

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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Oregon International Port of Coos Bay – Feeder Line )  
Application – Coos Bay Line of the Central Oregon & ) Finance Docket No. 35160  
Pacific Railroad, Inc )  
)

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**RESPONSE OF CENTRAL OREGON & PACIFIC  
RAILROAD, INC. TO THE “THIRD VALUATION UPDATE  
OF THE OREGON INTERNATIONAL PORT OF COOS BAY”**

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Dated. November 7, 2008

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SURFACE TRANSPORTATION BOARD

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Oregon International Port of Coos Bay – Feeder Line	)	
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RAILROAD, INC. TO THE “THIRD VALUATION UPDATE  
OF THE OREGON INTERNATIONAL PORT OF COOS BAY”**

The Central Oregon & Pacific Railroad, Inc (“CORP”) respectfully submits this Response to the “Third Valuation Update” filed by the Oregon International Port of Coos Bay (the “Port”) filed in the above-captioned proceeding on November 5, 2008 (the “Port’s Third Valuation”)

Once again, the Port has submitted evidence and argument that disregards governing rules and requirements. Specifically, the Port has significantly exceeded the scope of limited supplemental evidence authorized by the Board, which directed the parties to submit evidence re-calculating the estimated NSV of the Line using AMM steel scrap prices on October 31, 2008. *See* STB Finance Dkt No 35160, Decision at 12 (served Oct 31, 2008) (the “Decision”). Disregarding the Board’s express direction that the parties’ supplemental submissions must “not be used to seek reconsideration of any of the Board’s determinations in this decision,” the Port included in its new NSV estimate alleged “negative values” for the removal of bridges and the closure of tunnels, two NSV deductions that the Decision flatly rejected. *See* Port’s Third Valuation at 3-4 (rearguing its claims for deducting bridge removal and tunnel closures costs from the NSV). Further, the Port seeks to use its supplement to further reduce its valuation of relay quality rail and OTM, a change that is not contemplated by the Decision’s authorization of supplemental evidence on the narrow issue of the effect of the drop in scrap steel prices as of

October 31, 2008 on the Line's NSV. *See Decision at 12.* The Port's flagrant disregard of the Board's clear instructions to the parties, as well as the Decision's clear admonition that such extraneous evidence would be disregarded, compels rejection of the Port's Third Valuation

In this Response, CORP submits a revised valuation that complies with the Decision, calculating an estimate of the NSV of the Line based upon reported AMM scrap metals index prices as of October 31, 2008 and the materials quantities estimates submitted by the Port's witness on September 12, 2008. CORP does not believe this approach yields an accurate NSV estimate for the track assets, but it submits this estimate in accordance with the Board's direction. *See Decision at 12, 19.*

#### **I THE NLV ESTIMATE AUTHORIZED BY THE OCTOBER 31, 2008 DECISION**

In order to comply closely with the Decision and to minimize the potential for further conflict, CORP has used the rail quantity worksheets and track asset valuation methodology submitted by the Port's witness Gene Davis with the Port's November 5 Third Valuation Update. *See Exhibit I.* Based on CORP's review of the Port's submission, there appear to be three areas of disagreement between the Port's Third Valuation and CORP's revised valuation set forth in this Response.

First, the Port's Third Valuation attempts to relitigate issues concerning the alleged "negative value" associated with the cost of bridge removal. As discussed below, the Port's argument on this issue amounts to a request for reconsideration of the Board's prior rulings that is expressly prohibited by the Decision. Accordingly, CORP deleted those figures from the NSV worksheet submitted by the Port.

Second, the Port's Third Valuation attempts to relitigate the issue of tunnel closure costs. Once again, the Port's attempt to assign a negative value to account for the alleged cost of

closing tunnels on the Coos Bay Subdivision flies in the face of the Board's prior ruling rejecting such a deduction from NSV. *See* Decision at 12, 14

Third, as described below, the Port attempts to introduce new evidence relating to the price of relay rail from a new vendor. Such evidence is not contemplated by the Board's Decision, and even if it were, there is no reliable evidence that the price of relay materials has declined significantly since September 12, 2008, when the Port a Reply in which it adopted the relay rail prices presented by CORP and I.B Foster. The NSV calculation CORP files today follows the Board's direction and does not change the relay asset valuation used in the Port's September 12 Reply. Because the Port's November 5 submission changed its relay materials valuation, CORP's estimate revises the Port's spreadsheet to restore the September 12 valuation for relay materials.

Taking all other figures from the Port's own evidence, including October 31 AMM metals prices, the estimated NLV of the track assets is \$ 9,848,939. *See* Exhibit 1. *See also* Exhibit 2 (some valuation calculations using October 30, 2008 AMM index prices). Adding the real estate value adopted by the Decision (\$6,771,878) to the track asset NSV calculated as the Board directed (\$9,848,939) yields an estimate of the overall net liquidation value of the Line of \$16,620,817.

**II THE PORT'S SUBMISSION FLAGRANTLY VIOLATES THE SCOPE OF EVIDENCE AUTHORIZED BY THE BOARD'S OCTOBER 31 DECISION AND SHOULD BE REJECTED.**

The Board's instructions to the parties in the Decision were straightforward. Noting that the NSV calculations for track assets submitted by CORP on August 29, 2008 (\$19,580,204) and by the Port on September 12, 2008 (\$19,408,031) were "strikingly similar," the Board adopted the Port's September 12, 2008 NSV figure (which was based upon slightly different quantities

than CORP's) as the basis for valuation of the track assets. Decision at 12. However, noting that AMM index prices for scrap steel had declined sharply in recent months, the Board stated

We conclude that it is appropriate to establish the NSV using steel prices as of the date of this decision. Because such market data is not available today, we will order the Port to file an updated verified statement from its expert by November 5, 2008, in which the NSV of the Line is calculated using October 31, 2008 AMM steel prices and the quantities of materials its witness Gene Davis used to calculate the Line's NSV contained in its September 12, 2008 reply. CORP may file a reply on or before November 7, 2008.

Decision at 12 (emphasis added). Thus, the Board's Decision authorized the parties to submit new evidence on a single issue – the impact of October 31, 2008 scrap steel price indexes on the Port's September 12 NSV calculation. *See id.* at 12, 19.

Making clear that it was not authorizing the submission of evidence or on other issues pre relitigation of decided issues, the Board admonished the parties that,

The parties' November 5 and 7 submissions may not be used to seek reconsideration of any of the Board's determinations in this decision. Rather, the submissions must be limited to the subjects described in the preceding two paragraphs. Any attempt by the parties to introduce argument or evidence in these submissions regarding other subjects will not be accepted into evidence.

Decision at 12 (emphasis added)

**A The Port's Continued Assignment of "Negative" Value To Reduce the NSV by Alleged Costs of Bridge Removal and Tunnel Closure is Flatly Prohibited by the Decision**

In direct violation of the Board's clear instructions in the Decision, the Port's Third Valuation continues to assign millions of dollars in "negative" salvage value to the line by deducting alleged costs of removal of bridges and closure of tunnels, arguing that the Board erred by excluding such negative values. *See, e.g.*, Port Third Update at 3-4, V S Davis at 2 & Attachment B. This issue was the subject of extensive argument and evidence from both parties.

both in this proceeding and in the parallel abandonment proceeding. Based on that evidence, the Board unequivocally held that “w|e will deny the Port’s request to include the cost of removing bridges or closing tunnels in the NLV determination” Decision at 14 (emphasis added)

Moreover, as stated above, the Board’s authorization of a final round of evidence addressing the impact of changes in AMM metals index prices expressly stated that the Board would not entertain any attempt by the parties “to seek reconsideration of any of the Board’s determinations in this decision” *Id* at 12. Instead, the Board directed that the submissions “must be limited to the subjects” expressly authorized by the Decision, *i.e.*, the effect of application of October 31, 2008 AMM scrap metals prices on the Port’s September 12, 2008 NLV estimate. *Id*

The Decision further provides that attempts to seek reconsideration or submit evidence regarding subjects not authorized by the first two paragraphs of page 12 “will not be accepted into evidence” Decision at 12. There can be no dispute that the Port’s attempt to assign negative value to bridges and tunnels was expressly rejected by the Decision, and that the Port’s continued assignment of such deductions from NSV in its Third Valuation is prohibited by the Decision. The clear terms of the Decision compel rejection of the Port’s arguments and evidence concerning to the alleged costs of removing bridges and closing tunnels on the Line.

**B The October 31 Decision Does Not Authorize Submission of New Evidence Regarding The Value of Relay Rail Assets, and the Board Should Value Those Assets Using the Parties’ Agreed Relay Prices as of September 12, 2008.**

Nowhere does the Decision authorize the parties to submit further supplemental evidence recalculating the value of any assets other than steel scrap. Indeed, by specifying the use of AMM index prices, the Board precluded submission of new evidence concerning values of relay materials or other assets. AMM does not publish an index of relay rail or OTM prices. *See* Port Third Update at 2 (conceding that AMM indices do not address relay prices or markets)

The markets for relay rail and relay OTM are wholly distinct from, and unrelated to, the market for scrap steel. *See* V S Pettigrew at 4. Relay quality materials are finished products that can be reused ("re-laid") in another location. *Id.* Unlike steel scrap (which is generally melted down and made into raw steel to be used in other products) prices, relay rail and OTM markets and prices do not depend on markets for other steel products. *Id.* Rather, relay materials are separate, independent products whose prices are governed by supply of, and demand for, those products. As LB Foster's General Manager recently reaffirmed, "the market for relay quality rail is independent of the market for scrap metals, and relay rail prices do not follow scrap metal prices." *See* V S Pettigrew Attachment B (letter from Foster to CORP). In recent years, the demand for relay quality rail and OTM has far exceeded supply. As of October 31, 2008, the supply of relay materials continued to be low in relation to demand, and relay prices have remained at the same levels they maintained from July through September.<sup>1</sup>

Moreover, in adopting the Port's September 12 NSV estimate of \$19,408,031 as the basis for its determination of the NSV of track assets, the Board relied on the fact that the parties' track asset valuations as of September 12 were very similar (\$19,408,000 versus \$19,580,204) – *i.e.*, that there were few items of disagreement between the parties as to the track asset NSV as of that date. *See* Decision at 12. Specifically, the parties were in rough general agreement regarding both the quantity of assets (with the Board adopting the Port's quantities) and the level of scrap metal prices (although their estimates differed slightly based upon the small difference in prices as of the dates of CORP's August 29 Reply and the Port's Reply of September 12).

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<sup>1</sup> LB Foster recently submitted a revised offer to purchase the track assets of the Line, and that offer used precisely the same relay materials prices the LB Foster used in developing the purchase offer it extended in August 2008. *See* V S. Pettigrew Attachment A-13. This firm, real world offer is powerful evidence that, unlike scrap metal prices, market prices for relay materials have been stable and essentially unchanged during the course of this proceeding.

Moreover, the NSV estimates set forth in CORP's August 29 Reply and the Port's September 12 Reply were based upon the very same prices for relay materials, because the Port adopted in its filing the same relay materials values that I B Foster used to develop its offer to purchase the Line from CORP<sup>2</sup> It was only in the Port's several post-Reply supplemental submissions that it attempted to abandon its prior position in favor of other evolving estimates, all in an attempt to reduce the Port's NLV estimate<sup>3</sup> The Decision's express limitation of these supplemental filings to the issue of AMM scrap steel prices, and its prohibition against the introduction of new evidence on other subjects, shows that the Board did not intend for the parties to revisit the issue of relay materials prices – an issue with respect to which the parties were in full agreement when the Port filed its Reply of September 12

In sum, the Port's self-serving attempt to replace its September 12 estimate of relay asset values with other, lower estimates is utterly inconsistent with the language and intent of the Decision For that reason, the Board should not accept the Port's changed relay asset values

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<sup>2</sup> It is important to note that the Port's multiple "updates" submitted after its September Reply evidence progressively and substantially reduced its valuation of relay assets, without advising the Board that it was doing so Ultimately, over the course of four supplemental evidence submissions purporting to "update" the Board concerning scrap metals prices, the Port quietly reduced its estimated value of relay materials – an entirely separate and distinct type of asset from scrap metal – by approximately \$ 2 million See Supplemental V S. Pettigrew at G-8

<sup>3</sup> In the Port's September 30 supplemental filing, for example, it submitted for the first time new estimates of the value of relay materials based on price quotes from two new vendors See Supp. Reply V S. Davis at 3 The Board had authorized post-Reply evidence to allow the Port to present evidence it developed in its supplemental inspection of the line See September 10, 2008 Decision at 3 Evidence concerning market prices of relay materials is not related to, and indeed has nothing to do with, the Port's supplemental line inspection, and its post-Reply evidence regarding relay materials prices was therefore improper and unauthorized surrebuttal. There could be no legitimate justification for submitting this new evidence at that point because there was nothing for the Port to "rebut" the Port's September 12 Reply agreed with and adopted the relay asset prices presented in CORP's evidence See R V S Davis at 14, Attachment II These are the very same relay asset values that I.B Foster used in developing its new purchase offer based on asset values as of October 31, 2008 See V S Pettigrew Attachments A-B.

Even if the Board were to entertain that evidence, however, CORP witness Pettigrew demonstrates that relay asset values have not changed materially between September 12 and October 31, 2008 (as the Port suggests), and the Port's untimely new evidence purporting to show a decline in relay asset values is unreliable.<sup>4</sup> Accordingly, the Board should base its final NSV determination on the relay asset values to which the parties both agreed on September 12. See Exhibits 1-2 (CORP's calculation of NLV of track assets, using agreed relay prices and the Port's relay materials quantities)

Because the only areas of disagreement between the parties' revised NLV submissions concern evidence submitted by the Port but barred by the Decision, the Board should reject the Port's supplemental filing in its entirety and accept this evidence submitted by CORP

**III THE BOARD'S ASSUMPTION THAT OCTOBER 31 AMM SCRAP METALS PRICES WOULD BE WITHIN A HISTORICALLY NORMAL RANGE SUBSEQUENTLY PROVED INCORRECT.**

The Board's decision to use AMM scrap metals prices as of October 31, 2008 was premised upon its belief that, as of that date, those prices would not have "fallen so much as to be significantly outside of an historically normal range or to reflect an anomalous downward spike." Decision at 11. At the time of the Decision, the AMM Chicago index price for a net ton of "random rail" scrap was approximately \$161. See Decision (relying on Port's October 30 supplemental submission). The Board found that, although this price was lower than the average AMM index price of \$233 to \$287 per ton in 2007 and early 2008 (before prices of "scrap steel began to spike in mid-March" 2008), it was still not substantially lower than the historical range. Plainly, the Board believed that the price for October 31 – one day later – would not be in the same general range as the October 30 price.

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<sup>4</sup> See V.S. Pettigrew at 6-8 (explaining in detail the Port's misleading submissions concerning relay asset values)

Improbably, on October 31, AMM indices experienced just the sort of anomalous downward spike the Board implicitly assumed would not occur. In a single day, the AMM Chicago price of "random rails" scrap dropped by 44 percent, to \$90 per net ton. *See* Port Third Update V S Davis Attachments C, H. Scrap OTM index prices experienced an even greater drop of 49 percent, to \$103 per net ton. *See id.* As AMM data compiled by CORP show, these prices are far lower than any prices those indices have experienced in several years. *See* V S. Pettigrew at 3-4, 6; Attachment C. To cite one example, the midpoint of the average AMM index range in late 2006 and early 2007 for the type of scrap cited by the Decision is \$260 per net ton. The \$ 90 per ton AMM price prevailing on October 31, 2008 is certainly not within that historical range.

This unprecedented single-day drop in index prices rendered inaccurate the Board's fundamental assumption that basing its final NSV determination on October 31 prices would result in a value for scrap steel that was within the normal historical range and not based upon an anomalous downward spike. The Board stated that it believed it was not appropriate to value the scrap steel assets of the Line on "anomalous [high] prices" prevailing earlier in this proceeding. *See* Decision at 10. It should recognize that it is equally inappropriate to value those assets based on anomalously low index prices. The violation of the Board's fundamental predicate assumption seems to warrant some alternative approach to valuation of scrap steel assets, rather than the use of index prices for a single, radically unrepresentative day.<sup>5</sup>

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<sup>5</sup> CORP is not seeking reconsideration of the Board's Decision to require the parties to submit evidence of scrap prices. Nor is it refusing to submit a revised estimate based upon AMM index prices as of October 31. CORP has done that, and it has responded to the Port's submission. What CORP is further suggesting is that because a fundamental, forward-looking premise of the Board's order proved to be incorrect, it is appropriate for the Board to determine whether that portion of its order remains appropriate in light of that erroneous assumption. Unlike the Port, CORP is not asking the Board to change a Decision based on information that was available to

One possibility would be to use an actual real world purchase offer for the assets. As the Board recently reaffirmed, a real world, firm purchase offer from a salvage company is better evidence of the market value than “mere valuations” that are not backed by an offer to purchase the line. *See San Joaquin Valley RR Co – Abandonment Exemption – in Tulare County, CA*, STB Dkt No AB-398 (Sub-No 7X), Decision at 4-5 (served Aug 26, 2008) (accepting “credible, firm offer” from salvage company as “the best evidence of what this line would be worth in the marketplace” and therefore the most reliable measure of the line’s NLV)

CORP recently received an offer from LB Foster to purchase the track assets of the Line for [ ] *See V S Pettigrew* at 8-9 and Attachments A-B. Foster’s purchase offer reflects the recent decline in scrap metal values, as it is based on market prices on October 31, 2008. *See V.S. Pettigrew* Attachments A-B. Importantly, Foster’s offer is not contingent on steel market price stability and Foster does not retain any right to change the price to account for commodities or materials price changes. *See V S Pettigrew* at 9-10, Attachments A-B. In addition, the offer includes a specific time deadline by which CORP must accept (within 90 days) *See id. cf* Decision at 11 (declining to adopt prior purchase offers because they reserved to the offeror a “unilateral right” to “change its price to account for an event like [a] significant scrap steel price drop” and because they did not provide a deadline for acceptance)

L B Foster’s arms-length purchase offer, presented by a ready, willing, and able participant in the marketplace, could be used to establish the fair market value (and the NLV) of the track assets of the Line at [ ] CORP could obtain that purchase price today simply by accepting L B Foster’s offer. *See SJVR Abandonment*, Decision at 3-5, *Mississippi*

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the Board or to any party at the time of the Decision. And, the unanticipated collapse of metals index prices on October 31 directly concerns the issue on which the Board authorized additional evidence – the application of current scrap steel prices and their effect on the NLV of the Line

*Tennessee Holdings LLC – Abandonment Exemption – In Union, Pontotoc, and Chickasaw Counties, MS*, STB Dkt No. AB-868X, slip op at 6 (served Nov 2, 2004) (finding firm offer to be best evidence of record of rail line's fair market value), *see also, Pyco Industries, Inc – Feeder Line Application—Lines of South Plains Switching, Ltd*, STB Fin Docket No 34890 (Aug 31, 2007) (“A signed sales contract or firm bid that would be binding upon its acceptance can be convincing evidence of the fair market value of a rail line or segment”).

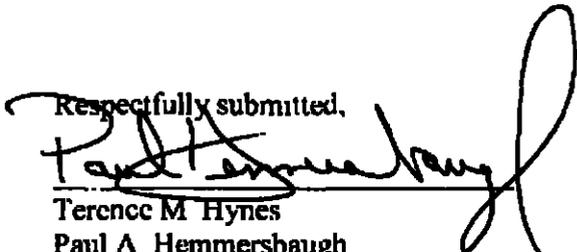
*1411 Corporation – Abandonment Exemption – In Lancaster County, P.A.*, STB Dkt No AB-581x (served Oct 16, 2001) (adopting purchase offer as best evidence of fair market value of rail assets) The Board “may not set a price that is below the FMV of the line” *SJVR*, STB No AB-398 (Sub-No 7x)

If the Board does not use the firm and binding actual purchase offer from LB Foster to establish the NLV of the track assets of the Line, it should consider other alternatives to setting the value of the scrap metal assets in a manner that reflects current market value without undue reliance upon a single-day price that is at the lowest level in several years. The Board should not set the NLV of the Line based scrap index values from a single day that arbitrarily represents an anomalous, historic downward price spike in extraordinary and volatile economic times. Instead, the Board should select some alternative approach that fairly and reasonably addresses current scrap metal price volatility.

**CONCLUSION**

For the reasons set forth in this Response, CORP respectfully requests that the Board reject the supplemental evidence submitted by the Port of Coos Bay and accept CORP's supplemental evidence. CORP further urges the Board to value the track assets of the line based on a fair and reasonable market price, and not based on an anomalous downward spike of scrap steel index prices

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*Counsel for Central Oregon & Pacific Railroad, Inc*

Dated. November 7, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused the Response of Central Oregon & Pacific Railroad, Inc to the Third Valuation Update of Oregon International Port of Coos Bay to be served by hand-delivery this 7th day of November 2008 on

Sandra Brown  
Troutman Sanders  
401 Ninth Street, N W  
Washington, D C 20004-2134

and by first-class mail, postage prepaid, and/or overnight delivery, to all parties of record.

  
\_\_\_\_\_  
Richard Bryan

DCI 12/9775v 1

## Exhibit 1

CORP November 7, 2008 NLV Response  
 Using all Port Data Except Relay Railroad Materials Value  
 Using AMM-Chicago Index prices as of October 31, 2008

	Unit(s)	Unit Cost	Total	Grand Total
<b>Track Nominal Value</b>				
Relay Railroad Materials			\$9,907,300	
Scrap and Reroll Materials (net of transportation)			4,852,700	
Ties and Non-steel Materials			1,398,900	
Gross Liquidation Value				\$16,158,900
<b>Preparation Cost Adjustments</b>				
Rail & OTM Removal - Fit (miles)	12 4	\$14,000	(173,000)	
Rail & OTM Removal - Scrap (miles)	104 3	12,000	(1,251,700)	
Turnout Removal - Fit (each)	27	500	(13,500)	
Turnout Removal - Scrap (each)	14	400	(5,600)	
Total Adjustments				(1,443,800)
<b>Restoration Cost Adjustments</b>				
Highway Crossing - Public (each)	33	2,000	(66,000)	
Highway Crossing - Private (each)	43	350	(15,100)	
Total Adjustments				(81 100)
Preliminary Track Liquidation Value				\$14,634,000
<b>Transportation Expense</b>				
Relay Steel Materials - To Chicago, IL	169	5,745	(970,900)	
Scrap Steel Materials - To Chicago, IL	236	5,745	(1,355,800)	
<b>Administrative and Marketing Expense</b>				
Yard Costs			(405,949)	
Job Fee			(125,000)	
Cost of Money			(306,587)	
Profit			(1,620,825)	
Total Estimated Expense				(4,785,061)
<b><u>Net Liquidation Value</u></b>				<b>\$9,848,939</b>

## Exhibit 2

**CORP November 7, 2008 NLV Response  
Using all Port Data Except Relay Railroad Materials Value  
Using AMM-Chicago Index Prices As of *October 30, 2008***

	Unit(s)	Unit Cost	Total	Grand Total
<b>Track Nominal Value</b>				
Relay Railroad Materials			\$9,907,300	
Scrap and Reroll Materials (net of transportation)			5,301,000	
Ties and Non-steel Materials			1,398,900	
Gross Liquidation Value				\$16,607,200
<b>Preparation Cost Adjustments</b>				
Rail & OTM Removal - Fit (miles)	12 4	\$14,000	(173,000)	
Rail & OTM Removal - Scrap (miles)	104 3	12,000	(1,251,700)	
Turnout Removal - Fit (each)	27	500	(13,500)	
Turnout Removal - Scrap (each)	14	400	(5,600)	
Total Adjustments				(1,443,800)
<b>Restoration Cost Adjustments</b>				
Highway Crossing - Public (each)	33	2,000	(66,000)	
Highway Crossing - Private (each)	43	350	(15,100)	
Total Adjustments				(81,100)
Preliminary Track Liquidation Value				\$15,082,300
<b>Transportation Expense</b>				
Relay Steel Materials - To Chicago, IL	169	5,745	(970,900)	
Scrap Steel Materials - To Chicago, IL	236	5,745	(1,355,800)	
<b>Administrative and Marketing Expense</b>				
Yard Costs			(405,949)	
Job Fee			(125,000)	
Cost of Money			(306,587)	
Profit			(1,620,825)	
Total Estimated Expense				(4,785,061)
<b><u>Net Liquidation Value</u></b>				<b>\$10,297,239</b>

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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Oregon International Port of Coos Bay – Feeder Line	)	
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Pacific Railroad, Inc.	)	

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**VERIFIED STATEMENT OF ALAN PETTIGREW**

My name is Alan Pettigrew. I am Vice President-Purchasing for RailAmerica, Inc (“RailAmerica”). I am the same Alan Pettigrew who submitted verified statements previously in this proceeding. I have 32 years of experience working in the railroad industry, including 20 years with Southern Pacific Transportation Company, more than five years with the Union Pacific Railroad Company, and more than six years with RailAmerica. RailAmerica is the parent company of Central Oregon & Pacific Railroad, Inc (“CORP”). My business address is 7411 Fullerton Street, Suite 300, Jacksonville, Florida 32256. As Vice President Purchasing, I am responsible for the purchase and sale of railroad track, ties, and other track materials on a daily basis, on behalf of 41 short line and regional railroads that operate approximately 7,800 route miles in 25 States and three Canadian provinces.

The purpose of this Verified Statement is to respond to the additional evidence submitted on November 5, 2008 by the Oregon International Port of Coos Bay (the “Port”), concerning the Net Liquidation Value (“NLV”) of the track assets of the CORP’s Coos Bay Subdivision, and the supporting statement of its witness Mr. Davis. See Port’s Third Valuation Update. As my testimony shows, the Port has substantially understated the NLV of those track assets.

**I. Scrap Metal Value**

I understand that the Board has requested that the parties adjust the NLV estimates that they previously submitted on August 29 and September 12, respectively, based upon the quantities set forth in the Port's September 12 filing and American Metals Market ("AMM") prices for scrap metals as of October 31, 2008. This verified statement sets forth CORP's estimate of the NLV of track assets as of October 31, 2008 based on AMM index prices. As I explained in my prior testimony, the AMM price indices have consistently understated actual market prices for scrap and reroll quality steel in recent years. *See* V S Pettigrew at 16-17, Response of CORP to Feeder Line Application STB Dkt No 35160 (Aug 29, 2008), *see also id* Attachment 1 at 2-4, 8-9, Attachments 2-4. The revised bid to salvage the Coos Bay Subdivision tendered to CORP by LB Foster (*see* Attachments A & B) demonstrates that the AMM indices continue to understate substantially the actual prices that RailAmerica and its vendors obtain in actual market transactions.

Representatives of Unitrac and of LB Foster (both of which submitted actual, binding real-world bids for the track assets of the Line) have confirmed to me that, as of October 31, 2008, AMM prices continued to underestimate the prices that Unitrac and Foster have actually obtained in sales of rail and OIM as scrap metal. Accordingly, use of AMM Chicago scrap metal index prices to calculate the NLV of the track assets at issue in this proceeding would result in a very substantial understatement of the actual market value of those assets.

I have reviewed the Port's re-estimate of scrap rail, reroll rail, and scrap OTM values for the Coos Bay Subdivision using October 31, 2008 AMM Chicago index prices and the Port's September 12, 2008 estimate of quantities of scrap quality steel rail and OTM. *See* Port Third Valuation, V S Gene Davis (Nov 5, 2008) (supplemental statement of Port's track assets

valuation witness, which I will refer to as the "November V S Davis") I find Mr Davis' recalculation of the gross value of two of three scrap metal categories (scrap OTM and reroll rail) based upon the Port's quantity estimates and October 31 2008 AMM index prices to be acceptable *Compare* November V S Davis, Attachment B *with* Exhibit I (replicating Davis Attachment B with appropriate adjustments) With respect to the third category of scrap steel, the index category Mr Davis chose ("random rails") is not appropriate and understates the value of the Line's scrap rail assets As I have previously explained, the AMM Chicago index that most closely approximates the market value of scrap rail today is the "No. 1 busheling" index. *See* CORP Response V S Pettigrew at 16-17 (It should be noted that, in none of its multiple submissions regarding the NLV of the track assets has the Port presented any support for its use of the "random rails" index By contrast, CORP's prior testimony included confirmation from both Foster and Untrac that "No. 1 busheling" is the more appropriate AMM benchmark for this category of scrap rail ) Nevertheless, in order to minimize further disputes, and because on October 31, 2008 the difference between the No. 1 busheling and random rails index prices was only approximately \$25 per ton, I will accept the use of the AMM Chicago random rail index price, solely for purposes of adjusting the Port's NLV estimate to reflect October 31, 2008 AMM index prices *See* Exhibit I (using 10/31/08 random rail index price and Port's quantity estimates to calculate index value of scrap rail) Thus, CORP does not dispute the calculation of the gross value of scrap steel (based upon AMM index prices as of October 31, 2008) submitted by the Port on November 5, which is the only matter on which the Board's Decision requested additional evidence

However, the Board may not be aware that the relevant AMM index prices for scrap rail dropped by approximately 44 percent in a single day on October 31, 2008. As a result, the

AMM index prices for random rails (the index price discussed by the Board in its Decision) as of October 31 were approximately 68% lower than they were on October 1, and were far below the historical average prices prevailing during the 2006 – 2007 period. *See* Attachment C (table and graph showing AMM prices from 2006 through October 31, 2008) & D (AMM prices from October 1 – 31 2008). I have compiled a table of relevant AMM monthly average metals prices for the period from January 2006 to the present. *See id*. That table shows that the October 31, 2008 AMM index prices are far below any level they have experienced in the prior three years. For example, the index price of scrap OTM on October 31, 2008 was \$103, which is 49 percent below the price on October 30, 2008, 59% below the average price for 2007, 56 % below the average price for 2006, and 79 percent below the average price for 2008. *See id*. Based on my experience and the data set forth in Attachment C, I believe the AMM scrap metal prices index drop from October 30 to October 31, 2008 is an anomalous downward spike that resulted in a price for that date that is not indicative of general market prices and is substantially outside the normal historical range of steel scrap prices. *See id*. If the Board were to assign steel scrap prices at the October 31, 2008 AMM index levels, it would be assigning a value that is far lower than at any time in this proceeding or at any time in recent years.

**II. Relay Rail and Materials Value**

**A. Relay Material Prices Have Not Changed Significantly Since September 12.**

Although the Board did not authorize the parties to revise their estimates of the value of relay quality track materials, the Port submitted new evidence on the valuation of those assets and requested that the Board reduce the value assigned to them to a level far below that to which the Port (and CORP) had agreed in their September 12 and August 29 submissions, respectively. *See* November V S Davis at 2, Attachment H, *cf* Reply V S Davis Attachment H

(using higher relay materials values offered to CORP by LB Foster) As explained below, the market for relay assets is wholly independent of markets for scrap steel. Based on my monitoring and involvement in the relay market, an actual purchase offer from LB Foster, and discussions with experts, I believe that market prices for relay track and OTM did not change between September 12, 2008 and October 31, 2008. Accordingly, even if the Board were to entertain further evidence on relay materials values, the values for those assets should be the same as they were on September 12, 2008.

Relay quality materials are finished products that can be reused ("re-laid") in another location. Unlike steel scrap material (which is generally melted down and made into raw steel to be used in other products), relay rail and OTM prices do not follow the markets for scrap steel products. Rather, relay materials are separate, independent products whose prices are governed by supply of, and demand for, those products. LB Foster's General Manager confirmed this in his recent offer to purchase the assets of the Line, explaining that "the market for relay quality rail is independent of the market for scrap metals, and relay rail prices do not follow scrap metal prices." See R. Steininger Letter to A. Pettigrew (Nov. 6, 2008), copy at Attachment A. In recent years, the demand for relay quality rail and OTM has far exceeded supply. That was true in July, August, and September 2008, and it remains the case today. As of October 31, 2008 and through the date of this statement, the supply of relay materials continued to be low in relation to demand, and relay prices have remained at the same levels.

This week, LB Foster submitted a new purchase offer for the track assets of the Line. See Attachments A & B. That offer, which is binding on Foster and is not contingent on changes in metals prices, uses the very same relay rail and OTM prices that Foster used to develop its original bid. See *id.* The scrap metal values Foster used in developing that current

purchase offer are lower, reflecting the dramatic decline in scrap metal prices in October 2008. Thus, a real world purchase offer from a company that is active in the relay material market – an offer that CORP could accept today and form a binding contract --- used the same relay prices that Foster used in its August 2008 offer, which are the very same relay prices that the Port accepted and used to calculate the NLV of relay assets in its September 12 Reply evidence. See Reply V.S. Davis Attachment 11. Foster's use of the same relay material prices in its current offer that it used in its August 2008 offer confirms what I know from my own observation of, and involvement in, relay materials markets: relay prices remained stable from August 2008 through the end of October 2008.

**B. The Port Reduced Its Relay Value Estimate By \$2 Million Using Misleading And Unreliable Methods.**

My examination of the new evidence submitted by the Port indicates that the Port's new evidence does not show an actual decline in relay material market prices. In order to ascertain how the Port's latest estimates of the value of "Relay Railroad Materials" have changed from its September 12 Reply and September 30 Supplement,<sup>1</sup> I studied the verified statements of the Port's witness Gene Davis. In the Port's September 12 Reply, witness Davis estimated the value of relay materials at \$9,907,300. Reply V S Davis Attachments B & H. In doing so, witness Davis agreed with, and adopted, the relay rail prices used by LB Foster in its August 2008 bid that accompanied CORP's August 29 Reply evidence in the abandonment proceeding. Davis reduced this estimate to \$9,002,800 on September 30, Suppl Reply V S Davis Attachments B & H, and to \$7,915,500 on November 5, Update V S Davis Attachments B & H. All of these estimates use the material quantities identified by witness Davis on September 12, which the Board has determined should be used in calculating NLV. Decision, slip op. at 12.

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<sup>1</sup> While the Port also submitted further supplemental evidence on October 17 and again on October 30, that evidence sought to change only scrap metal asset values.

Mr. Davis' September 12 relay materials valuation estimate of \$9,907,300 was arrived at by using relay materials prices from the lower of two commercial purchase offers CORP had solicited in order to establish the NLV of the track assets. See Reply V S Davis Attachment H (indicating that the Port used relay materials values from LB Foster's purchase offer submitted with CORP's Response)

In his September 30 statement, Mr. Davis stated that he "contacted two new independent salvage companies, A&K Railroad Materials, Inc. [A&K], and Menard's Railroad Materials (Menard's)." to obtain different relay materials prices. Suppl Reply V S Davis at 3. (It should be noted that neither the Menard's nor the A&K prices relied upon by Mr. Davis were actual "bids" to salvage the Coos Bay Subdivision track assets. Rather, they appear only to be estimates of current relay rail prices. By contrast, CORP's proposed valuation for relay rail has, in each instance, been based upon firm offers by LB Foster and/or Unitrac.) While Mr. Davis submitted a written attachment listing Menard's prices, he did not disclose A&K's prices. *Id.*, Suppl Reply V S Davis Attachment Q. Instead, Mr. Davis created a worksheet listing the average of Menard's and A&K prices. Suppl Reply V S Davis Attachment H. However, it is not difficult to calculate the A&K prices from the Menard's prices and the average prices.<sup>2</sup> I determined that the A&K price quotes were significantly higher than the Menard's prices, and even slightly higher than the LB Foster prices. Despite Mr. Davis' claim that the price quotes he obtained from Menard's and A&K "were consistent with those supplied to CORP" by I.B. Foster and Unitrac, the new evidence he submitted on September 30 surreptitiously lowered the Port's

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<sup>2</sup> For example, the average price for 136# rail reported by Mr. Davis was \$969/ton, and the Menard's price reported was \$850/ton. To arrive at the A&K price, one multiplies the average price by two (the number of inputs) and subtracts the Menard's price:  $(\$969 * 2) - \$850 = \$1088$  (A&K quote)

relay materials valuation by more than \$900,000 to \$9,002,800. Suppl Reply V S Davis at 3 & Attachment B

In the Port's November 5 Third Valuation Update, the Port and Mr. Davis again reduced the Port's relay materials valuation, by obtaining new price quotes from Menard's, but not A&K or LB Foster, the two vendors used in previous Port valuation submissions Port Third Valuation Update at 2 By using only the Menard's new prices without averaging them with the much higher A&K prices, Mr Davis further reduced his relay estimate by more than \$1 million to \$7,915,500, thereby making it appear that the market prices of relay rail had fallen. A closer look at the two Menard's price quote lists shows that this is not the case Indeed, the majority of the relay prices quoted by Menard's rose from the September 30 submission to the November 5 submission rather than dropping as the AMM scrap price indices have.<sup>3</sup> This manipulation of select price estimates may give the illusion that the relay rail market has dropped from September 12 to October 31, but as LB Foster's purchase offer shows, this is not the case The following table lists the bids used by the Port in calculating relay rail values at various times

Comparison of Relay Prices

Steel (Rail)	Menard's 10/31	Menard's 9/28	Menard's & A&K (derived)	10/31 & 9/28 Difference Btw	9/12 Port prices (LBF)
Rail 136 pound per yard Jointed Fit #2	\$895	\$850	\$960	\$1,088	\$1,050
Rail 136 pound per yard CWR Fit #2	895	\$850	\$960	\$1,088	\$1,100
Rail 132 pound per yard Jointed Fit #2	795	\$850	\$960	\$1,088	\$1,050
Rail 132 pound per yard, CWR, Fit #2	795	\$850	\$960	\$1,088	\$1,100
Rail 115 pound per yard CWR Fit #1	995	1,000	1,125	\$1,250	\$1,150
Rail 115 pound per yard CWR Fit #2	895	\$850	\$1,028	\$1,208	\$1,100
Rail 112 pound per yard Jointed Fit #2	895	\$850	\$1,023	\$1,198	\$1,050
Rail 112 pound per yard, CWR, Fit #2	895	\$850	\$1,023	\$1,198	\$1,100

Mr Davis thus reduced his valuation of relay materials by approximately \$2 million from September 30 to November 5 (a period of price stability in the relay markets) by simply

<sup>3</sup> For example, the Menard's price quote submitted in Davis's September 30 Verified Statement (Attachment Q) stated \$850/net ton for 136lb Fit #2 In the most recent October 31 Menard's price quote, the estimate is \$895/net ton, an increase of 5.29%

changing vendors. In my opinion, this is compelling evidence of the superiority of using actual purchase offers instead of estimates made by consultants with nothing at stake to determine NLV.

Using the AMM steel scrap index prices submitted by the Port on November 5, the Port's materials quantities numbers, the same relay materials prices the Port adopted in its Reply evidence (which have been confirmed by L.B. Foster's latest bid for the Coos Bay line track assets), and the rest of the methodology the Port used in its November 5 submission, but excluding "negative" values assigned by the Port for removal of bridges and further sealing of tunnels yields an estimate of the NLV of the track assets of the Line of \$ 9,848,939. *See Exhibit 1.* This calculation strictly follows the directions of the Decision. Like the Port, CORP strongly disagrees with numerous elements of the Decision (including the use of AMM index prices, and Mr. Davis' materials quantities and methodology). Unlike the Port, CORP has submitted evidence that complies with the Decision.

**III. An Actual Non-Contingent Purchase Offer Establishes the Current Market Value of the Track Assets of the Line.**

Experienced rail materials and salvaging company L.B. Foster has submitted a new offer to purchase the track assets of the Line at issue in this proceeding. *See Attachments A & B.* As I discussed in my prior verified statements, an actual firm purchase offer from an experienced contractor is far superior to and more reliable than, an estimate submitted by a consultant based upon price indexes. If CORP accepts the offer, Foster will be contractually bound to pay the price it as offered for the track assets of the Line.

The L.B. Foster offer is based upon market prices for steel scrap and for relay materials as of October 31, 2008. *See id.* Consistent with the Board's prior rulings, it does not include removal of bridges or additional costs for closure of tunnels. L.B. Foster's current offer is not

**PUBLIC VERSION**

contingent on future changes in metals prices or on anything else. The total amount of Foster's offer for the track assets is \$[ ] See Attachments A & B (separate offers for the Abandonment Segment and the Vaughn-Danco Segment). That firm actual market-based offer is the best evidence of the NLV of the track assets of the Line. Adding the value of the real estate found by the Board (\$6,771,878) to the track assets NLV yields an overall NLV of the Line of \$[ ]. In my opinion, this is by far the best available estimate of the NLV of the Line as of October 31, 2008. The Board should find that the NLV of the Line is \$[ ]

I, Alan Pettigrew, 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.

  
Alan Pettigrew

Executed on November 7, 2008

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# **EXHIBIT A**

**REDACTED**

# **EXHIBIT B**

**REDACTED**

# **EXHIBIT C**

**AMM Monthly Average Prices - Chicago Market - US Dollar Per Gross Ton**

Month	Year	#1 Busheling	#1 RR Heavy Melt	Rerolling Rails	OTM	Rail Crops 18"	Rail Crops 2'	Random Rails
January	2006	\$ 245 00	\$ 233 50	\$ 325 00	\$ 243 50	\$ 319 50	\$ 313 00	\$ 211 50
February	2006	\$ 273 16	\$ 253 68	\$ 316 05	\$ 263 68	\$ 328 42	\$ 324 21	\$ 228 95
March	2006	\$ 278 39	\$ 257 00	\$ 315 00	\$ 265 00	\$ 330 00	\$ 325 00	\$ 230 00
April	2006	\$ 294 00	\$ 267 00	\$ 321 50	\$ 270 00	\$ 345 00	\$ 340 00	\$ 240 00
May	2006	\$ 313 64	\$ 270 14	\$ 325 00	\$ 284 32	\$ 359 32	\$ 354 32	\$ 244 77
June	2006	\$ 340 50	\$ 270 00	\$ 325 00	\$ 302 27	\$ 377 27	\$ 372 27	\$ 262 27
July	2006	\$ 345 00	\$ 268 30	\$ 325 00	\$ 305 00	\$ 380 00	\$ 375 00	\$ 265 00
August	2006	\$ 267 61	\$ 235 57	\$ 325 00	\$ 257 17	\$ 332 17	\$ 327 17	\$ 217 17
September	2006	\$ 277 25	\$ 243 50	\$ 325 00	\$ 263 50	\$ 330 00	\$ 325 00	\$ 215 00
October	2006	\$ 252 27	\$ 222 50	\$ 315 91	\$ 237 73	\$ 316 36	\$ 311 36	\$ 201 36
November	2006	\$ 223 83	\$ 211 25	\$ 315 00	\$ 221 25	\$ 306 50	\$ 301 50	\$ 191 50
December	2006	\$ 232 90	\$ 215 70	\$ 323 50	\$ 220 00	\$ 309 25	\$ 304 25	\$ 194 25
January	2007	\$ 256 86	\$ 239 67	\$ 333 10	\$ 240 24	\$ 330 24	\$ 325 24	\$ 211 19
February	2007	\$ 299 68	\$ 271 84	\$ 335 00	\$ 271 84	\$ 361 84	\$ 356 84	\$ 241 84
March	2007	\$ 364 09	\$ 338 64	\$ 335 00	\$ 338 64	\$ 410 45	\$ 405 45	\$ 290 45
April	2007	\$ 343 57	\$ 309 29	\$ 335 00	\$ 317 86	\$ 396 90	\$ 391 90	\$ 281 43
May	2007	\$ 289 32	\$ 268 64	\$ 335 00	\$ 269 55	\$ 358 64	\$ 353 64	\$ 243 64
June	2007	\$ 298 10	\$ 266 81	\$ 335 00	\$ 274 05	\$ 364 05	\$ 359 05	\$ 249 05
July	2007	\$ 300 00	\$ 263 57	\$ 335 00	\$ 266 43	\$ 365 00	\$ 360 00	\$ 250 00
August	2007	\$ 308 70	\$ 269 22	\$ 335 00	\$ 274 13	\$ 374 13	\$ 369 13	\$ 259 13
September	2007	\$ 329 68	\$ 287 89	\$ 348 42	\$ 288 42	\$ 388 42	\$ 383 42	\$ 273 42
October	2007	\$ 323 30	\$ 285 65	\$ 350 00	\$ 281 30	\$ 385 65	\$ 380 65	\$ 270 65
November	2007	\$ 303 30	\$ 276 25	\$ 350 00	\$ 271 50	\$ 376 50	\$ 371 50	\$ 261 50
December	2007	\$ 333 68	\$ 304 21	\$ 350 00	\$ 299 47	\$ 400 26	\$ 395 26	\$ 276 84
January	2008	\$ 406 67	\$ 364 52	\$ 386 43	\$ 369 76	\$ 437 38	\$ 431 90	\$ 320 48
February	2008	\$ 411 00	\$ 366 00	\$ 395 00	\$ 376 00	\$ 436 00	\$ 431 00	\$ 321 00
March	2008	\$ 427 14	\$ 382 14	\$ 416 43	\$ 396 43	\$ 447 86	\$ 442 86	\$ 341 43
April	2008	\$ 576 82	\$ 527 50	\$ 558 18	\$ 546 82	\$ 588 18	\$ 590 00	\$ 474 55
May	2008	\$ 697 14	\$ 558 10	\$ 631 43	\$ 650 95	\$ 693 81	\$ 695 95	\$ 559 76
June	2008	\$ 775 48	\$ 534 05	\$ 713 57	\$ 734 29	\$ 772 62	\$ 770 24	\$ 600 71
July	2008	\$ 866 14	\$ 565 00	\$ 802 27	\$ 582 50	\$ 862 27	\$ 849 09	\$ 605 00
August	2008	\$ 857 62	\$ 542 62	\$ 777 38	\$ 702 38	\$ 860 71	\$ 836 67	\$ 560 48
September	2008	\$ 595 71	\$ 368 57	\$ 646 46	\$ 527 38	\$ 649 76	\$ 632 86	\$ 336 67
October	2008	\$ 287 39	\$ 220 65	\$ 449 87	\$ 285 43	\$ 473 91	\$ 375 22	\$ 207 83
November	2008	\$ 127 50	\$ 115 00	\$ 242 00	\$ 115 00	\$ 300 00	\$ 275 00	\$ 100 00

<b>2006 Average</b>	\$ 278 63	\$ 245 68	\$ 321 41	\$ 261 12	\$ 336 15	\$ 331 09	\$ 225 15
<b>2007 Average</b>	\$ 312 52	\$ 281 81	\$ 339 71	\$ 282 79	\$ 376 01	\$ 371 01	\$ 259 10
<b>2006 &amp; 2007 Average</b>	\$ 295 58	\$ 263 74	\$ 330 56	\$ 271 95	\$ 356 08	\$ 351 05	\$ 242 12
<b>2008 Average</b>	\$ 548 06	\$ 413 10	\$ 547 18	\$ 480 63	\$ 592 95	\$ 575 53	\$ 402 54
<b>October 31, 2008</b>	\$ 130 00	\$ 115 00	\$ 242 00	\$ 115 00	\$ 300 00	\$ 275 00	\$ 100 00
<b>October 30, 2008</b>	\$ 215 00	\$ 175 00	\$ 360 00	\$ 225 00	\$ 400 00	\$ 275 00	\$ 180 00

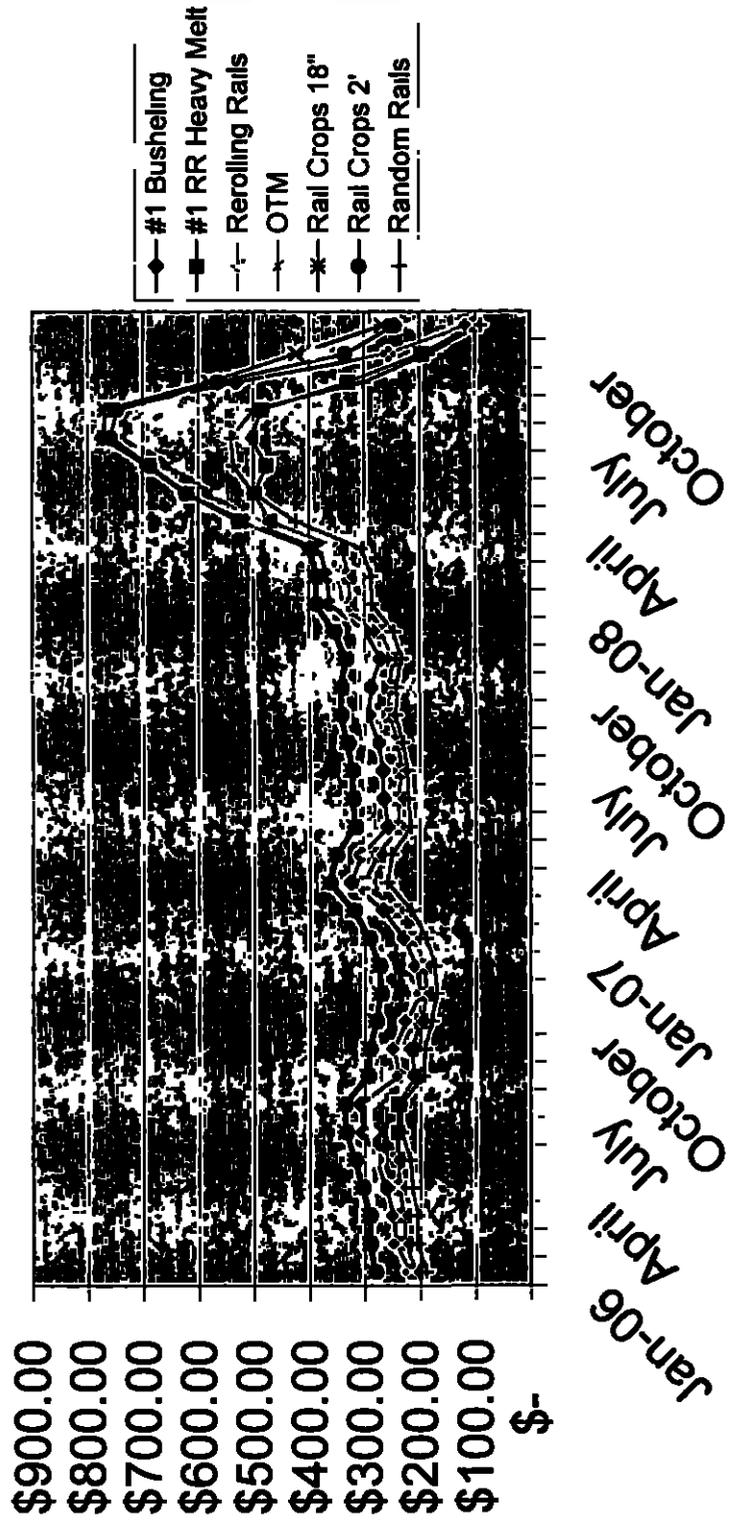
Source American Metals Market Scrap Iron and Steel Prices, Chicago Indices (2006-2008)

AMM Monthly Average Prices - Chicago Market - US Dollar Per Net Ton								
Month	Year	#1 Busheling	#1 RR Heavy Melt	Rerolling Rails	OTM	Rail Crops 18"	Rail Crops 2'	Random Rails
Jan-06	2006	\$ 218 75	\$ 208 48	\$ 290 18	\$ 217 41	\$ 285 27	\$279 46	\$ 188 84
February	2006	\$ 243 89	\$ 226 50	\$ 282 19	\$ 235 43	\$ 293 23	\$289 47	\$ 204 42
March	2006	\$ 248 56	\$ 229 46	\$ 281 25	\$ 236 61	\$ 294 64	\$290 18	\$ 205 36
April	2006	\$ 262 50	\$ 238 39	\$ 287 05	\$ 241 07	\$ 308 04	\$303 57	\$ 214 29
May	2006	\$ 280 04	\$ 241 20	\$ 290 18	\$ 253 86	\$ 320 82	\$316 36	\$ 218 54
June	2006	\$ 304 02	\$ 241 07	\$ 290 18	\$ 269 88	\$ 336 85	\$332 38	\$ 234 17
July	2006	\$ 308 04	\$ 239 55	\$ 290 18	\$ 272 32	\$ 339 29	\$334 82	\$ 236 61
August	2006	\$ 238 94	\$ 210 33	\$ 290 18	\$ 229 62	\$ 296 58	\$292 12	\$ 193 90
September	2006	\$ 247 54	\$ 217 41	\$ 290 18	\$ 235 27	\$ 294 64	\$290 18	\$ 191 96
October	2006	\$ 225 24	\$ 198 66	\$ 282 06	\$ 212 26	\$ 282 46	\$278 00	\$ 179 79
November	2006	\$ 199 85	\$ 188 62	\$ 281 25	\$ 197 54	\$ 273 66	\$269 20	\$ 170 98
December	2006	\$ 207 95	\$ 192 59	\$ 288 84	\$ 196 43	\$ 276 12	\$271 65	\$ 173 44
Jan-07	2007	\$ 229 34	\$ 213 99	\$ 297 41	\$ 214 50	\$ 294 86	\$290 39	\$ 188 56
February	2007	\$ 267 57	\$ 242 71	\$ 299 11	\$ 242 71	\$ 323 07	\$318 61	\$ 215 93
March	2007	\$ 325 08	\$ 302 36	\$ 299 11	\$ 302 36	\$ 366 47	\$362 01	\$ 259 33
April	2007	\$ 306 76	\$ 276 15	\$ 299 11	\$ 283 80	\$ 354 38	\$349 91	\$ 251 28
May	2007	\$ 258 32	\$ 239 86	\$ 299 11	\$ 240 67	\$ 320 21	\$315 75	\$ 217 54
June	2007	\$ 266 16	\$ 238 22	\$ 299 11	\$ 244 69	\$ 325 04	\$320 58	\$ 222 37
July	2007	\$ 267 86	\$ 235 33	\$ 299 11	\$ 237 88	\$ 325 89	\$321 43	\$ 223 21
August	2007	\$ 275 63	\$ 240 38	\$ 299 11	\$ 244 76	\$ 334 04	\$329 58	\$ 231 37
September	2007	\$ 294 36	\$ 257 04	\$ 311 09	\$ 257 52	\$ 346 80	\$342 34	\$ 244 13
October	2007	\$ 288 66	\$ 255 04	\$ 312 50	\$ 251 16	\$ 344 33	\$339 87	\$ 241 65
November	2007	\$ 270 80	\$ 246 65	\$ 312 50	\$ 242 41	\$ 336 16	\$331 70	\$ 233 48
December	2007	\$ 297 93	\$ 271 62	\$ 312 50	\$ 267 38	\$ 357 38	\$352 91	\$ 247 18
Jan-08	2008	\$ 363 10	\$ 325 46	\$ 345 03	\$ 330 14	\$ 390 52	\$385 63	\$ 286 14
February	2008	\$ 366 96	\$ 326 79	\$ 352 68	\$ 335 71	\$ 389 29	\$384 82	\$ 286 61
March	2008	\$ 381 38	\$ 341 20	\$ 371 81	\$ 353 96	\$ 399 88	\$395 41	\$ 304 85
April	2008	\$ 515 02	\$ 470 98	\$ 498 38	\$ 488 23	\$ 525 16	\$526 79	\$ 423 71
May	2008	\$ 622 45	\$ 498 30	\$ 583 78	\$ 581 21	\$ 619 47	\$621 38	\$ 499 79
June	2008	\$ 692 39	\$ 476 83	\$ 637 12	\$ 655 62	\$ 689 84	\$687 71	\$ 536 35
July	2008	\$ 773 34	\$ 504 46	\$ 716 31	\$ 520 09	\$ 769 88	\$758 12	\$ 540 18
August	2008	\$ 765 73	\$ 484 48	\$ 694 09	\$ 627 13	\$ 768 49	\$747 03	\$ 500 43
September	2008	\$ 531 88	\$ 329 08	\$ 577 20	\$ 470 88	\$ 580 14	\$565 05	\$ 300 60
October	2008	\$ 256 60	\$ 197 01	\$ 401 67	\$ 254 85	\$ 423 13	\$335 02	\$ 185 56
November	2008	\$ 113 84	\$ 102 68	\$ 216 07	\$ 102 68	\$ 267 86	\$245 54	\$ 89 29
<b>2006 Average</b>		\$ 248 78	\$ 219 36	\$ 286 98	\$ 233 14	\$ 300 13	\$295 62	\$ 201 02
<b>2007 Average</b>		\$ 279 04	\$ 251 61	\$ 303 31	\$ 252 49	\$ 335 72	\$331 26	\$ 231 33
<b>2008 &amp; 2007 Average</b>		\$ 263 91	\$ 235 48	\$ 295 14	\$ 242 81	\$ 317 93	\$313 44	\$ 216 18
<b>2008 Average</b>		\$ 489 34	\$ 368 84	\$ 488 56	\$ 429 13	\$ 529 42	\$513 86	\$ 359 41
<b>October 30, 2008</b>		\$ 191 96	\$ 158 25	\$ 321 43	\$ 200 89	\$ 357 14	\$245 54	\$ 160 71
<b>October 31, 2008</b>		\$ 116 07	\$ 102 68	\$ 216 07	\$ 102 68	\$ 267 86	\$245 54	\$ 89 29
<b>Random Rails Low Point Prior to 10/31/08</b>		\$ 188 56	\$ 188 56	\$ 188 56	\$ 188 56	\$ 188 56	\$188 56	\$ 188 56
<b>2007-2008 Average Per 10/31/08 STB Decision</b>		\$ 260 00	\$ 260 00	\$ 260 00	\$ 260 00	\$ 260 00	\$260 00	\$ 260 00

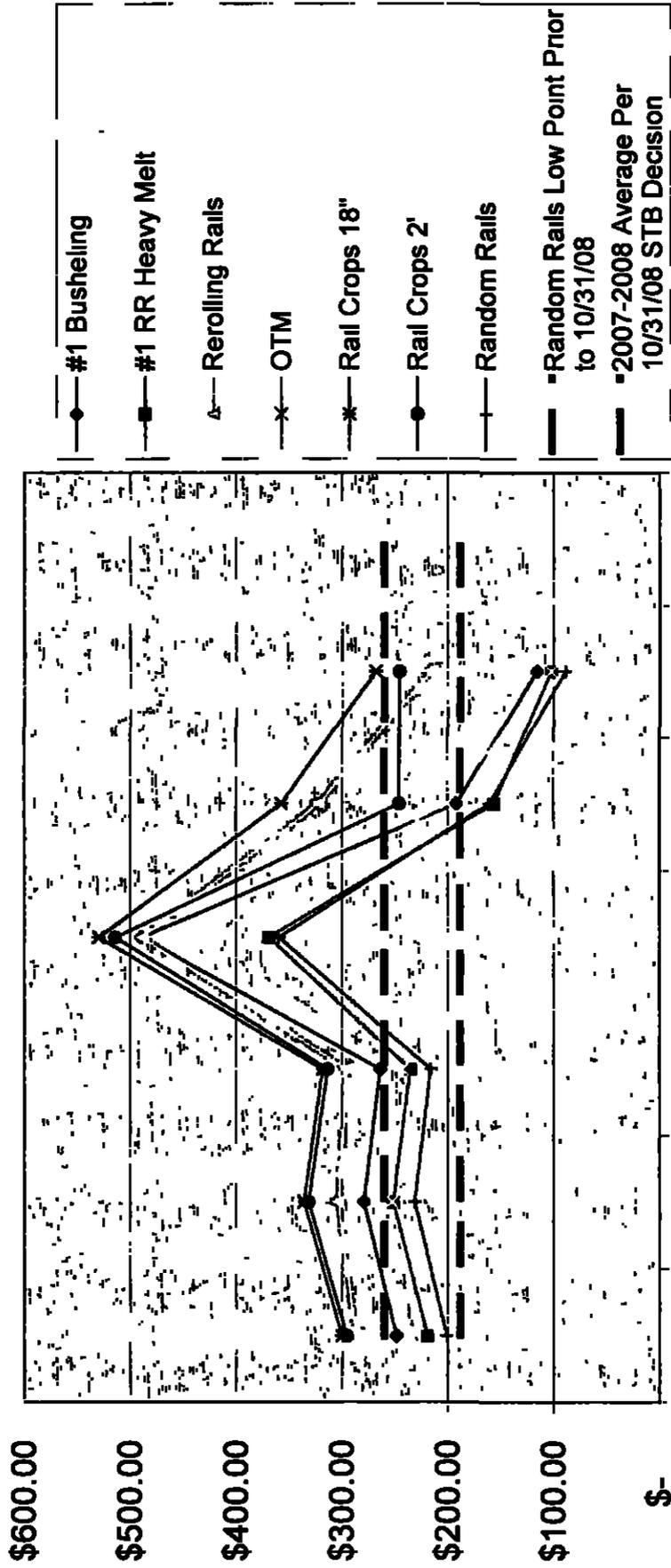
Source American Metals Market Scrap Iron and Steel Prices, Chicago Indices (2006-2008) Prices converted from gross ton to net ton basis by A. Pettigrew

# AMM Chicago Scrap Prices Jan 2006 - Nov 2008

## Monthly Average Prices



# AMM Chicago Scrap Prices



2006 Average 2007 Average 2008 Average  
 October 2008 Average

# **EXHIBIT D**

From 10/1/2008 Material Scrap, ferrous, random rails - Consumers Available from 1993-02-01  
 Unit of Measure US (short) / Gross Ton Last updated 2008-10-31  
 To 10/31/2008 Location Chicago

Report type Daily

Updated	Low price	High price
2008/10/01	310 00	310 00
2008/10/02	310 00	310 00
2008/10/03	310 00	310 00
2008/10/06	210 00	210 00
2008/10/07	210 00	210 00
2008/10/08	210 00	210 00
2008/10/09	210 00	210 00
2008/10/10	210 00	210 00
2008/10/11	210 00	210 00
2008/10/14	210 00	210 00
2008/10/15	210 00	210 00
2008/10/16	210 00	210 00
2008/10/17	210 00	210 00
2008/10/20	210 00	210 00
2008/10/21	180 00	180 00
2008/10/22	180 00	180 00
2008/10/23	180 00	180 00
2008/10/24	180 00	180 00
2008/10/27	180 00	180 00
2008/10/28	180 00	180 00
2008/10/29	180 00	180 00
2008/10/30	180 00	180 00
2008/10/31	100 00	100 00