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August 28, 2007

By e-filing

Vernon A. Williams, Secretary  
Surface Transportation Board  
395 E Street, S W , Suite 1149  
Washington, DC 20024

Re Finance Docket No 34889, *PYCO Industries, Inc -- Alternative Rail Service -- South Plains Switching, Ltd Co*

Dear Mr. Williams

This refers to the letter to you dated August 21, 2007 from counsel for West Texas & Lubbock Railway (WTL) in which counsel cited a statement by the Board in a decision in Finance Docket No 34802, served June 21, 2006, at 8, to the effect that SAW has a duty to inspect and repair the trackage being used by WTL to provide alternative rail service to PYCO Industries, Inc

That statement was made before counsel for SAW cited 49 C F R § 213.5(c), which is a Federal Railroad Administration (FRA) regulation to the effect that an alternative rail service provider has the duties of an owner in regard to inspection, maintenance and repair of trackage being used to provide alternative rail service

The Board's statement must give way to the FRA regulation because as the agency having jurisdiction over track safety, the FRA has the authority to designate the party responsible for track inspection, maintenance and repair

Very truly yours,

*Tom McFarland*

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

File # 011180\fileSTB10

cc All parties of record  
James L. Goisuch, Esq  
Messrs Larry Wisener  
Dennis Olmstead