The Line made to Defendant since January 1, 2008 and specify the date of each request. Produce copies of all documents resulting from such requests.*

**Response:** Objection. Information regarding requests for rail service prior to August 24, 2011 is not reasonably calculated to lead to the discovery of admissible evidence because it is not alleged in the Complaint that Defendant failed to provide rail service prior to that date. Information regarding requests for rail service after that date is not reasonably calculated to lead to the discovery of admissible evidence because where, as here, a rail line has been taken out of service and embargoed for a prolonged time, shippers do not have a legal duty to make continuing futile individual requests for rail service. Without waiving those objections, the complaining Governmental agencies made numerous requests, between August 24, 2011 and the present, that rail service be restored by Defendant. Paragraph 12 of Defendant's Answer at page 5 acknowledges that "... (T)here has been an ongoing request for the restoration of rail service..."

4. *For each service request identified in Response to Interrogatory No. 3, identify:*
- (a) the commodities and volume involved;*
  - (b) the ultimate origin and destination of each shipment; and*
  - (c) the location of the transloading facility, the name of the transloading facility and owner of the transloading facility, the transloading transportation service utilized, if any, including the name and type of carrier utilized and total transportation charges for each shipments, broken down into railroad charges, trucking charges, and transloading charges.*

**Response:** Not applicable. See Response to Interrogatory No. 3.

5. *Produce all documents used or referred to in responding to Interrogatory No. 4.*

**Response:** Not applicable. See Response to Interrogatory No. 3.

6. *For inbound shipments to its place of business in Conway, SC, Metglas shall identify the Rail Volume and the Truck Volume.*

**Response:** Metglas received 203 carloads of steel billets by rail in 2008, 92 carloads in 2009, and 312 carloads in 2010, which was the most recent full year in which rail service was provided. Metglas received virtually all of its billets by rail. After the rail line was declared out of service, Metglas received most of that traffic by rail-truck with transloading at Rains, SC near Mullins, SC.

7. *For outbound shipments from its place of business in Conway, SC, Metglas shall identify the Rail Volume and the Truck Volume.*

**Response:** Metglas does not ship outbound traffic by rail.

8. *For inbound shipments to its place of business served by or that makes use of the Line, New South (as identified in the Petition for Leave to Intervene filed with the STB on September 11, 2013) shall identify the Rail Volume and the Truck Volume.*

**Response:** Objection. New South is not a party in this proceeding. A petition for leave to intervene in behalf of New South has not been granted.

9. *For outbound shipments from its place of business served by or that makes use of the Line, New South (as identified in the Petition for Leave to Intervene filed with the STB on September 11, 2013) shall identify the Rail Volume and the Truck Volume.*

**Response:** Objection. See Objection to Interrogatory No. 8.

10. *Identify the costs incurred by Metglas for using a transportation service other than Defendant to transport goods that would have moved over the Line, if not for the embargo.*

**Response:** Metglas is incurring additional costs of approximately \$468,000 per year for transloading costs from rail to truck at Rains, SC and for trucking costs from Rains to Conway, SC. The line-haul rail costs from origin to Mullins, SC are the same as before the embargo. Metglas is paying an additional \$1,500 per rail car for transloading at Rains and trucking from Rains to Conway. Attached as Appendix B is a copy of a representative invoice of Allen's Scrap Metal, LLC showing the cost of \$1,500 per rail car. At receipt of 312 carloads received by rail in the most recent year, the additional costs amount to approximately \$468,000 per year ( $\$1,500 \times 312 = \$468,000$ ).

11. *Identify the costs incurred by New South for using a transportation service other than Defendant to transport goods that would have moved over the Line, if not for the embargo.*

**Response:** Objection. See Objection to Interrogatory No. 8.

12. *Identify the costs incurred by Complainants, other than Metglas and New South, for using a transportation service other than Defendant to transport goods that would have moved over the Line, if not for the embargo.*

**Response:** None. Complainants other than Metglas are Governmental agencies who do not utilize transportation services.

13. *Produce documents supporting the costs identified in response to Interrogatories 10, 11 and 12.*

**Response:** Objection as to documents for New South. See Objection to Interrogatory No. 8. There are no such documents for Complainants who are Governmental agencies. As to Metglas, see Appendix B.

14. *Produce all invoices, and all documents underlying, supporting or providing the basis for such invoices, received by Metglas and New South for using a transportation service other than Defendant to transport goods that would have moved over the Line, both before and after the embargo.*

**Response:** Objection as to New South. See Objection to Interrogatory No. 8. As to Metglas, see Appendix B.

15. *For Metglas, describe the operations performed for using a transportation service other than Defendant to transport goods that would have moved over the Line, both before and after the embargo.*

**Response:** Shipments for Metglas are transported from origin to Mullins, SC by rail. Those shipments are transloaded from rail to truck at Rains, SC. The shipments are transported by truck from Rains to Conway, SC.

16. *For New South, describe the operations performed for using a transportation service other than Defendant to transport goods that would have moved over the Line, both before and after the embargo.*

**Response:** Objection. See Objection to Interrogatory No. 8.

17. *Produce all appraisals of the Line that have been conducted or prepared by or on behalf of Complainants, and the credentials of all participants in the appraisal or appraisals.*

**Response:** None

18. *Identify the distance by rail from Metglas facility where rail shipments originate or terminate and were handled over Defendant to the interchange location between Defendant and CSX Transportation, Inc.*

**Response:** 36.5 miles

19. *Identify the distance by rail from the New South facility where rail shipments originate or terminate and were handled over Defendant to the interchange location between Defendant and CSX Transportation, Inc.*

**Response:** Objection. See Objection to Interrogatory No. 8.

20. *Identify the basis for Complainants' allegation that it will cost Defendant \$1.5-\$2.0 million to repair the Bridges.*

**Response:** Source of cost information is a Report issued by Mr. John P. Conrad, P.E., Railroad Consulting Engineer, Tyrone, PA, dated June 22, 2011.

21. *Identify all funding offered by Complainants to Defendant to repair the Bridges.*

**Response:** Complainants offered funding in the form of local matching funds in conjunction with a Grant Application under the U.S. Department of Transportation TIGER IV Discretionary Grant Program. That Application was not successful. Horry County produced that Grant Application in behalf of Defendant and the three Counties who are complainants in this proceeding. Horry County incurred significant public staff time and expense in doing so, for which it has not been compensated.

22. *Identify the basis for Complainants' claim, excluding Metglas and New South, about their inability to attract new business and industry as alleged in paragraph 20 of the Complaint and paragraph 3 of the Petition for Leave to Intervene.*

**Response:** Defendant stipulated to such inability in the TIGER grant application. Government agency Complainants are currently negotiating to locate an international fibreglass manufacturer and a materials recycling company in the local area. Both of those entities require rail service. The absence of rail service due to the embargo is jeopardizing the ability to successfully locate those shippers in the local area. Confidentiality prevents identifying those companies by name.

23. *Identify the basis for Complainants claim in paragraph 20 of the Complaint that Georgia Pacific will not reopen its facility.*

**Response:** The allegation in the Complaint is that Georgia Pacific will not reopen its facility on the rail line unless rail service is restored. This Interrogatory omits that important phrase. The source of the allegation is a statement by Mr. Rex Heirs, Plant Manager of Georgia Pacific's Whiteville Plant on the rail line, to Dr. Gary Landis, Director, Columbus County (NC) Economic Development Commission, to the effect that while the Whiteville Plant is on "idled"

status (scheduled to reopen as the housing recession ended), the Plant would be permanently closed if the rail line would not be put back in operation.

24. *Identify the basis for Complainants claim in paragraph 20 that Martin Marietta closed its business because Defendant embargoed the Line.*

**Response:** The source of the allegation is a statement made by Mr. David Little, Vice President-Logistics, Martin Marietta Materials, Raleigh, NC, on September 25, 2013, to Dr. Henry Lowenstein, Research and Consulting Services LLC, Conway, SC to the effect that his company's operations on the rail line were curtailed due to lack of rail service, excessive rail turnaround times, and increased pricing by Defendant making the line uneconomic for use.

25. *Identify all shippers and volumes of rail traffic alleged in paragraph 22 of the Complaint.*

**Response:** Traffic volumes were provided by Mr. Jason Pippen, Vice President and General Manager of Defendant, to Dr. Henry Lowenstein, Research and Consulting Services LLC, in April, 2012, in conjunction with Dr. Lowenstein's Report, titled Economic Development: Saving Rail access in Horry County, South Carolina, Myrtle Beach Regional Economic Development Corporation, April, 2012, Table 1 at 10. Defendant has a copy of that Report. Representatives of Defendant have publicly stipulated to the accuracy of that Report, its conclusions, and the expertise of its author.

26. *Produce all documents relating to the Interstate Rail Committee identified in paragraph 18 of the Complaint.*

**Response:** Objection. The request for "all documents relating to the Interstate Rail Committee" is overly broad and unreasonably vague. Without waiving that objection, there are

attached hereto as Appendix C copies of the minutes of all meetings of the Interstate Rail Committee from its formation in September, 2012 to its latest meeting in December, 2013.

27. *Produce all documents relating to the meeting at Loris at October 8, 2012.*

**Response:** Objection. See Objection to Interrogatory No. 26. Without waiving that objection, a copy of the minutes of the October 8, 2012 meeting of the Interstate Rail Committee is attached as part of Appendix C.

28. *Produce all documents relating to the meetings referred to in paragraph 18 of the Complaint.*

**Response:** The only meeting referred to in Paragraph 18 of the Complaint is the meeting held on October 8, 2012. A copy of the minutes of that meeting is attached as part of Appendix C.

29. *Produce all documents, not otherwise produced, that were used in responding to Interrogatory and Document Requests 1-28 and Requests for Admissions 1-6.*

**Response:** None

## **II. Response and Objections to Requests for Admissions**

1. *Complainants, except for Metglas and New South, admit or deny that they have used Defendants rail service to transport rail shipments over the Line.*

**Response:** Denied. Complainants, except for Metglas and New South, are Governmental agencies who do not make rail shipments.

2. *Metglas shall admit or deny that it is willing to enter a take or pay contract with Defendant to guarantee use of the Line until Defendant is reimbursed for the cost to repair the Bridges.*

**Response:** Denied

3. *New South shall admit or deny that it is willing to enter a take or pay contract with Defendant to guarantee use of the Line until Defendant is reimbursed for the cost to repair the Bridges.*

**Response:** Objection. See Objection to Interrogatory No. 8.

4. *Each Complainant shall individually admit or deny whether it has offered financial assistance to Defendant to repair the Bridges.*

**Response:** Denied by all Complainants individually.

5. *Each Complainant shall individually admit or deny whether it has supported Defendant's efforts to obtain funding to repair the Bridges.*

**Response:** Objection. It is vague and uncertain as to what is meant by "supported" Defendant's efforts to obtain funding to repair the Bridges. Without waiving that objection, Complainants state that the complaining Counties actively supported such efforts, and the other complainants did not oppose such efforts.

6. *Each Complainant shall individually admit or deny whether it has opposed Defendant's efforts to obtain funding to repair the Bridges.*

**Response:** Denied

#### **Verifications**

The Verifications of Henry Lowenstein, Ph.D., and Kevin Phillips are attached as Appendix A.

Respectfully submitted,

*Thomas F. McFarland*

Thomas F. McFarland  
Thomas F. McFarland, P.C.  
208 South LaSalle Street, #1890  
Chicago, IL 60604-1112  
(312) 236-0204 (office)  
(312) 201-9695 (fax)  
*mcfarland@aol.com*

*Attorney for Complainants*

Dated: January 8, 2014

**EXHIBIT 4-NEW SOUTH COMPANIES DISCOVERY RESPONSE**

**PUBLIC**



**Interrogatory No. 8**

8. For inbound shipments to its place of business served by or that makes use of the Line, New South (as identified in the Petition for Leave to Intervene filed with the STB on September 11, 2013) shall identify the Rail Volume and the Truck Volume.

**Response:** New South is averaging receipt of 436 inbound truckloads of lumber per year, which is the equivalent of 104 railcars.

**Interrogatory No. 9**

9. For outbound shipments from its place of business served by or that makes use of the Line, New South (as identified in the Petition for Leave to Intervene filed with the STB on September 11, 2013) shall identify the Rail Volume and the Truck Volume.

**Response:**

<u>Year</u>	<u>Truckloads</u>	<u>Railcars</u>
2008	7,163	72
2009	6,763	43
2010	6,644	29
2011	7,380	--
2012	7,731	--

**Interrogatory No. 11**

11. Identify the costs incurred by New South for using a transportation service other than Defendant to transport goods that would have moved over the Line, if not for the embargo.

**Response:** In 2011, New South shipped 338 trucks that would have been shipped by rail but for the embargo (81 railcars). Average freight cost per railcar would have been \$4,413. Average freight cost for truck per railcar equivalent was \$6,797. Total additional costs due to the embargo were \$6,797 minus \$4,413 = \$2,384 per railcar equivalent times 81 cars = \$193,104 in 2011.

**Interrogatory No. 13**

13. *Produce documents supporting the costs identified in response to Interrogatories 10, 11 and 12.*

**Response:** Documents are attached.

**Interrogatory No. 14**

14. *Produce all invoices, and all documents underlying, supporting or providing the basis for such invoices, received by Metglas and New South for using a transportation service other than Defendant to transport goods that would have moved over the Line, both before and after the embargo.*

**Response:** Documents are attached.

**Interrogatory No. 16**

16. *For New South, describe the operations performed for using a transportation service other than Defendant to transport goods that would have moved over the Line, both before and after the embargo.*

**Response:** New South must ship to customers by truck because of the embargo. It takes 4.18 trucks to ship the equivalent volume by rail. As shown by the rail quotes and truck invoices attached to prior responses, truck cost averages \$2,384 per railcar equivalent greater than cost by rail.

**Interrogatory No. 19**

19. *Identify the distance by rail from the New South facility where rail shipments originate or terminate and were handled over Defendant to the interchange location between Defendant and CSX Transportation, Inc.*

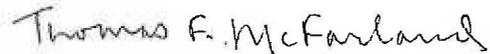
**Response:** Approximately 37 miles between Conway, SC and Mullins, SC.

**Request to Admit No. 3**

3. *New South shall admit or deny that it is willing to enter a take or pay contract with Defendant to guarantee use of the Line until Defendant is reimbursed for the cost to repair the Bridges.*

**Response:** Denied.

Respectfully submitted,



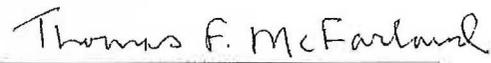
Thomas F. McFarland  
Thomas F. McFarland, P.C.  
208 South LaSalle Street, #1890  
Chicago, IL 60604-1112  
(312) 236-0204 (office)  
(312) 201-9695 (fax)  
*mcfarland@aol.com*

*Attorney for Complainants*

Dated: January 23, 2014

**CERTIFICATE OF SERVICE**

I hereby certify that on January 23, 2014, I served the foregoing Supplement to Complainants' Responses And Objections To Defendant's First Set Of Interrogatories, Requests For Admission, And Informal Requests For Production Of Documents, on Louis E. Gitomer, Esq., 600 Baltimore Avenue, Suite 301, Towson, MD 21204, *lou@lgrailaw.com*, Thomas C. Brittain, Esq., The Brittain Law Firm, P.A., 4614 Oleander Drive, Myrtle Beach, SC 29577, *allison@brittainlawfirm.com*, and Michael McBride, Esq., Van Ness Feldman, PC, 1050 Thomas Jefferson Street, N.W., Washington, DC 20007, *mfm@vnf.com*, by e-mail.



Thomas F. McFarland

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January 17, 2014 1:46 PM EST [Help](#)

**Price Detail**

Click on the price link for additional price details. To view the price publications click (Ⓜ) next to the price.

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[Help](#)

Origin: Conway, SC (CALA) Destination: Chambersburg, PA (CSXT) STCC: 2421184 - LUMBER OR TIMBER, ROUGH

**AVAILABLE PRICES - PRICE DETAIL**

These price(s) are available for use based on the effective and expiration dates. Click on the price link for additional price details.

Price	Per	Type	Mileage or % Est. Fuel Surcharge	Equipment Size Restrictions	Price Authority	Route	Min Weight	Private Car Mileage/Cap	Car Owner	Eff Date	Exp Date	Price Type
\$4,459.00 <a href="#">Ⓜ</a>	PER CAR	Flat Car	640 @ \$0.46 pm \$294.40*	From 63' 1" to 74' 0" (inside length)	CSXT2400	CALA - MULSC - CSXT	-	Zero	-	05/01/13		Public

\*Miles and estimated fuel surcharges are applicable as of 1/17/14 1:46 PM EST and are subject to change.

For ShipCSX questions, call 1-877-ShipCSX (744-7279) Option 2, Option 1

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**New South Lumber Company, Inc. Carrier Acknowledgement**



**Canfor Southern Pine**

Sold To : 624  
 Sherwood Lumber Corp.  
 P.O. Box 9007  
 Central Islip, NY 11722-9007

Ship To : 200  
 Franklin Storage - Gullford  
 2999 Guildford Springs Road  
 (717) 262-2910 Del Martin  
 Chambersburg, PA 17202

Order / Pickup No : 604598-0  
 Projected Delivery : 7/30/2013  
 Estimated Ship : 07/31/2013

Carrier Information and Fees	
# 110- AMERICAN TRANSPORT, INC.	Phone : (412) 788-8878
P.O. BOX 640469	Fax : (412) 788-8898
PITTSBURGH, PA 15264-0469	Contact : Brenda Wiley
	Frft Fee : \$1,703.00

Cust PO No : E15324      Reference No :  
 FOB : Destination      Salesperson : Sandra McCracken  
 Carrier Type : Common Carrier      Phone : (843) 236-9407

Line	Part Description	Inv Loc	PC/PK	PC	PK	BF	Est.Wgt (lbs)	
1	2 X 6 X 10 MSR 2400 S4S KDHT	CON	160	320	2.00	3,200	8,000	
2	2 X 6 X 12 MSR 2400 S4S KDHT	CON	160	480	3.00	5,760	14,400	
3	2 X 6 X 14 MSR 2400 S4S KDHT	CON	160	320	2.00	4,480	11,200	
5	2 X 6 X 18 MSR 2400 S4S KDHT	CON	80	80	1.00	1,440	80	
6	2 X 6 X 16 MSR 2400 S4S KDHT	CON	160	320	2.00	5,120	12,800	
			—Totals:		1,520	10.00	20,000	46,480

*Important Note: Actual weights may vary and should be verified by weighing on scales*

**NOTE: Representative must present Pick Up Number (604598-0) and PO Number (E15324) to shipping clerk at time of pick up.**  
 >>>> TARP LOAD Unless Specified Otherwise <<<<

**Pick Up From :** New South Lumber Company, Inc.  
 Conway Plant  
 1501 Depot Road  
 Conway, SC 29526  
 (843) 349-3428      (843) 349-3472

**Freight Bill To :** New South Lumber Company, Inc.  
 3700 Claypond Road  
 Myrtle Beach, SC 29579  
 ATTN: Logistics Department  
 (843) 236-9399

**Shipping Hours : 7:00 AM to 4:30 PM**  
**Weekdays (Excluding Holidays)**

**Important Safety Notice - Hard Hats and Safety Glasses must be worn while on-site. Please ensure your drivers have these items in their possession upon arrival.**

For questions concerning this acknowledgement, please contact:  
 Michael Collins    Michael.Collins@newsouth.canfor.com  
 Phone : 843-236-8408 | Fax : 843-236-8456 | Cell : 843-340-2480

### Price Detail

Click on the price link for additional price details. To view the price publications click (Ⓢ) next to the price.

[Printable Summary Version](#) [Printable Detail Ver](#)

Origin: Conway, SC (CALA) - Destination: Thurmont, MD (MMID) - STCC: 2421184 - LUMBER OR TIMBER, ROUGH

#### AVAILABLE PRICES - PRICE DETAIL

These price(s) are available for use based on the effective and expiration dates. Click on the price link for additional price details.

Price	Per	Type	Message or % Exc. Fuel Surcharge	Equipment Size Restrictions	Price Authority	Route	Mtg. Weight	Private Car Mileage/Car Owner	Eff Date	Exp Date
\$4,367.00 Ⓢ	PER CAR	Flat Car	607 @ \$0.46 pm \$279.22*	From 63' 1" to 74' 0" (inside length)	CSXT2404	CALA - MULSC-CSXT- EMOGR - MMID		Zero		05/01/13

[New Price Look-Up](#) [Return to Price Resu](#)

**New South Lumber Company, Inc. Carrier Acknowledgement**



**Canfor Southern Pine**

Sold To : 756  
 NVR Building Products Co.-MD  
 210 N. Carroll Street  
 Thurmont, MD 21788

Ship To : 1  
 NVR Building Products Co.-MD  
 100 Apples Church Rd  
 301-271-5300  
 Thurmont, MD 21788

Order / Pickup No : 600800-0  
 Projected Delivery : 7/24/2013  
 Estimated Ship : 07/29/2013

<u>Carrier Information and Fees</u>	
# 10383 ROSEBUD ENTERPRISES, INC.	Phone : (704) 465-0545
4582 NC 742 N.	Fax : (704) 694-2129
WADEBORO, NC 28170	Contact : Keith Rosebud
	Frnt Fee : \$1,550.00

Cust PO No : TL012073      Reference No : T1414  
 FOB : Destination      Salesperson : Lisa Sims  
 Carrier Type : Common Carrier      Phone : (843) 236-8401

Line	Part Description	Inv Loc	PC/PK	PC	PK	BF	Est.Wgt (lbs)
1	2 X12 X 14 GRD 3 S4S HT	CON	80	320	4.00	8,960	18,816
2	2 X 6 X 14 GRD 3 S4S HT	CON	160	480	3.00	6,720	14,112
4	2 X 6 X 10 GRD 3 S4S HT	CON	160	640	4.00	6,400	13,440
			Totals :	1,440	11.00	22,080	46,368

See Special Instructions Below...

*Important Note: Actual weights may vary and should be verified by weighing on scales*

**NOTE: Representative must present Pick Up Number (600800-0) and PO Number (TL012073) to shipping clerk at time of pick up.  
 Bagged Load requires additional processing at facility. Please call shipping office for appointment.**

**Pick Up From :** New South Lumber Company, Inc.  
 Conway Plant  
 1501 Depot Road  
 Conway, SC 29526  
 (843) 349-3428      (843) 349-3472

**Freight Bill To :** New South Lumber Company, Inc.  
 3700 Claypond Road  
 Myrtle Beach, SC 29579  
 ATTN: Logistics Department  
 (843) 236-9399

**Shipping Hours : 7:00 AM to 4:30 PM  
 Weekdays (Excluding Holidays)**

Bagged Load requires additional processing at facility.  
 Please call the shipping office at the number(s) above for appointment.

**Special Shipping / Pick Up Instructions**  
**Shipping Hours:**

**Monday thru Friday : 6:00am to 2:30 pm**

**Important Safety Notice - Hard Hats and Safety Glasses must be worn while on-site.  
 Please ensure your drivers have these items in their possession upon arrival.**

For questions concerning this acknowledgement, please contact:  
 Michael Collins Michael.Collins@newsouth.canfor.com  
 Phone : 843-236-8408 | Fax : 843-236-8458 | Cell : 843-340-2490

HORRY COUNTY, SOUTH CAROLINA, MARION COUNTY, SOUTH CAROLINA, COLUMBUS COUNTY, NORTH CAROLINA, CITY OF CONWAY, SOUTH CAROLINA, TOWN OF FAIR BLUFF, NORTH CAROLINA, TOWN OF CHADBOURN, NORTH CAROLINA, TOWN OF TABOR CITY, NORTH CAROLINA, CITY OF WHITEVILLE, NORTH CAROLINA, CITY OF LORIS, SOUTH CAROLINA, CITY OF MYRTLE BEACH, SOUTH CAROLINA, AND METGLAS, INC.

v.

THE BALTIMORE AND ANNAPOLIS RAILROAD COMPANY, d.b.a. CAROLINA SOUTHERN RAILROAD COMPANY

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VERIFIED STATEMENT OF KEN PIPPIN

My name is Ken Pippin, I am President of The Baltimore and Annapolis Railroad Company d.b.a. Carolina Southern Railroad Company (“CALA”). The purpose of this verified statement is to provide a history of CALA as relevant to this proceeding, to explain that it has been CALA’s intent to repair and reopen the railroad, and to demonstrate that the traffic projections submitted by Complainants<sup>1</sup> are inaccurate and meaningless.

**HISTORY OF CALA**

CALA acquired the assets of the Mid Atlantic Railroad Co., Inc. in 1995. The 76.4-mile rail line runs between Mullins, SC, milepost 325, and Whiteville, NC, milepost 292, and between Chadbourn, NC, milepost 296, and Conway, SC, milepost 336, in Horry and Marion Counties South Carolina, and Columbus County, North Carolina (the “Line”). In 2001,

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<sup>1</sup> Complainants and interveners in this proceeding are Horry County, SC (“Horry”), Marion County, SC (“Marion”), Columbus County, NC (“Columbus”), City Of Conway, SC (“Conway”), Town Of Fair Bluff, NC (“Fair Bluff”), Town Of Chadbourn, NC (“Chadbourn”), Town Of Tabor City, NC (“Tabor”), City Of Whiteville, NC (“Whiteville”), City Of Loris, SC (“Loris”), City Of Myrtle Beach, SC (“Myrtle Beach”), Metglas, Inc. (“Metglas”), and New South, Inc. (“New South”) and are collectively referred to as “Complainants.”

CALA agreed to operate under a Modified Certificate of Public Convenience and Necessity<sup>2</sup> (the “Modified Certificate”) over 14.1 miles of rail line owned by Horry County, S.C., that had been acquired in 1984 as the result of an abandonment by Seaboard System Railroad, Inc. (the “Waccamaw Line”). At the time the Line was acquired by CALA it was in poor condition, at best FRA Class I and in many locations excepted track. The same was true when CALA began operating over the Waccamaw Line, which consisted then and still consists of 85 lb. rail. Moreover, both lines were light density short lines. CALA worked extremely hard to increase traffic and maintain the lines in safe operating condition based on the revenue generated by the available traffic. Although traffic increased, CALA remained a Class III railroad with significant maintenance requirements.

Then came the Great Recession of 2008. Traffic on CALA collapsed. Revenues were barely sufficient to keep the lines operational.

CALA applied to the Federal Railroad Administration (“FRA”) for a Railroad Rehabilitation and Improvement Financing (“RRIF”) Program Loan on January 29, 2008. The application was denied on January 29, 2009. CALA applied for a second “RRIF” loan in 2010. In July 2010, CALA applied for Tiger II Grants from the states of North Carolina and South Carolina. The applications were denied in October 2010. CALA also applied for a second Tiger Grant in 2012.

In 2011, CALA suffered a significant loss, as can be seen in the HIGHLY CONFIDENTIAL Income Statement attached in Exhibit B. In 2012, CALA turned a small profit, albeit from revenues which were not generated by the railroad. See Exhibit B.

Between May 24 and 26, 2011, the Federal Railroad Administration (the “FRA”), based on new FRA rules specific to bridges, inspected the bridges on CALA. See the FRA Bridge

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<sup>2</sup> *Waccamaw Coast Line Railroad-Modified Rail Certificate*, STB Finance Docket No. 34064 (served July 13, 2001).

Safety Assessment Report of the CALA attached as Exhibit A (the "FRA Report"). FRA found 10 bridges with critical structural issues:

Bridge 23, milepost 333.4, Homewood, SC,  
Bridge 16, milepost 324.9, Gurley, SC,  
Bridge 4, milepost 337.8 (on the Waccamaw Line),  
Bridge 1, milepost 300.4, Chadbourn, SC,  
Bridge 7, milepost 302.3, Cerro Gordo, NC,  
Bridge 14, milepost 316.5, Nicholes, SC,  
Bridge 15, milepost 316.7, Nicholes, SC,  
Bridge 16, milepost 316.9, Nicholes, SC,  
Bridge 17, milepost 317.4, Mullins, SC, and  
Bridge 8, milepost 347.6, Myrtle Beach, SC (on the Waccamaw Line).

In response to the FRA Report, CALA invested approximately \$200,000 to make repairs that at the time CALA believed would restore the Line to service. Even with those repairs, FRA still found five bridges deficient. After obtaining an estimate to repair the bridges to meet FRA's requirements, CALA determined that the approximate \$2,000,000 to make the repairs was more than CALA could afford based on its financial condition, the traffic potential, and the cost of repairs. Therefore, on August 26, 2011, CALA issued embargo CALA 000211 for the Line and the Waccamaw Line. The embargo was renewed on August 27, 2012 in Embargo Number CALA 000112, and on August 19, 2013 in Embargo number CALA 000112. Copies of the Embargo Notices are in Exhibit C.

Complainants filed this Complaint initiating this proceeding on August 27, 2013. Also on August 27, 2013, Horry County requested the Board to vacate the Modified Certificate permitting CALA to operate the Waccamaw Line. CALA filed a notice of termination pursuant to the Board's rules on December 11, 2013 to terminate its Modified Certificate operations over the Waccamaw Line as of February 9, 2014. Since February 9, 2014, CALA has had no authority or obligation to operate over the Waccamaw Line.

## **CALA'S INTENT HAS BEEN TO RETURN THE LINE TO SERVICE**

It has always been CALA's intent to return the Line to service. Indeed, even before CALA issued the embargoes, as I explained above, CALA was seeking funding to make necessary repairs, including repairs of the bridges.

After the embargo was imposed, CALA began working with the counties it served to obtain funding from the FRA. In October 2011, Horry County, SC, Marion County, SC, and Columbus County, NC (the "Counties") filed an application for TIGER III funding. This application was denied in December 2011. Again, in March 2012, the Counties filed an application for TIGER IV funding. Unfortunately, this application was denied in June 2012. CALA attempted to obtain private funding to repair the bridges and provide service. However, these efforts have not been successful.

The Counties continue to demand that service be restored. However, they have been unwilling to provide funding. In fact, parties to this proceeding blocked funds that were designated for CALA from the North Carolina Department of Transportation. Moreover, in May 2013, the Counties told CALA that they would no longer seek funding that is available from Federal and or State resources to help CALA repair the bridges and restore service.

All options are on the table to restore service on the Line. CALA has sought Federal, state and local grants. CALA has sought governmental and private loans. No grants or loans have been approved. CALA is willing to sell the Line. But, CALA has received no offers from any potential buyer who has funds immediately available and is prepared to proceed to closing. In addition, CALA has not even received a bona fide offer for the Line equal to the net liquidation value ("NLV") of the Line. CALA is even contemplating abandoning the 24.78-mile portion of the Line between Conway, SC, milepost 336.18 at the end of the Line, and Tabor City,

NC, milepost 311.4 (the “Southern Portion”). CALA believes that the proceeds from salvaging the track and material and selling the real estate from the Southern Portion would enable CALA to pay for the repairs to the bridges on the remainder of the Line. If CALA is forced to abandon the Southern Portion, and no offeror comes forward, the Southern Portion will be removed from the national rail system and the shippers on the Waccamaw Line will no longer be connected by rail to the national rail system.

### **COMPLAINANTS’ TRAFFIC PROJECTIONS ARE INACCURATE AND MEANINGLESS**

Complainants rely on the “Report” prepared by Dr. Henry Lowenstein to estimate the potential for future traffic on CALA if the bridges are repaired and CALA provides service. There are several major flaws in the Report. First, although Dr. Lowenstein has a lengthy list of credentials, nowhere does he indicate that he has any experience working for or with a freight railroad or freight shipper, much less any marketing, operating, or pricing experience in handling freight. I have owned and operated CALA for 19 years and am experienced in the operation, marketing, pricing, and financial aspects of running a railroad. I know that an offer of carloads is meaningless unless there is a meeting of the minds on pricing. I know that generating traffic, especially from someone who has not used rail requires significantly more than the answer to a survey question. Dr. Lowenstein has not addressed the actual operation and marketing of a railroad.

Second, Dr. Lowenstein does not provide the interviews he conducted with shippers who previously used the Line. Third, Dr. Lowenstein does not explain why agricultural commodities that have never moved over CALA prior to the embargo would suddenly start using CALA if the embargo were lifted. Fourth, Dr. Lowenstein fails to explain how traffic on the Waccamaw Line, which is now nothing more than an abandoned railroad line since CALA terminated

service, will be served or even reach CALA. Fifth, Dr. Lowenstein relies on carloads for his conclusions, but does not attach any revenues to those carloads. Dr. Lowenstein estimates that there would approximately 2,400 carloads using CALA if the embargo were removed. Even Complainants concede (Opening Statement at 12) that it would cost approximately \$2,000,000 to repair the bridges. Net revenue per car for CALA to pay for the cost of repairs in one year would have to be approximately \$690. CALA has never generated an average of \$690 net per car, especially with the low rated commodities that Dr. Lowenstein estimates would move over CALA. Finally, Dr. Lowenstein suggests that the Line be used for passenger service without accounting for the cost of passenger service or any other realistic measure.

**The reliability of Dr. Lowenstein's interviews cannot be verified.** Dr. Lowenstein states that "carload information was derived from interviews with each of the shippers who used the rail line in 2008-2010 in which they provided their best estimate of the number of carloads that they would ship per year." Lowenstein VS at 2. Dr. Lowenstein does not identify the questions that he asked. We do not know if the shippers have the facilities to load or unload railcars or if they have spur tracks to serve their facilities. In fact, the agricultural commodities that Dr. Lowenstein claims would be shipped have not used rail service because they do not have loading facilities, silos, or track. Certainly, if the shipper wanted to invest in the facilities to use rail and was willing to pay a reasonable rate, then CALA would have been moving the traffic long before the embargo. However, it is my experience that a shipper who has not used rail service in 19 years will not begin to use rail service without a significant incentive, which CALA is not in a position to offer.

Dr. Lowenstein relies on traffic projections for a number of shippers that exceed any volume they have shipped in the past, without any explanation for the increase. The following

Table shows the maximum shipments from Dr. Lowenstein's Table 1 and the projected carloads from his Table 2.

Maximum Carloads Previously Shipper Compared to Projected Carloads

Shipper	Past Carloads (Year)	Projected Carloads
PlyGem (Kroy)	28 (2008)	30
Perdue Farms	207 (2008)	225
Georgia-Pacific	897 (2008)	800
Carolina East	20 (2008)	19
Metglas/Homewood Steel <sup>3</sup>	312 (2010)	380
CanFor/New South	61 (2009)	80
Idaho Timber	209 (2008)	70
Builders First	23 (2008)	36
Atlantic Paper	365 (2008)	500
US Components	1 (2008)	0
Giles Byrd & Son	12 (2010)	100

There is no explanation as to why PlyGem, Perdue Farms, Metglas, CanFor, Builders First, Atlantic Paper and Giles Byrd would ship more than they did in the last three years when the Line was fully operational. I did not consider the shippers on the Waccamaw Line because Dr. Lowenstein did not explain how traffic on the abandoned Waccamaw Line would be moved to the Line.

I have spoken to the two largest shippers on the Line, Santee Cooper and Georgia Pacific. The Santee Cooper facility will be leveled and there are no plans to reopen the Georgia Pacific facility.

Dr. Lowenstein provides no basis for his conclusion other than he spoke to shippers. As CALA found in discovery, when it comes to making a firm commitment to ship, that is agreeing to enter a contract, it is a long way from a shipper saying sure I'll use rail service to getting their

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<sup>3</sup> Metglas is physically located on the Waccamaw Lane. Prior to the embargo Metglas received its shipments at its contractor's facility on the Line and then trucked the product to its facility. Metglas has modified its facilities so that the steel can be cut at its facility and it no longer need to stop the traffic in transit and then truck it to Metglas's facility. Now Metglas intends to receive shipments at its facility on the Waccamaw Line.

name on the dotted line. The responses of Metglas on January 8, 2014 and Canfor/New South on January 23, 2014 to Admissions requests is telling:

2. Metglas shall admit or deny that it is willing to enter a take or pay contract with Defendant to guarantee use of the Line until Defendant is reimbursed for the cost to repair the Bridges.

Response: Denied

2. New South shall admit or deny that it is willing to enter a take or pay contract with Defendant to guarantee use of the Line until Defendant is reimbursed for the cost to repair the Bridges.

Response: Denied.

When two of the shippers who were interviewed by Dr. Lowenstein admit that they will not commit to using rail service, it raises serious doubt about the validity of Dr. Lowenstein's Report.

**There is no reason given for agricultural commodities to start moving by rail.** The agricultural traffic that Dr. Lowenstein is suggesting could be handled by CALA is origination traffic. As can be seen in Dr. Lowenstein's Table 1 (Lowenstein 3), only Perdue Farms is involved with agricultural commodities and there is no indication that Perdue could or would make its loading facilities available to a third party.

As I said above, CALA has not handled agricultural commodities in the past 19 years. Dr. Lowenstein does not explain why use of rail service would change 180 degrees if CALA reopened the Line. Dr. Lowenstein uses data from 2007 and 2011 to calculate agricultural production in the Counties and then **assumes** that 25 percent of the production would move by rail. Lowenstein at 5. Dr. Lowenstein does not justify his conclusion that 25 percent of the

agricultural production would move by rail. He does not provide origins and destinations. He does not indicate that the farmers have rail facilities. He does not address the rate the farmers would pay. And most importantly, Dr. Lowenstein does not indicate that he spoke to a single agricultural producer about using rail service.

I can only conclude that Dr. Lowenstein's conclusion that "CALA ought to be able to transport more than 500 carloads of agricultural commodities per year if it were to make an effort to compete for such transportation" (Lowenstein at 6) is mere wishful thinking. There is no analysis supporting the conclusion.

**CALA cannot handle traffic originating on the Waccamaw Line.** As of February 9, 2014, the Waccamaw Line is again abandoned. No railroad is authorized to provide service between Myrtle Beach and Conway, SC. CALA's Line terminates at Conway, SC. Any traffic originating or terminating on the Waccamaw Line will have to be transloaded at a location on the Line where CALA could perform the service. Dr. Lowenstein's inclusion of any traffic that would originate on the Waccamaw Line is invalid since there is no service on that rail line.

**Carloads are a meaningless analysis without corresponding net revenues.** The Report does not provide revenue data attributable to the traffic it claims will materialize if the embargo is removed. The Report does not provide any evidence on the revenue sharing that would occur if an operator were found for the Waccamaw Line. The Report does not provide any evidence of how much the shippers are willing to pay for rail service and whether what the shippers are willing to pay would cover the costs to repair the Line. Nowhere in his analysis does Dr. Lowenstein attempt to determine the net revenue that CALA would earn for each car that he projects would move over CALA. Nor does Dr. Lowenstein attempt to prove that the

traffic he projects would move over the Line would pay for the cost of repairing the bridges within any reasonable period of time, much less within one year.

**Passenger Service is Unrealistic.** Dr. Lowenstein posits that tourists would use passenger service over CALA to reach Myrtle Beach and that the rail line could be used as part of an evacuation strategy. Although I would like to see passenger service over the Line, it is not feasible as a private venture.

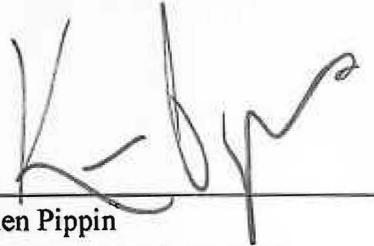
CALA has been unable to raise around \$2,000,000 to repair five bridges. I cannot imagine the cost to upgrade CALA and the Waccamaw Line to FRA Class II in order to attract passengers. Even more important is that CALA does not connect to any existing passenger service today. Based on current rail service, rail passengers would detrain from Amtrak and find their way to Mullins, SC to use a future passenger service over CALA. CALA would also have to invest in passenger equipment and new terminals in Mullins, SC and Myrtle Beach, SC. Dr. Lowenstein again ignores the reality and costs of operating a railroad in his proposal that passenger service would generate revenue for CALA. I must conclude that adding passenger service to CALA would only be a drain on any available resources and would require significant government subsidy, which I have learned is not even available for CALA's freight service.

**Conclusion.** Dr. Lowenstein's Report states that 14 existing shippers and an unknown number of new agricultural shippers would use the Line shipping approximately 2,900 carloads per year. Dr. Lowenstein does not provide a sound basis for his estimate. Moreover, the discovery responses of two of the shippers undermine the analysis because they are not willing to commit to ship over the Line. Dr. Lowenstein does not explain why his Report differs from the verified discovery responses of Metglas and CanFor/New South, even though the discovery responses were made before the Report was filed with the Board. The Report does not guarantee

that any of the listed shippers would move any traffic over the Line. Not one of the shippers listed in the report has stated it would enter an agreement to ship over the Line. Even if the projected carloads were to materialize, Dr. Lowenstein has provided no evidence that revenue per carload would be enough to cover the cost of repairs to the bridges, much less operating costs and a return on investment for CALA. The Board should view Dr. Lowenstein's Report as an academic exercise of no probative value since it is lacking any verifiable justification for its conclusions.

I, Ken Pippin, declare under penalty of perjury that the foregoing is true and correct.

Further, I certify that I am qualified and authorized to file this Verified Statement.

A handwritten signature in black ink, appearing to read 'Ken Pippin', written over a horizontal line.

Ken Pippin

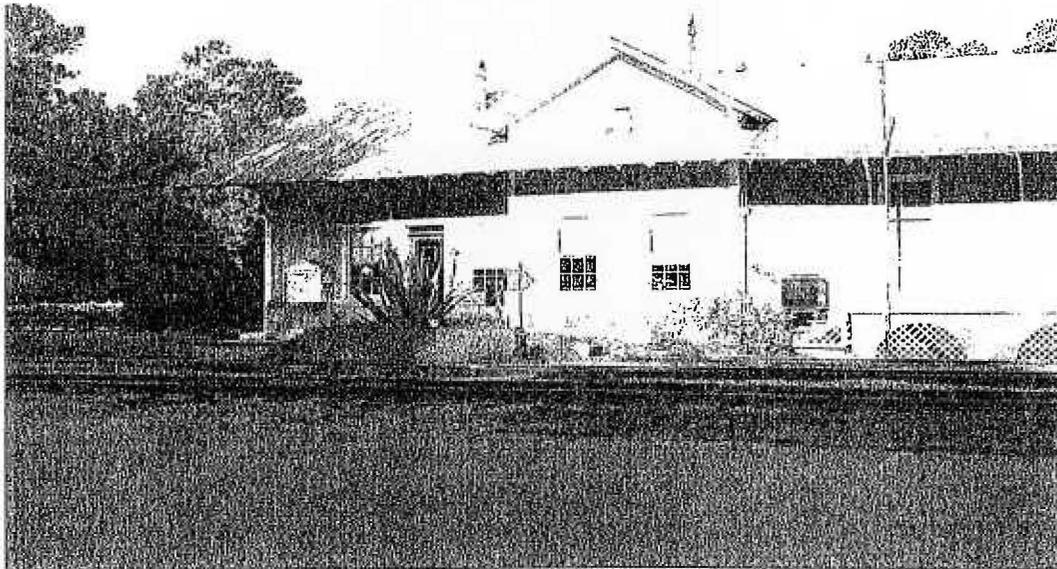
Executed March 10, 2014

**EXHIBIT A-FRA REPORT**

**PUBLIC**



**FEDERAL RAILROAD ADMINISTRATION  
BRIDGE SAFETY ASSESSMENT REPORT OF THE  
Carolina Southern Railroad**



**Terry Shelton-Bridge Safety Specialist  
Mark Brinck-Bridge Safety Specialist  
Joe Fianchino-Track Inspector State of South Carolina**

**May 24-26, 2011**

## **Bridge Safety Assessment---Carolina Southern Railroad**

During May 24-26, 2011, a Bridge Safety Assessment was conducted on the Carolina Southern Railroad (CALA) by Mark Brinck, and Terry Shelton, both FRA Bridge Safety Specialists. We were accompanied by Joe Fianchino, South Carolina State Track Inspector and the Carriers Roadmaster.

The CALA is independently owned.

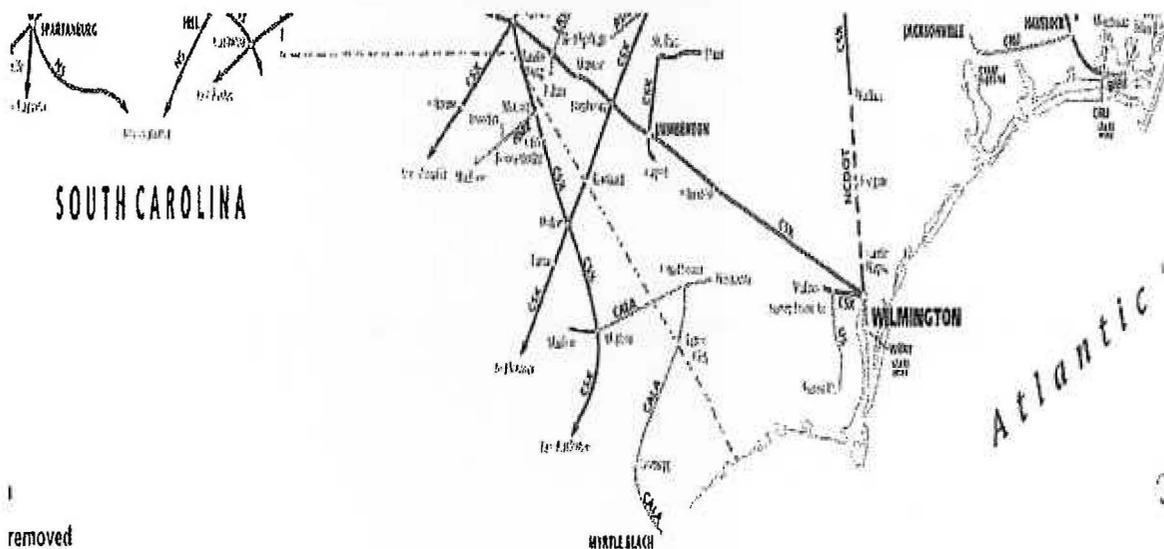
The basis of this Bridge Safety Assessment is a comparison of CALA's Bridge Management practices to the Federal Railroad Administration (FRA) Bridge Safety Standards 49CFR Part 237. Information was gathered through interviews of CALA's employees along with the observation of fifty-two CALA bridges (Conway Subdivision: 24 bridges; Mullins Subdivision: 24 bridges; Horry County Subdivision; four bridges. This comparison revealed that CALA has not implemented portions of 49CFR Part 237 that are applicable to them and our field observation of fifty-two bridges found numerous critical bridge conditions.

### **General Information**

The CALA operates and maintains freight services from a CSX connection in Mullins, South Carolina to Whiteville, North Carolina (Mullins Subdivision), 37 miles; from Chadbourn, North Carolina to Conway, South Carolina (Conway Subdivision), 40 miles; and from Conway, South Carolina to Myrtle Beach, South Carolina (Horry Subdivision), 14 miles. The Horry Subdivision trackage is owned by the South Carolina county of Horry (pronounced as Orry). The county and CALA have entered into a contract giving the CALA operating rights and CALA has agreed to maintain the track and bridges. Primary commodities include, coal, lumber, stone, steel and fertilizer. Because of the deteriorated track conditions all subdivisions operate under the provision of 49CFR 213.4 Excepted Track. The original main line was constructed by the Wilmington, Columbia & Augusta and Wilmington & Manchester and the Wilmington, Chadbourn & Conway railroad. All three railroads became part of the Atlantic Coast Line / CSX. The CSX sold this portion in 1987 to the Mid-Atlantic Railroad and in 1995 the railroad was sold to its current owner / operator who changed its name to Carolina Southern.

A summary inventory list of the number, length and types of bridges CALA maintains does not exist. Based on a hand written chart, CALA has 69 bridges of various types (mostly timber) and materials. Typical ballast deck timber piles trestles consist of eleven 7"X13" spread stringers on five or six driven pile bents. Typical open deck timber pile trestles consist of two 4ply packed stringer chords on five or six driven (some posted pile) pile bents.

The CALA does not have an in-house structures department. The carrier Roadmaster has some limited experience with bridges. The VP/GM is ultimately responsible for structures on the railroad. There are no written policies regarding bridge management. The carrier representative said he was not aware of any past or present bridge inspections reports for us to review.



Map of CALA Railroad

### Bridges Observed

Fifty-two bridges were observed by the FRA Bridge Specialists. Because the carrier did not provide past or current bridge inspection reports we were unable to compare conditions noted on their bridge reports to the actual bridge conditions as we observed.

During this observation we have documented a pervasive level of significant deterioration of critical members of some timber bridges over which CALA operates. Our observations have caused us to become very concerned over the immediate safety of trains operated over some of CALA bridges.

**NOTE: This was not a comprehensive bridge inspection other conditions exist on other bridges which are in need of repairs and evaluations by the carriers Bridge Engineer as soon as possible.**

The following bridges have critical structural issues:

**(See appendix A with this report for photos of critical defect components)**

**5/24/2011**

**Conway Subdivision**

**Br# 23, MP – 333.4, Homewood, SC.**

17 spans, 18 driven 6 pile timber bents, timber ballast deck, @ 170' total length, single track.

Caps are 12"X 12"; stringers are 11, 7"X 13", timber plank ballast deck.

Bent #17 piles 4 & 5 failed (plumb piles)

Bent #17 cap failing at piles 4 & 5.

**Bridge # 16, MP - 324.9, Gurley, SC.**

16 span, 17 driven 6 pile timber bents, timber ballast deck, @ 160' total length, single track.

Caps are 12"X 12"; stringers are 11, 7"X 13", timber plank ballast deck.

Bent #13 cap failed, having crushed, sheared, and rotated off the piles. Track surface above the failed cap showed a 1 ½" static profile that increased to at least 6" under load.

Bent #14 cap crushed at piles 4 & 5.

Span #12 stringers 4, 6, 7 & 10 failed.

**Horry Subdivision**

**Bridge #4, MP – 337.8, Conway, SC.**

11 span, 17 driven 6 pile timber bents, timber open deck, 4ply 7"X 12" timber chords, @ 110', single track.

Spans 1 & 2 supported at Bent #2 have failed resulting in observed deflection of 4" or more under load.

**May/25/2011**

**Conway Subdivision**

**Bridge #1, MP – 300.4, Chadbourn, SC.**

3 span, 4 driven 6 pile timber bents, timber open deck, @30', single track.  
Caps are 12"X 12", stringers chords are 4 ply, 7"X 13" timbers.

Bent #2 cap failed and rotated off piles #3, 4, 5, and crushed over piles #1 & 2.

Bent #1 cap is rotted and crushing over piles # 4 & 5.

**Mullins Subdivision**

**Bridge #7, MP – 302.3, Cerro Gordo, NC.**

15 span, 16 driven 6 pile timber bents, timber ballast deck, @150', single track.  
Caps are 12"X 12", 11 stringers 7"X 13", timber plank ballasted deck.

Due to the water depth we were only able to access about half of the structure.  
In the areas directly observed, all of the caps and 80 – 90% of the stringers have failed.

**Br# 14, MP- 316.5, Nicholes, SC.**

23 span, 24 driven 6 pile timber bents, timber ballast deck, @ 230 feet total length, single track.

Caps are 12"X 12", 11 stringer 7"X 13", and timber plank ballasted deck.

Bent # 9, cap split, crushed over 50% and rotating off piles, cap is failed.

Bent # 17, cap split and crushed over 50% and rotating off piles, cap is failed; piles 3 & 4 are rotted and failing, (6 pile bent)

Span # 18, stringers 2, 4, 6, 7, 8 & 9 are shear cracked and failing. (11 stringers)

Bent # 18, pile 2 rotted and very punky, poor, pile 4 rotted and failing. (6 pile bent)

Span # 22, stringers 4, 5, & 6, shear cracking, failing, stringers 7 & 9, shear cracked, failed. (11 stringers)

Span # 23, stringers 2, 3, 4, 5, 7 & 8, shear cracking and failing.

**Br #15, MP-316.7, Nicholes, SC.**

20 span, 21 driven 6 pile timber bents, timber ballast deck @200 feet in length, single track. Caps 12"X 12", 11 stringers @ 7" X 13".

Spans 1, 2, 3, 4 have approximately 50% of stringers failing.

Spans 13 & 14 have approximately 70% of stringers failing.

Bent # 9 cap is split and rotating off piles #3, 4, 5, and 6.

**Br # 16, MP- 316.9, Nicholes, SC.**

This bridge is in 3 sections, the east approach, section 1 is 28 spans driven 6 pile timber bents, timber ballast deck @ 280 feet total length, single track

Section 2 is a thru riveted truss span, open deck, non operating swing span. (no critical defects observed in the steel truss span)

Section 3, west approach, 45 spans, driven timber pile bents, timber ballast deck @ 450' total length, single track.

Section 1.

Bent# 12, cap severely split and crushing, piles 2, 3, 4 & 5 punched 50% into bottom of cap, cap is failed.

Bent # 15, cap severely split and crushing, piles 2, 3, 4, & 5 punched 50% into bottom of cap, cap is failed, stringers 1, 2, 3, 4, 5, 6, 7, 8, & 9 out of 11, crushed into top of cap several inches.

Bent# 17, cap split and crushing, piles 2, 3, 4 & 5 punched 50% into bottom of cap, cap is failing.

Bent# 22, cap is severely crushed, split, rotating off piles 2, 3, 4 & 5, cap is failed.

Bent # 25, cap is split and crushing, piles 2, 3, 4 & 5 punched into bottom of cap, cap is failing.

Section 2, thru truss open deck. No critical defects observed.

Section 3.

Bent # 2, cap is split and crushing, cap is split and rotating off piles 2, 3, 4 & 5, and cap is failed.

Bent # 7, cap is severely split, crushing and rotating off piles 2, 3, 4 & 5, cap is failed.

Bent # 8, cap is failing in shear over piles 3 & 4, cap is split and crushing, rotating off piles, cap is failed.

Bent # 9, cap is split and crushing, rotating off piles, cap is failed.  
Bent # 10, cap is split, piles punching into bottom of cap., cap is failing  
Bent # 11, cap is split, piles punching into bottom of cap, cap is failing.  
Bent # 13, cap is split and crushing, cap is failing.  
Bent # 14, cap is severely split and crushing, caps punched into the bottom of cap, cap is failed.  
Bent # 25, cap is split, piles 2, 3, 4 & 5 punched into bottom of cap, cap is failing.  
Bent # 26, cap is split, piles 2, 3, 4 & 5 punched into bottom of cap, cap is failing.  
Bent #31, cap has failed, split and rotating off piles.  
*Spans and bents 29 through span and bent 37 could not be accessed due to deep water; railroad needs further inspection of conditions.*  
Bent # 41, cap is split, crushing, piles 2, 3, 4, & 5 punched into bottom of cap, cap is failing.  
Bent # 42, cap is split, crushing, piles 2, 3, 4 & 5 punched into bottom of cap, cap is failing.

#### **Bridges observed on 5/26/2011**

##### **Br # 17, MP- 317.4, Mullins Subdivision, Mullins, SC.**

102 span, 103 driven 6 pile timber bent, timber ballast deck, 1,020 feet in total length.

Bent # 5, crushing, split over piles 2, 3, 4 & 5, failing.  
Span # 6, stringers 4, 5, 6, 7 & 8, shear cracking, failing. (11 stringers)  
Bent #7, cap crushed and split, shear failing over piles 2, 3 & 4.  
Bent #24, cap crushed and split, shear cracked on north side over piles 4, 5 & 6, cap is failed.  
Bent # 31, cap is crushed and split, shear cracked over piles 2, 3, 4 & 5, and cap is failing.  
Span # 40, stringers 3, 4, 5, 6, 7, 8 & 9, shear cracked, failed. (11 stringers)  
Span # 41, stringers 3, 4, 5, 6, 7 & 8 shear cracked, failing, stringers 8 & 9 failed. (11 stringers)  
Bent # 44, cap is severely split, crushing, rotating off piles 2, 3, 4 & 5.  
Span 47, stringers 3, 4, 5, 6, 7 & 8, shear cracked, failing (11 stringers)  
Span 48, stringers 3, 4, 5, 6, 7, 8 & 9, shear cracked, failing. (11 stringers)  
Bent # 49, cap is crushed and split over piles 2, 3, 4 & 5, failing.  
Span # 49, stringers 3, 4, 5, 6, & 8, shear cracked, failing. (11 stringers)

Span# 52, stringers 3 &4, rotted and rotated over, stringers 5, 6, 7 & 8 shear cracked, failing. (11 stringers)  
Bent # 64, cap is split, crushed, piles 2, 3, 4 & 5 punched into bottom of cap, cap failing.  
Span # 66, stringers 2, 3, 4, 5, 6, 7 & 8 shear cracked, failing. (11 stringers)  
Bent # 67, piles 5 & 6, failed. (6 pile bent)  
Span # 67, stringers 2, 3, 4, 5, 6, 7, 8 & 9 shear cracked, failing. (11 stringers)  
Span # 68, stringers 4, 5, 6, 7, 8 & 9, shear cracked, failing. (11 stringers)  
Span # 71, stringers 2, 3, 4, 5, 6, 7, 8 & 9, shear cracked, failing. ( 11 stringers)  
Bent # 77, cap spilt and crushed over piles 2, 3, 4 & 5, failing.  
Bent # 83, cap split, crushing, failing in shear in center over pile 3 & 4.  
Bent # 89, cap is split, crushing, shear cracked in center, failing over piles 3 & 4.  
Span # 98, stringers 3, 5, 6, 7 & 8, shear cracked, failing, stringer 9 has rotated, failed.

**Horry Subdivision, Myrtle Beach, SC. to Conway, SC.**

**Br # 8, MP- 347.6, Myrtle Beach, SC.**

6 span, 7 driven 5 pile timber bents, open deck, 60 feet total length.

Bent # 6, cap completely rotted and crushed, non effective, completely failed.

## **Findings and Recommendations**

### **1) Load Capacity of Railroad Bridges**

a) Determination – There is no written policy in place to determine when to rate a bridge and CALA has not made an engineering determination of the load capacity of its bridges. CALA is relying on load capacity limits for each subdivision given to it by the predecessor owner. No list of bridge ratings exists.

b) Analysis – CALA has no written policy concerning the method of analysis for rating its bridges to determine load capacity.

c) Recommendations – CALA should establish a written policy for determining the load capacity of its bridges. CALA should rate its bridges to determine/verify their load capacities and the line load limit.

## **2) Railroad Bridge Loads**

a) Control of Loads - CALA stated that car weights are restricted to 286,000 lbs. Most car loads do not exceed 263,000 lbs. according to the CALA. No records were shown to confirm these weight limits. There is no written policy for handling excess weight loads. There is no definition of a standard 286,000 lb. (286K) car by axle spacing and car length to use for bridge capacity comparison. There are no equipment ratings for common equipment to verify bridge loads.

b) Authority for exceptions - CALA relies on the connecting railroad (CSX) to provide them notice of any excess weight cars destined for their lines. CALA stated that the General Manager would review the proposed loads for acceptability prior to movement over its railroad.

c) Recommendations – CALA should establish and implement a written policy for the handling of excess weight cars. CALA should establish a definition and equipment rating for a standard 286K car and should develop equipment ratings for its commonly used equipment.

## **3) Railroad Bridge Records**

a) Record documents - CALA may possess some original bridge design drawings but they were not reviewed.

b) Bridge Inventory List - CALA provided a bridge list that has minimal information.

c) Recommendations – CALA should create a structures inventory list that more completely describes the bridges and includes culverts. The record of bridge work done should be kept and added to their bridge records. Copies of any existing bridge drawings should be kept on the property and if no drawings exist they should be created, as necessary.

## **4) Specifications for Design and Rating of Railroad Bridges**

- a) Policy – CALA does not have a written policy regarding specifications for the design and rating of bridges. No new bridge design has been done to date. Bridges built in the past years were built according to standard designs of ACL/CSX.
- b) Recommendations – CALA should establish a written policy identifying the specification(s) to use for the design and rating of its bridges. Guidelines found in the American Railway Engineering and Maintenance of Way Association (AREMA) *Manual for Railway Engineering* could be used.

#### **5) Periodic Inspection of Railroad Bridges**

- a) Policy – CALA has no written policy regarding the frequency of or data to be gathered during bridge inspections. CALA could not provide any past or present bridge reports which would show any previous bridge inspections.
- b) Recommendations – An annual inspection should generally be sufficient, although some found conditions warrant more frequent inspections. CALA should establish and implement a clear, written policy and procedures for periodic inspections on different bridge types and define the bridge information and conditions to be identified in the report.

#### **6) Underwater Inspection of Railroad Bridges**

- a) Policy -CALA does not have a written policy for underwater inspections.
- b) Recommendations – Most of CALA timber piles are underwater year around, this should be address in a written policy including a procedure to ensure timely inspections, if applicable.

#### **7) Seismic Considerations**

- a) Policy - CALA does not have specific written policies or operating instructions on steps to be taken in the event of a reported earthquake.
- b) Recommendations – Although seismic events in this area are rare, CALA should establish and implement a written policy for handling seismic events in its operating territory. Guidelines within AREMA's *Manual for Railway Engineering*, Chapter 9, Part 1, Section 1.2, 'Post-Seismic Event Operations Guidelines' could be used.

## **8) Special Inspections of Railroad Bridges**

- a) Policy – CALA has no written policies regarding special inspections or any specific event notification systems in place. Due to the nature of its small organization, CALA uses primarily verbal communication to provide situational awareness between engineering and operating personnel.
- b) Restrictions - After receiving a report that a bridge may have suffered damage through an unusual occurrence such as a flood, CALA would prohibit trains from crossing the bridge until it is inspected.
- c) Recommendations – CALA should establish and implement a written policy to cover special inspections. This should include defining what events (flood, fire, bridge strike, etc.) require special inspections, when and who will perform the inspection, the process to handle any unsafe conditions found, designating who can authorize train movements and any other required interaction with train operations.

## **9) Railroad Bridge Inspection Records**

- a) Reports –No Inspection reports were provided. According to the carrier representative bridges are not inspected by a qualified bridge inspector. However, the Roadmaster looks at the bridges on occasion and keeps only minimal notes.
- b) Report information – none
- c) Recommendations – CALA should create a summary structures list to provide an overview. CALA should establish and implement a standard format and requirements for the inspection reports to cover its timber and steel bridges. Information from the inspection report should be incorporated into a Bridge Management Program to ensure that exceptions on the reports are corrected or monitored. A record should be kept of all inspections and repairs that have been made in previous years.

## **10) Railroad Bridge Inspectors and Engineers**

- a) Bridge Inspectors/Engineer – CALA does not have qualified bridge inspectors or Engineers. CALA Roadmaster has attended a one week timber course taught by Dr. Clarke of the University of Tennessee.
- b) Review by Engineers – Does not occur.

c) Recommendations –CALA should develop and implement a written policy to cover inspector qualifications, the review of inspections and the evaluation /prioritization of corrective measures by an engineer experienced in railroad bridge design and maintenance.

### **11) Scheduling Inspections**

- a) Schedule-CALA does not have a written policy regarding bridge inspections.
- b) Recommendations- CALA should establish a clear, written policy regarding inspection frequency and a process to ensure timely and complete inspections

### **12) Bridge Worker Safety**

- a) Policy – CALA does not have a written policy regarding Bridge Worker Safety.
- b) Recommendations – CALA should develop a written policy regarding Bridge Worker Safety that provides for the requirements of CFR Part 214 as part of its Railroad Workplace Safety program and require contractors to have a similar program.

### **Summary**

The Carolina Southern does not have a bridge management program. Generally, the bridges observed on all three subdivisions appear to be in poor condition with many bridges needing immediate inspection by a qualified bridge engineer and repairs.

It is recommended the CALA start a bridge management program and address the following:

- 1) Create an inspection report and repair documentation.
- 2) Ensure timely, quality structure inspections and inspection reviews.
- 3) **Obtain the services of an experienced railroad bridge engineer. Currently the CALA is in violation of 49CFR Part 237.57 (i)**

- 4) Develop bridge rating and equipment rating information. **Currently the CALA is in violation of 49CFR Part 237. 73 (b) (c).**
- 5) Create a comprehensive bridge/culvert Inventory.
- 6) Create written policies related to bridge management and bridge worker safety. Federal regulation regarding bridge management programs becomes effective for the CALA September 13, 2012.

#

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad  
**LINE** Conway Sub. Div., Homewood, SC  
**MP** 333.4

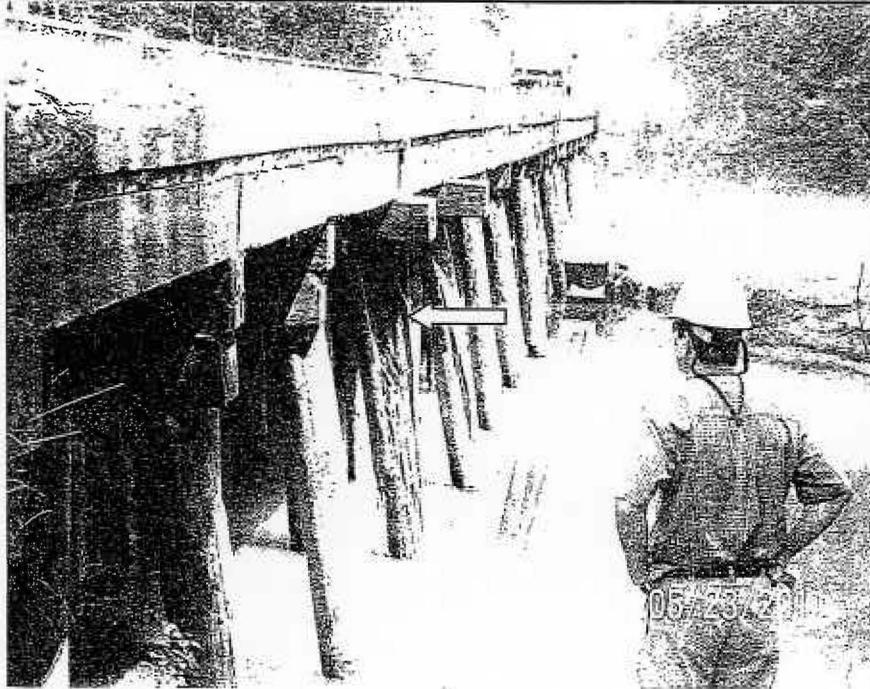


Photo No.

Location: Profile, east side looking north, failed pile # 6, bent

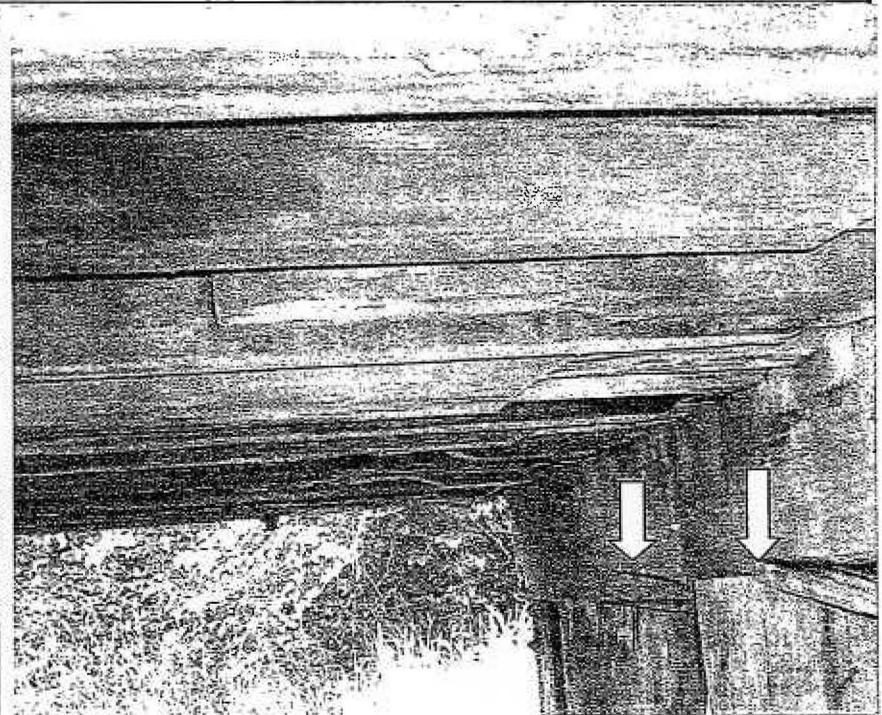


Photo No.

Location: Bent 17, cap shear cracked, failing in shear over piles 4&5.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad  
**LINE** Conway Sub. Div., Homewood, SC  
**MP** 333.4

15



Photo No.

Photo No.

Location: Bent 17, cap shear cracked, failing, piles 4&5 failing in compression.

Location:

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad  
**LINE** Conway Sub. Div., Gurley, SC  
**MP** 333.4

16

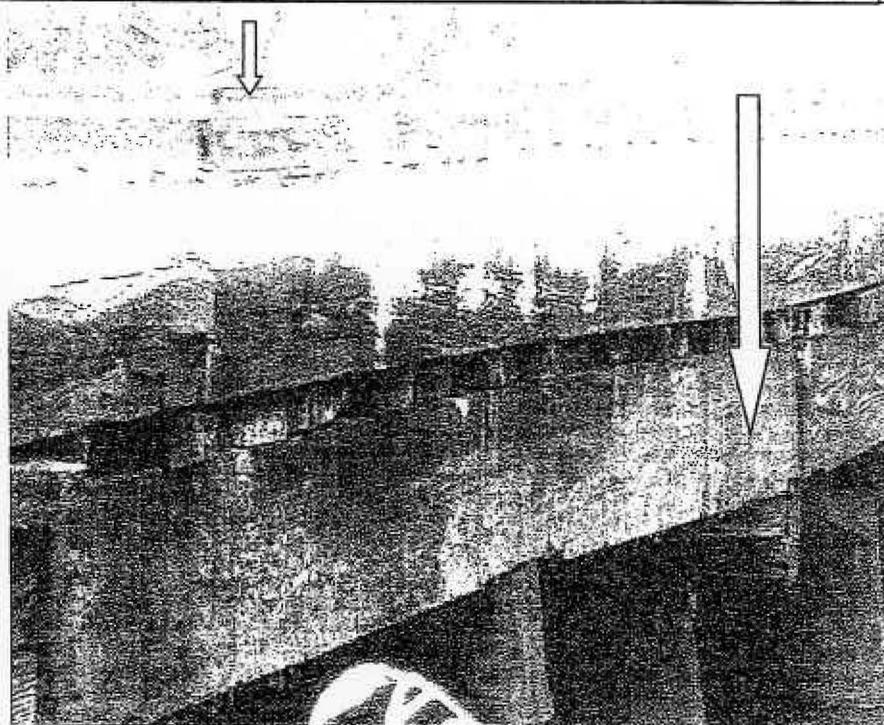


Photo No.

Location: East side, bent 13, cap failed, crushed, split, rotating off piles.  
Track surface shows 1&1/2" profile static, 6" plus under load.

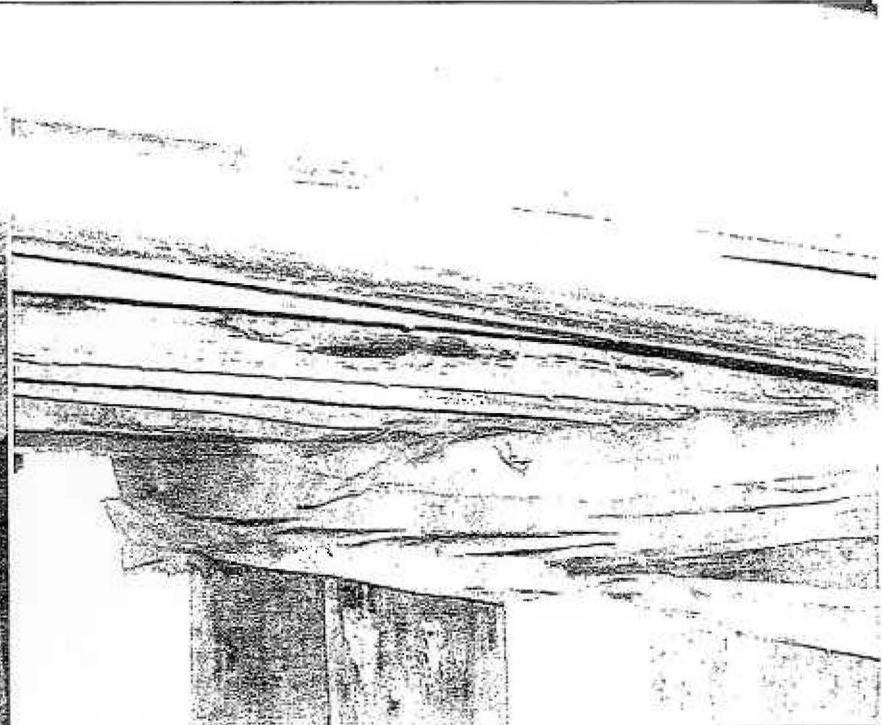


Photo No.

Location: South side bent 13, cap failed, crushed, split, rotating off piles,  
stringers 4, 6, 7, & 8 shear cracked, failed.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad

**LINE** Conway Sub. Div., Gurley, SC

**MP** 333.4

17

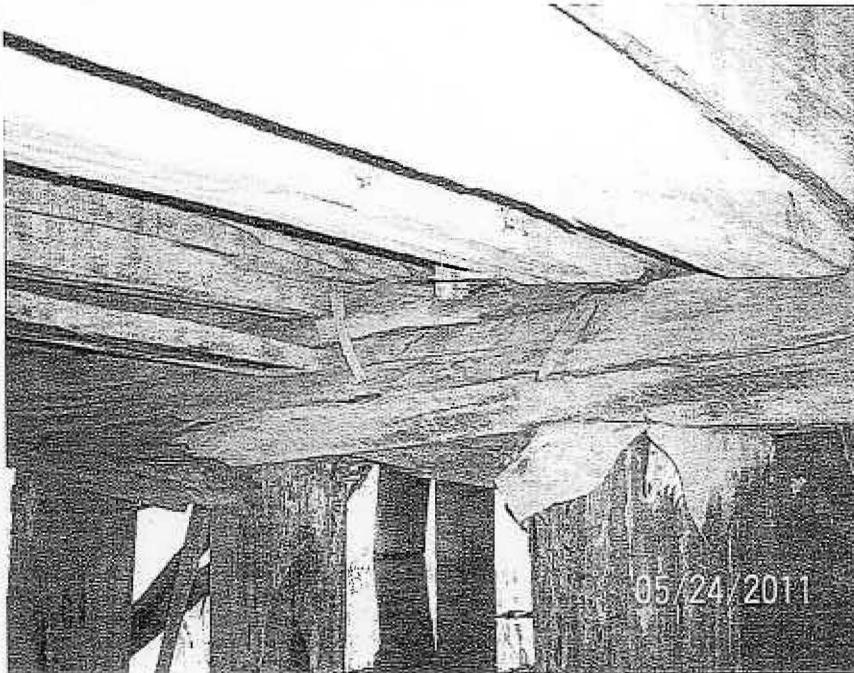


Photo No.

Location: South side of Bent 13 cap, cap failed, span 12 stringers 4, 6, 7 & 8 failed in shear.

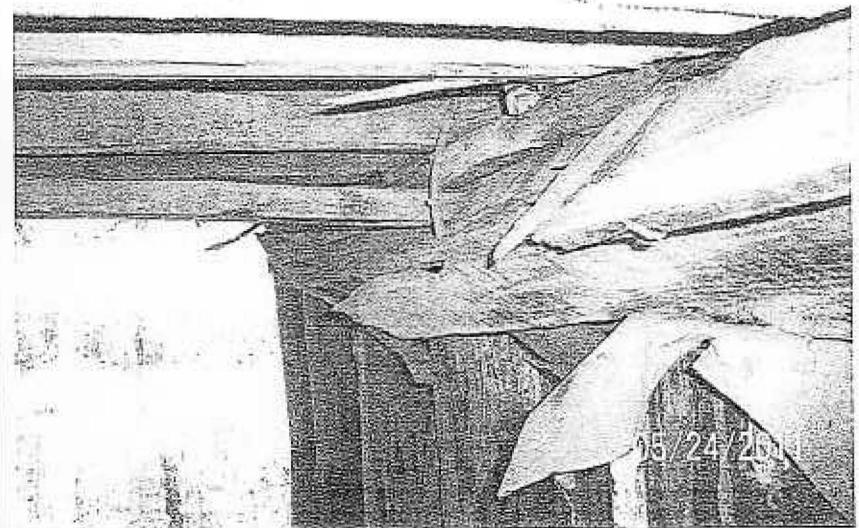


Photo No.

Location: South side of Bent 13 cap, cap failed, span 12 stringers 4, 6, 7 & 8 failed in shear.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad  
**LINE** Horry Sub. Div., Conway, SC  
**MP** 337.8

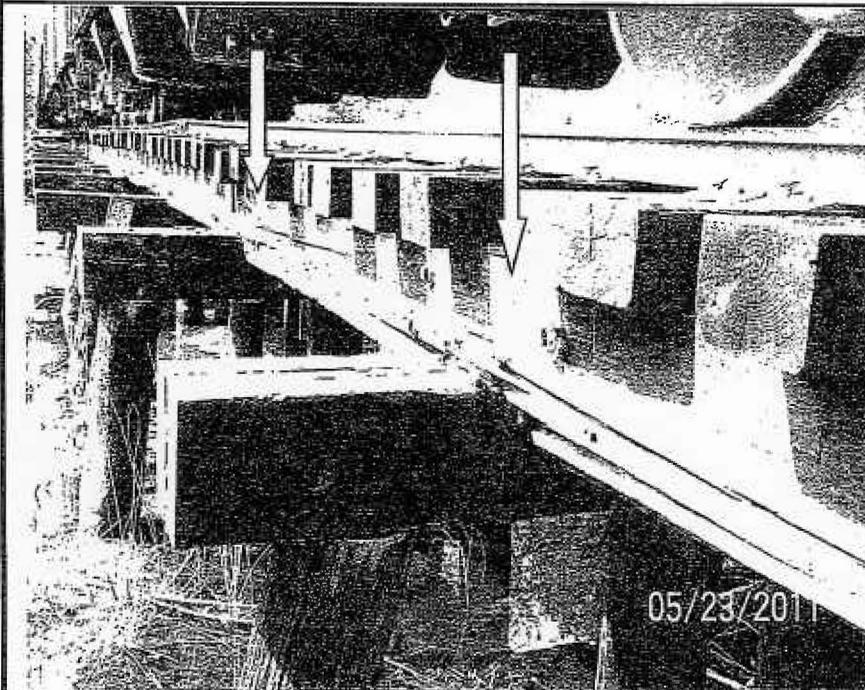


Photo No.

Location: Span 1 & 2 stringers failed over bent 2 and at bent 3, west stringers, all 4 plys failed in shear.

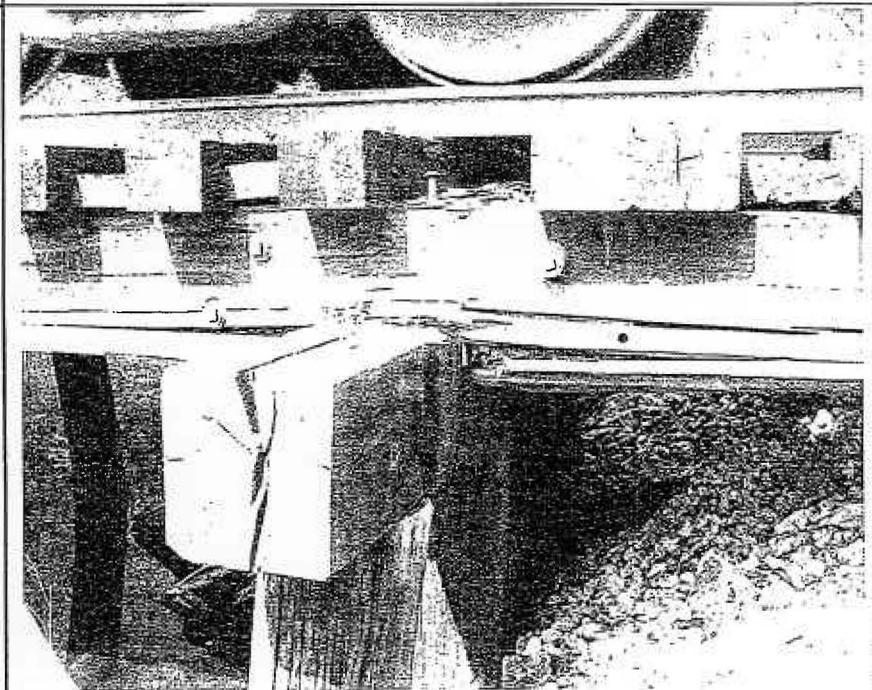


Photo No.

Location: Span 1 & 2 stringers failed over bent 2, west stringers, all 4 plys failed in shear.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad

**LINE** Horry Sub. Div., Conway, SC

**MP** 337.8

19



Photo No.

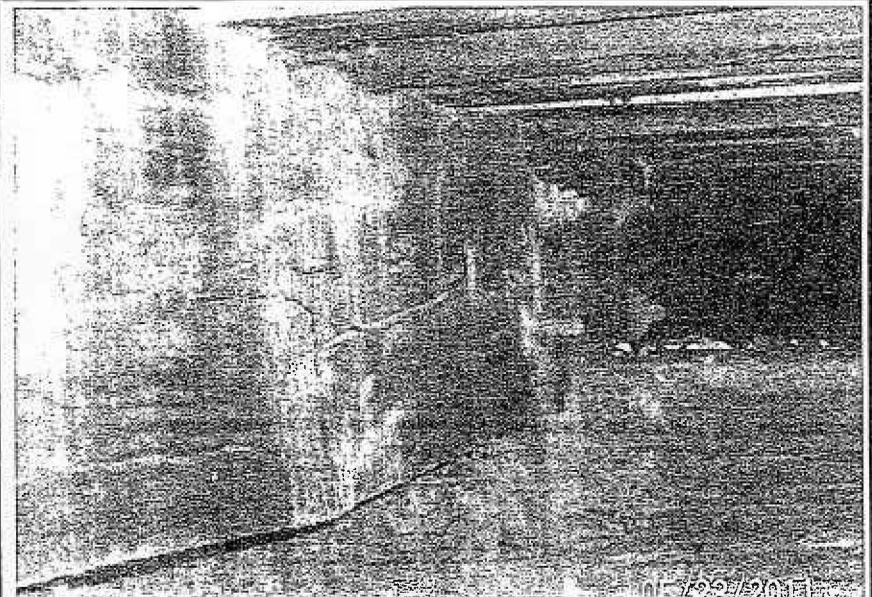


Photo No.

Location: Interior stringer 4, shear cracked and crushed over cap.

Location: Interior stringer 4, shear cracked and crushed over cap.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad  
**LINE** Conway Sub. Div., Chadbourn, SC  
**MP** 300.4

20

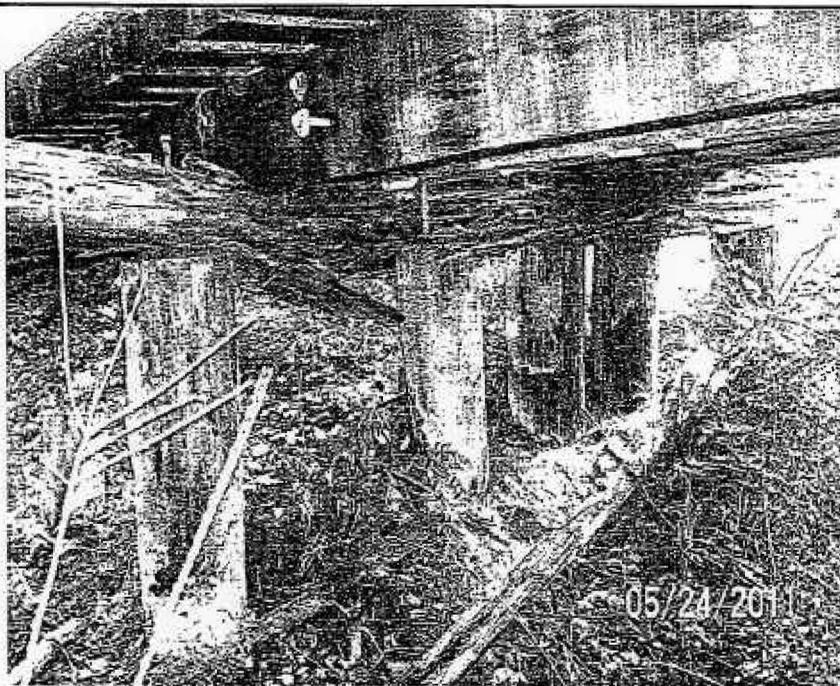


Photo No.

Location: Bent 2 cap failed, shear failure, crushing, rotating off piles 3,4 &5, crushing over piles 4&5.

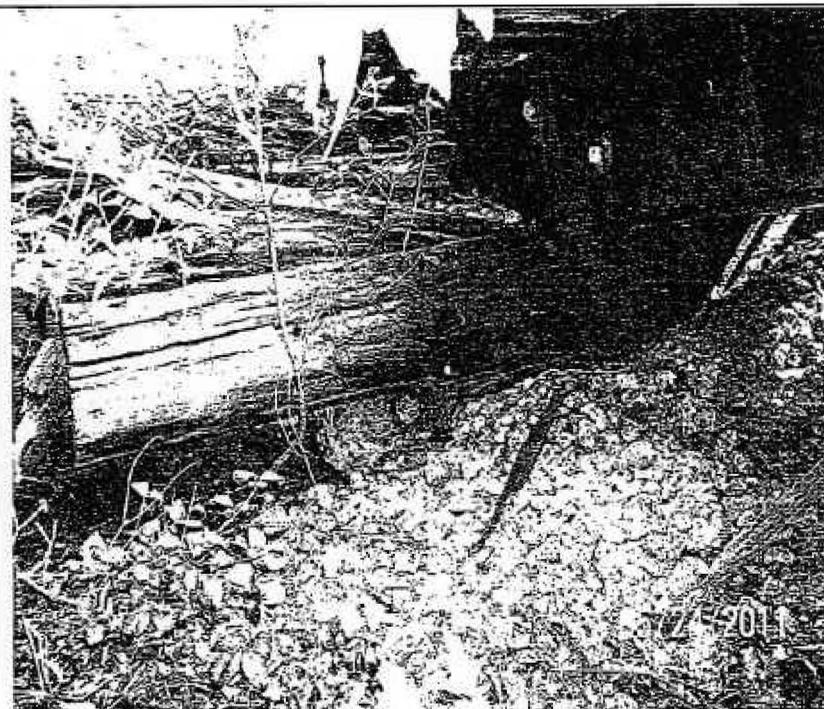


Photo No.

Location: Bent 1 rotted and crushing, split over piles 4&5.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad  
**LINE** Mullins Sub. Div, Cerro Gordo, NC.  
**MP** 302.3

21

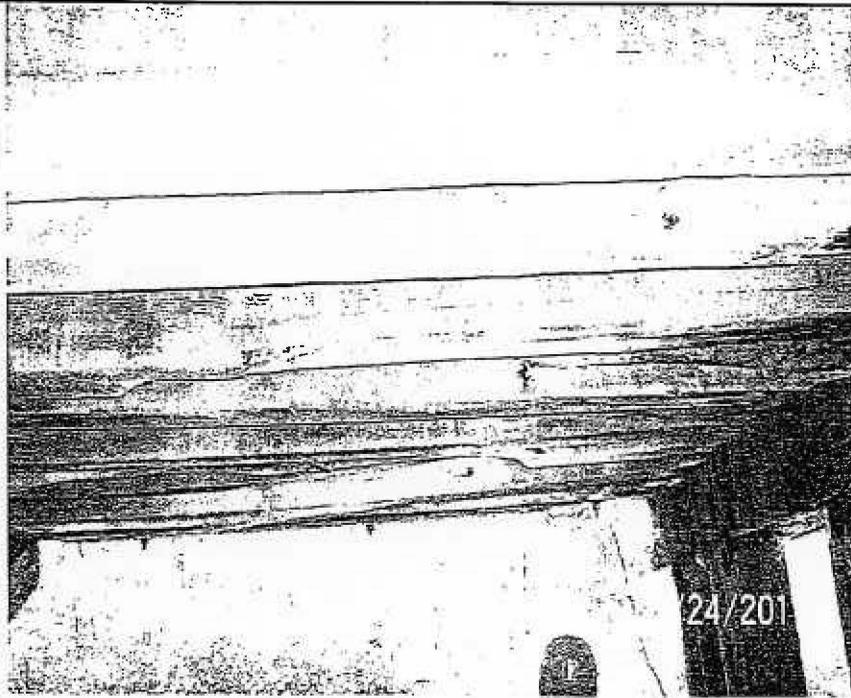


Photo No.

Location: Span 14, stringers 2,3,4,5,6,7,8 &9, failed and failing, shear cracked



Photo No.

Location: Bent 14, cap crushed and split over piles 2,3 &5, piles punched into bottom of cap.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad

22

**LINE** Mullins Sub. Div, Cerro Gordo, NC.

**MP** 302.3

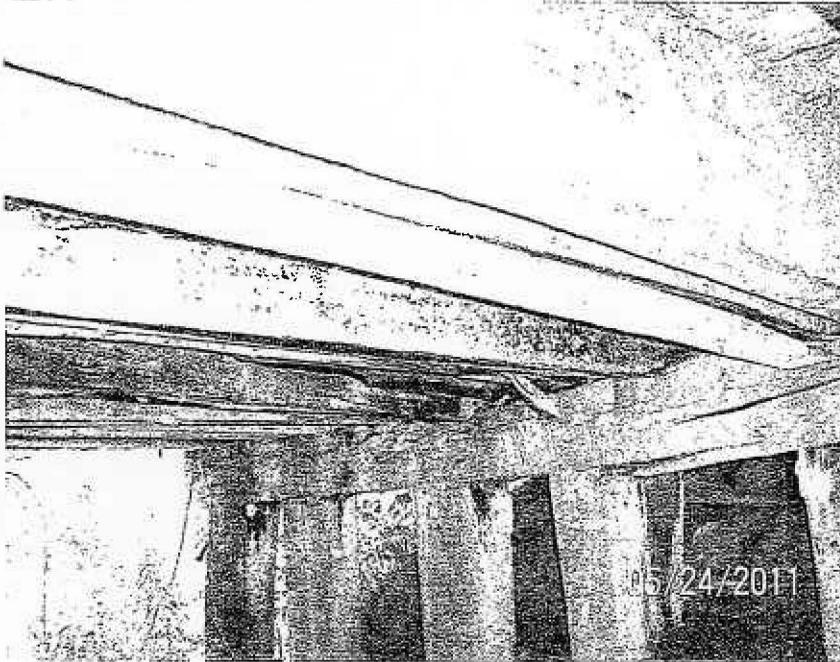


Photo No.



Photo No.

Location: Span 15, stringers 5,6,7,8 & 9, shear cracked, failed and failing.

Location: Bent 16, cap shear cracked, split, crushing, piles 3,4,5 & 6 punched into bottom of cap

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad

**LINE** Mullins Sub. Div, Cerro Gordo, NC.

**MP** 302.3

23



Photo No.

Location: Span 16, stringers 1,2,3,4,5,6,7,8,9,10 & 11, shear cracked, failed and failing.

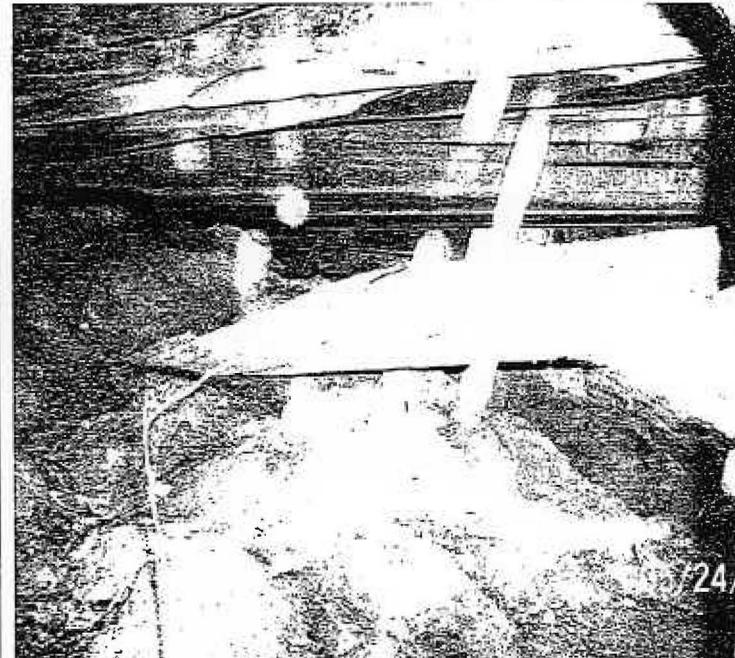


Photo No.

Location: Span 16, stringers 1,2,3,4,5,6,7,8,9,10 & 11, shear cracked, failed and failing.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad  
**LINE** Mullins Sub. Div, Cerro Gordo, NC.  
**MP** 302.3

24

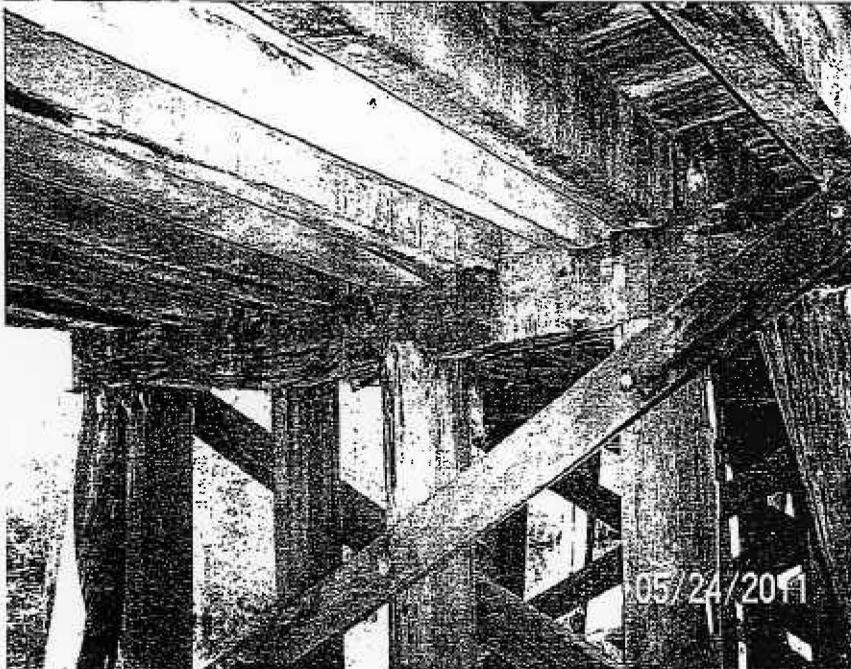


Photo No.

Location: Bent 5, cap shear failing over piles 1,2,3& 4, split and crushed.

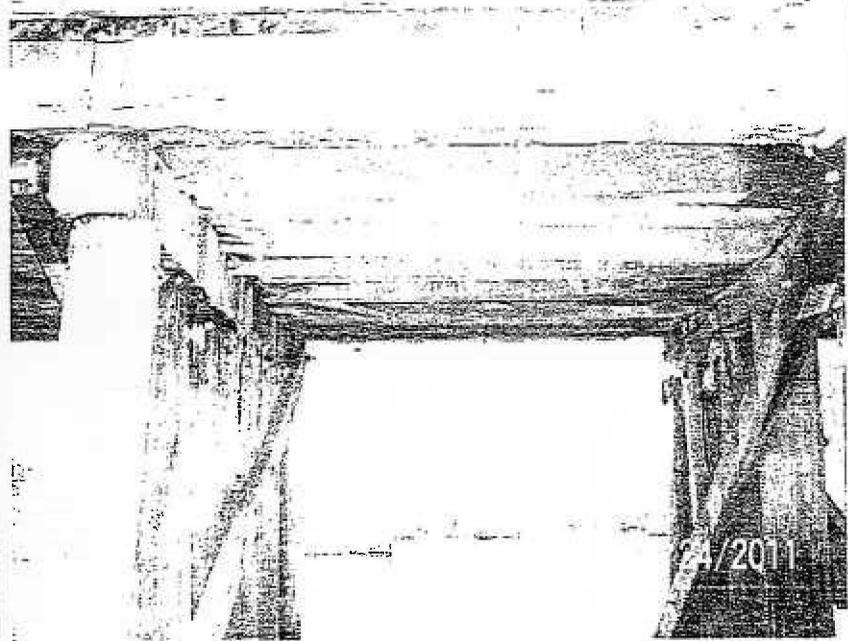


Photo No.

Location: Span 5, stringers 2, 3, 4,5,6,7 & 8 shear cracked, failing and failed.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad  
**LINE** Mullins Sub. Div., Nicholes, SC  
**MP** 316.5



Photo No.

Location: Bent 9, cap failed, split, shear cracked, crushing, rotating off piles 1,2,3,4



Photo No.

Location: Bent 17, cap failed over piles 3,4,5 & 6, split, shear cracked at piles 2&3, piles punched into bottom of cap. Piles 3&4 rotted, piped out and failing.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad

26

**LINE** Mullins Sub. Div., Nicholes, SC

**MP** 316.5

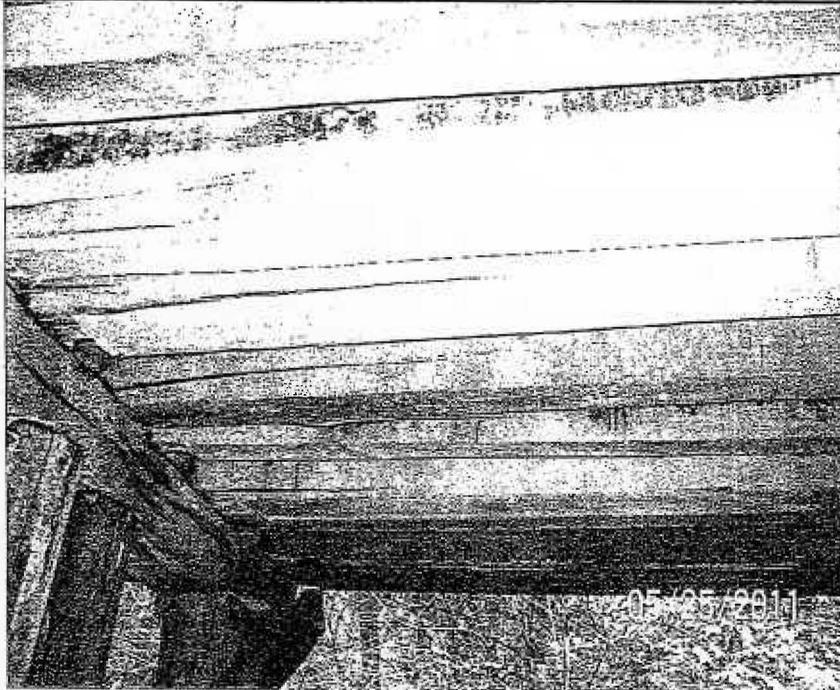


Photo No.

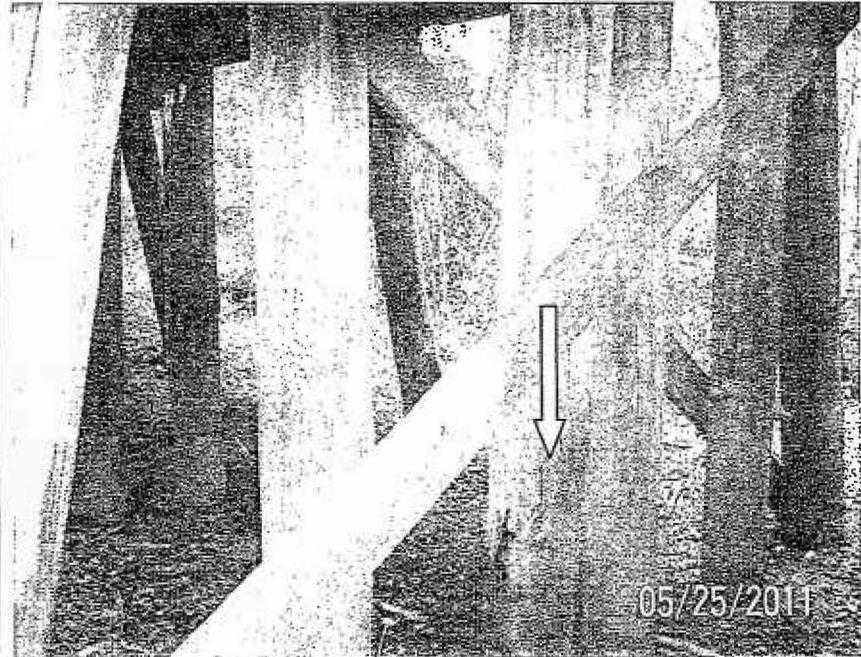


Photo No.

Location: Span 18, stringers 2,4,6,7,8 & 9, shear cracked, failing and failed.

Location: Bent 18, pile 2 rotted, punky, pile 4 rotted and failing.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad

**LINE** Mullins Sub. Div., Nicholes, SC

**MP** 316.9

27

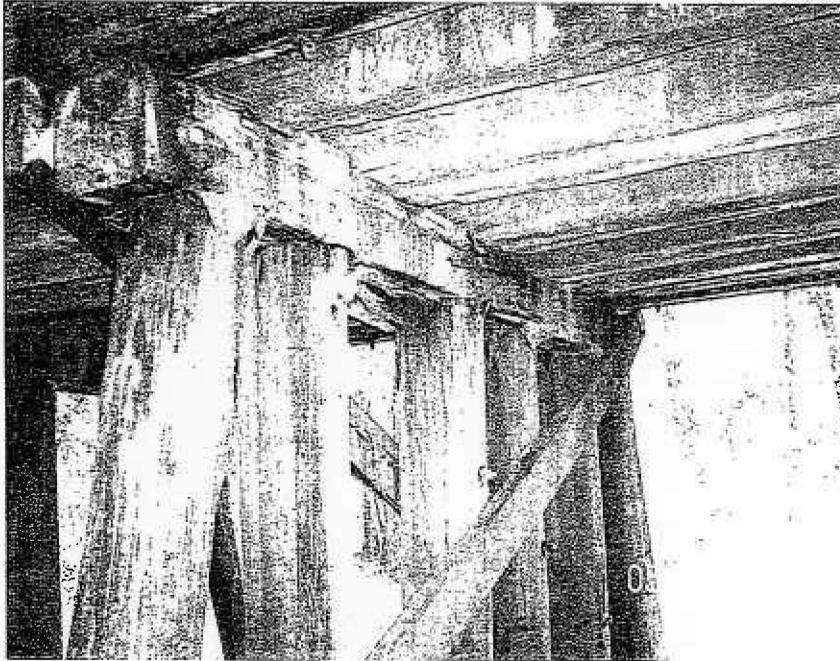


Photo No.

Location: Section 1, bent 22, cap failed, split, crushed over piles 2,3,4 & 5.



Photo No.

Location: Section 1, bent 25, cap failed, split, crushed, rotating off pile 2,3,4 & 5, piles punched into bottom of cap.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad  
**LINE** Mullins Sub. Div., Nicholes, SC  
**MP** 316.9

28

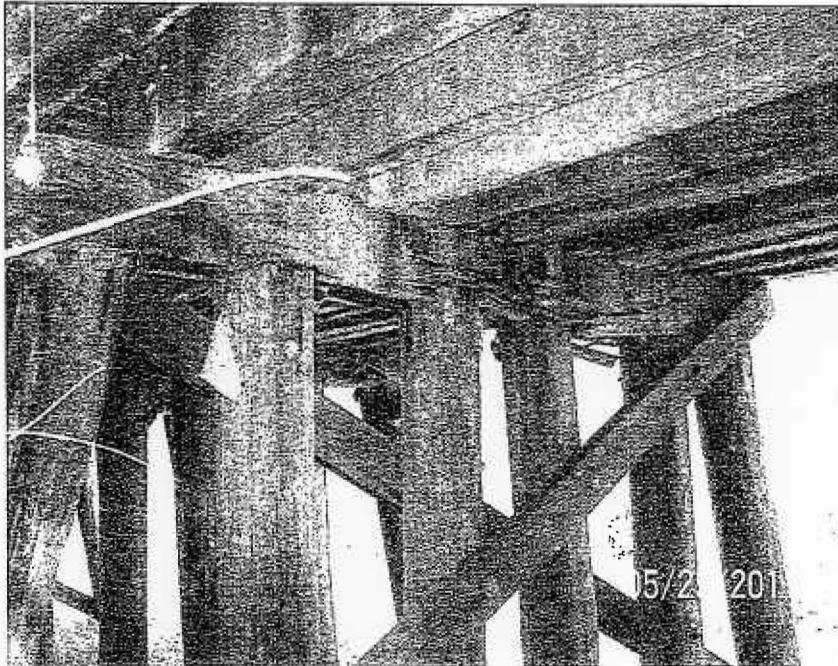


Photo No.

Location: Section 2, bent 7, cap failed, shear cracked over piles 2,3 & 4, rotating off piles



Photo No.

Location: Section 2, bent 8, cap split, crushing, piles punched into bottom of cap, rotating off piles.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad

**LINE** Mullins Sub. Div., Nicholes, SC

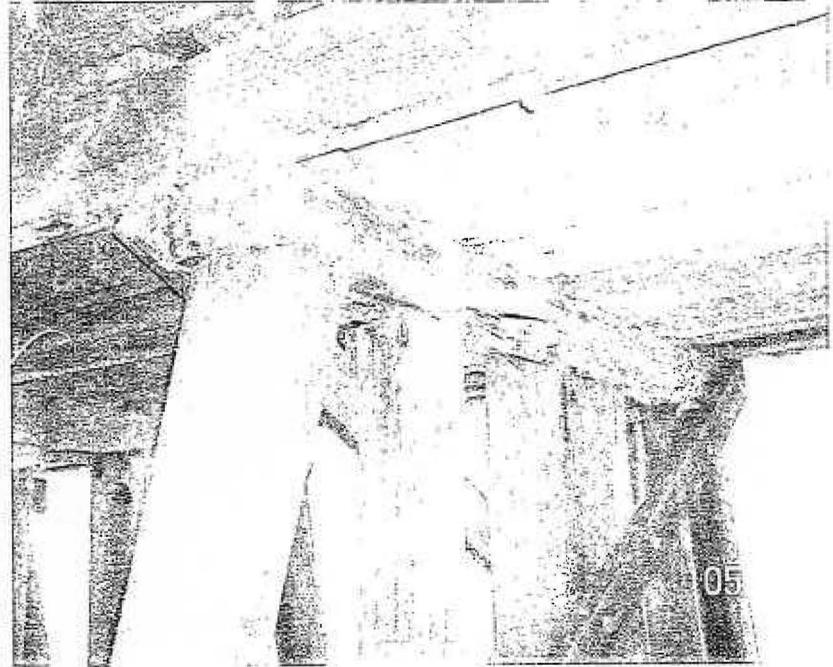
**MP** 316.9

29



05 25/

Photo No.



05

Photo No.

Location: Section 2, bent 9, cap failing, split, crushing, piles punched into bottom of cap, pile split rotating off piles.

Location: Section 2, bent 10, cap shear failed over piles 4 & 5, split, crushed.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad

**LINE** Mullins Sub. Div., Nicholes, SC

**MP** 316.9

30



Photo No.

Location: Section 2, bent 11, cap failing, shear cracked, split, crushed, piles punching into bottom of cap.



Photo No.

Location: Section 2, bent 14, cap failed, shear cracked, split over piles, piles punched into bottom of cap.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad

**LINE** Mullins Sub. Div., Nicholes, SC

**MP** 316.9

31



Photo No.



Photo No.

Location: Section 2, bent 25, cap failed, crushed, split, shear cracked, piles punched into bottom of cap.

Location: Section 2, bent 41, cap failed, shear cracked, crushing, piles punched into bottom of cap.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad

**LINE** Mullins Sub. Div., Nicholes, SC

**MP** 316.9

32

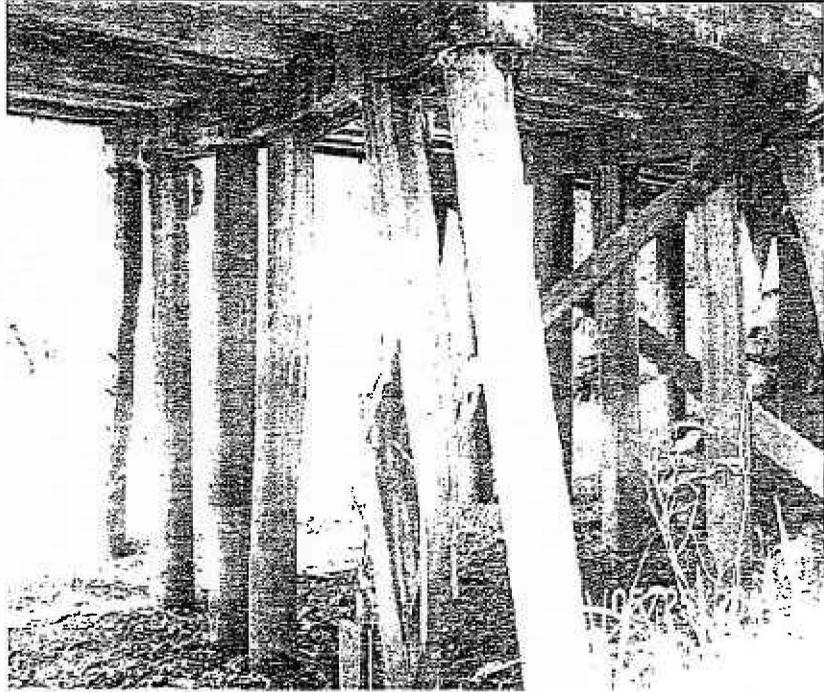


Photo No.

Photo No.

Location: Section 2, bent 42, cap shear cracked, split, piles punched into bottom of cap, pile 2 posted, pile 5 failed.

Location:

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad

**LINE** Mullins Sub. Div., Mullins, SC

**MP** 317.4

33



Photo No.

Location: Bent 5, cap failing over piles 2,3,4&5, shear cracked, piles punched into bottom of cap.



Photo No.

Location: Span 6, stringers 4,5,6,7 & 8, shear cracked, failing.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad

**LINE** Mullins Sub. Div., Mullins, SC

**MP** 317.4

34

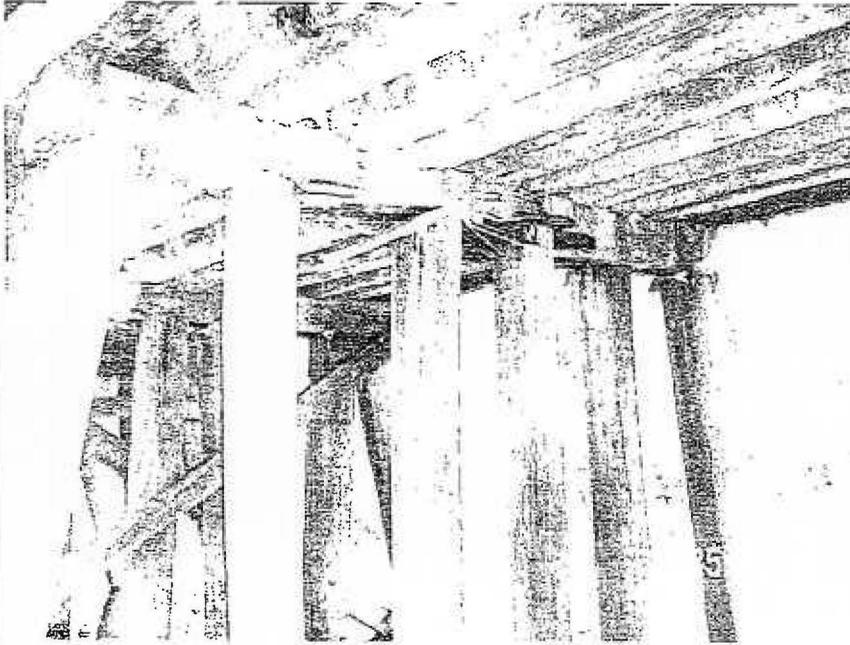


Photo No.

Location: Bent 7, cap failed, severley crushed over piles 3,4 & 5, split.

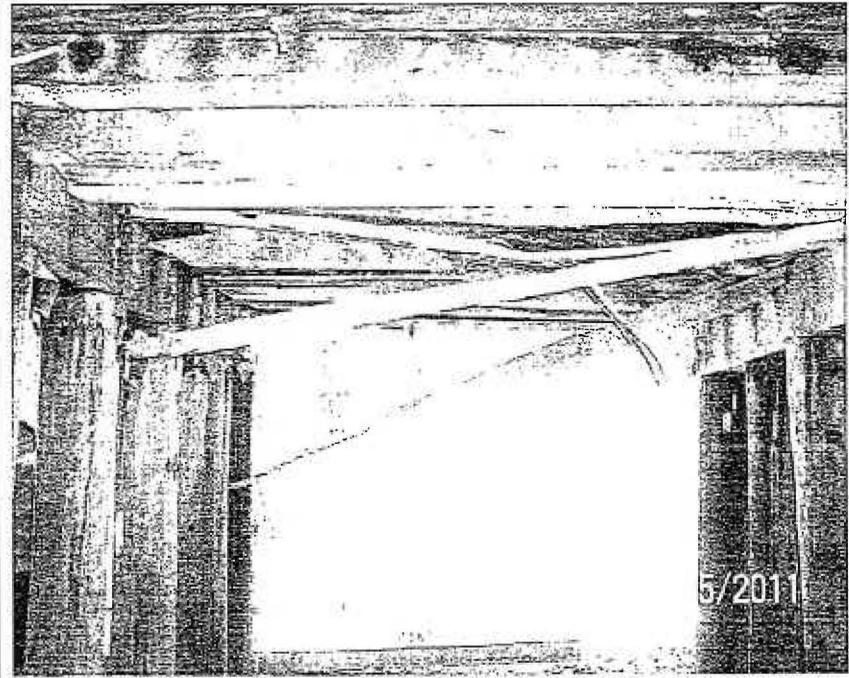


Photo No.

Location: Span 40, stringers 3,4,5,6,7,8 & 9, shear cracked, failed and failing.

**U.S. Department of Transportation  
FEDERAL RAILROAD ADMINISTRATION**

**RAILROAD** Carolina Southern Railroad  
**LINE** Horry Sub. Div. , Myrtle Beach, SC  
**MP** 347.6

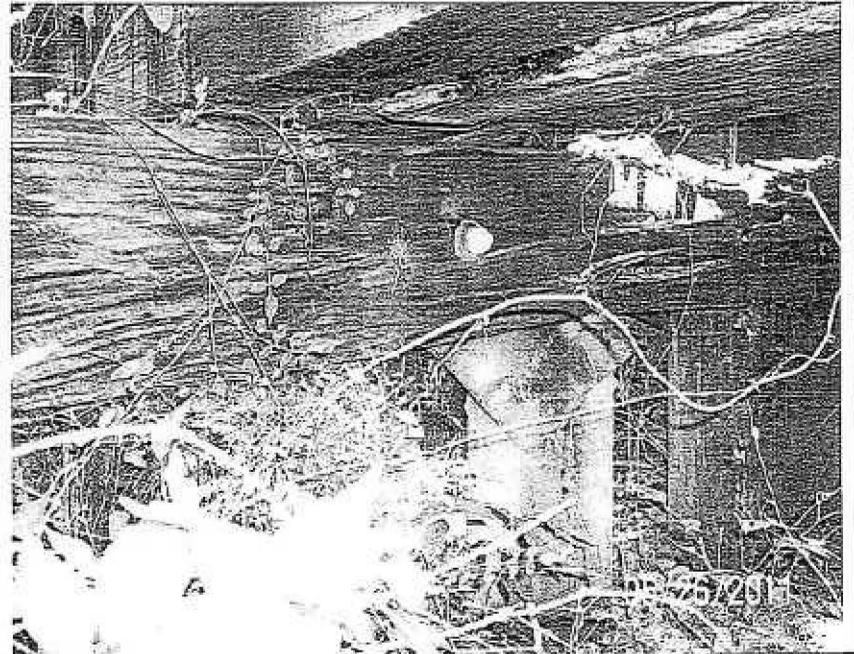
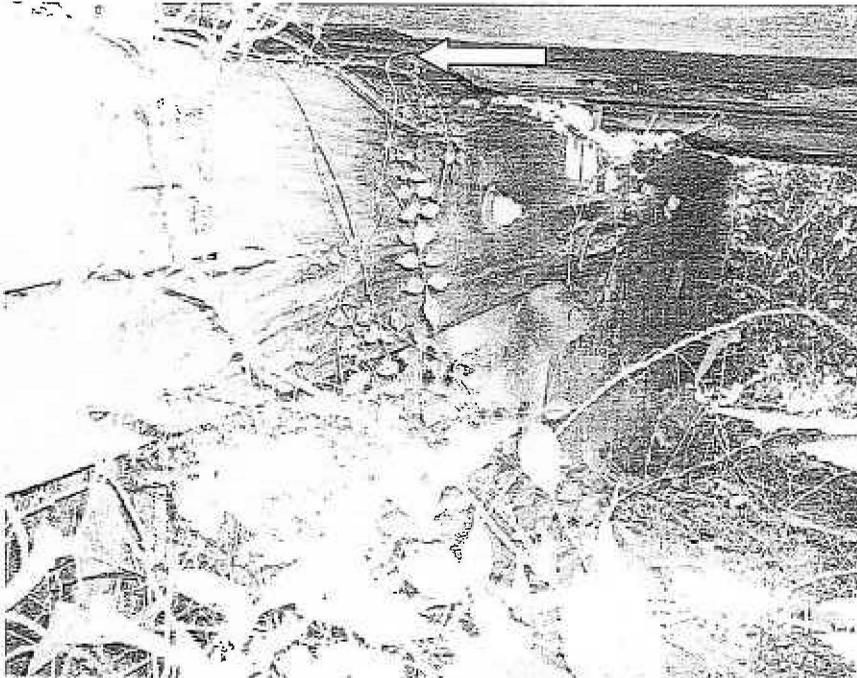


Photo No.

Photo No.

Location: Bent 6, cap failed, completely rotted in center, crushed.

Location: Bent 6, cap failed, completely rotted in center, crushed.

**EXHIBIT B-CALA INCOME STATEMENTS 2011 AND 2012**

**HIGHLY CONFIDENTIAL**

**REDACTED**

**EXHIBIT C-EMBARGOES**

**PUBLIC**

**GWEN**

---

**From:** Embargo Permit DB System [embargo\_project@railinc.com]  
**Sent:** Friday, August 26, 2011 11:42 AM  
**To:** gtstevens@embarqmail.com  
**Subject:** Embargo #CALA000211 has been approved on 08-26-2011

Embargo #CALA000211 has been approved on 08-26-2011

CALA-CAROLINA SOUTHERN RAILROAD COMPANY, THE

Embargo Number: CALA000211

Status: Effective

Effective Date: 08-26-2011  
Expiration Date: 08-26-2012  
Allow Permit: No  
Tier 2 Effective Date: 08-26-2011

Roads Invited to Participate:

Original Requester : Gwen Stevens - Ph: 1.910.6541999 - Email: gtstevens@embarqmail.com

Bypass Local Waybills: No

Operating Station Notice: No

Effective Immediately: Yes

Include Empty Revenue Cars: No

Include All Empty Cars: Yes

Maximum Car Allowed:

Commodities: Target All Commodities

Geography:

Included Locations:

From: \*  
To: CALA-65962, HOMEWOOD, SC ✓  
CALA-65952, FAIR BLUFF, NC ✓  
CALA-65953, CERRO GORDO, NC ✓  
CALA-65959, LORIS, SC ✓  
CALA-65960, ALLSBROOK, SC ✓  
CALA-65961, GURLEY, SC ✓  
CALA-65957, TABOR CITY, NC ✓  
CALA-65958, PLOTT, SC ✓  
CALA-65954, CHADBOURN, NC ✓  
CALA-65964, CONWAY, SC ✓  
CALA-65956, WHITEVILLE, NC ✓  
CALA-65955, JONES, NC ✓  
CALA-65951, PITT, SC ✓  
CALA-65963, PHILCO, SC ✓

UNI-DIRECTIONAL

Umler Equip. Type : Target All Umler Equipment Types

No Weight Restrictions

Except These Cars: No Cars In Exception List

Embargo/OPSL Umler Element Status: No Umler Element

Clearance Code: No Clearance Code

Waybill Parties: Target All Waybill Parties

Cause: Bridge out of service

Cause Detail:

Note:

Jeffrey J. Usher  
Asst. Vice President-Business Services  
Association of American Railroads

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AAR Embargo/OPSL Notes And Permit System (<https://aarembargo.railinc.com/epdb>)

Gwen Stevens

---

**From:** Embargo Permit DB System [embargo\_project@railinc.com]  
**Sent:** Monday, August 27, 2012 12:00 PM  
**To:** csr@sccoast.net  
**Subject:** Embargo #CALA000112 has been requested on 08-27-2012

Embargo #CALA000112 has been requested on 08-27-2012

CALA-CAROLINA SOUTHERN RAILROAD COMPANY, THE

Embargo Number: CALA000112

Status: Pending

Effective Date: 08-27-2012  
Expiration Date: 08-27-2013  
Allow Permit: No  
Tier 2 Effective Date:  
Original Effective Date:

Roads Invited to Participate:

Original Requester : Gwen Stevens - Ph: 1.843.2488008x23 - Email: [csr@sccoast.net](mailto:csr@sccoast.net)

Bypass Local Waybills: No

Operating Station Notice: No

Effective Immediately: No

Include Empty Revenue Cars: No

Include All Empty Cars: Yes

Maximum Car Allowed:

Commodities: Target All Commodities

Geography:

Included Locations:

From: CALA-65955, JONES, NC  
CALA-65956, WHITEVILLE, NC  
CALA-65957, TABOR CITY, NC  
CALA-65958, PLOTT, SC  
CALA-65959, LORIS, SC  
CALA-65960, ALLSBROOK, SC  
CALA-65961, GURLEY, SC

CALA-65951,PITT,SC  
CALA-65962,HOMEWOOD,SC  
CALA-65952,FAIR BLUFF,NC  
CALA-65963,PHILCO,SC  
CALA-65964,CONWAY,SC  
CALA-65953,CERRO GORDO,NC  
CALA-65954,CHADBOURN,NC

To: \*  
UNI-DIRECTIONAL

Umler Equip. Type : Target All Umler Equipment Types

No Weight Restrictions

Except These Cars: No Cars In Exception List

Embargo/OPSL Umler Element Status: No Umler Element

Clearance Code: No Clearance Code

Waybill Parties: Target All Waybill Parties

Cause: Bridge out of service

Cause Detail:

Note:

Jeffrey J. Usher  
Asst. Vice President-Business Services  
Association of American Railroads

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AAR Embargo/OPSL Notes And Permit System (<https://aarembargo.railinc.com/epdb>)

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No virus found in this message.

Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 2012.0.2197 / Virus Database: 2437/5227 - Release Date: 08/27/12

**Print Embargo**

CALA-CAROLINA SOUTHERN RAILROAD COMPANY, THE

Embargo Number: CALA000112

Status: Effective

Effective Date: 08-19-2013

Expiration Date: 08-19-2014

Allow Permit: No

Tier 2 Effective Date: 08-19-2013

Original Effective Date: 08-27-2012

Roads Invited to Participate:

Original Requester : Gwen Stevens - Ph: 1.8432488008x23 - Email: csr@sccoast.net

Re-issued : 1

Last Re-issued By : Gwen Stevens - Ph: 1.8432488008x23 - Email: csr@sccoast.net

Bypass Local Waybills: No

Operating Station Notice: No

Effective Immediately: Yes

Include Empty Revenue Cars: No

Include All Empty Cars: Yes

Maximum Car Allowed:

Commodities: Target All Commodities

Geography:

Included Locations:

Origin: CALA-65955, JONES, NC

CALA-65956, WHITEVILLE, NC

CALA-65957, TABOR CITY, NC

CALA-65958, PLOTT, SC

CALA-65959, LORIS, SC

CALA-65960, ALLSBROOK, SC

CALA-65961, GURLEY, SC

CALA-65951, PITT, SC

CALA-65962, HOMEWOOD, SC

CALA-65963, PHILCO, SC

CALA-65952, FAIR BLUFF, NC

CALA-65964, CONWAY, SC

CALA-65953, CERRO GORDO, NC

CALA-65954, CHADBOURN, NC

Destination: \*

UNI-DIRECTIONAL

Umler Equip. Type : Target All Umler Equipment Types

No Weight Restrictions

Except These Cars: No Cars In Exception List

Embargo/OPSL Umler Element Status: No Umler Element

Clearance Code: No Clearance Code

Waybill Parties: Target All Waybill Parties

Cause: Bridge out of service

Cause Detail:

Note:

Jeffrey J. Usher  
Asst. Vice President-Business Services  
Association of American Railroads