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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**Ex Parte No. 704**

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**REVIEW OF COMMODITY, BOXCAR, AND TOFC/COFC EXEMPTIONS**

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**COMMENTS OF  
TEXAS CRUSHED STONE, INC.**

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**January 31, 2011**

Texas Crushed Stone, Inc. respectfully submits these comments regarding the Board's review of commodity, boxcar, and TOFC/COFC exemptions. My name is William B. (Bill) Snead; I am President of Texas Crushed Stone Company. For the past 51 years, Texas Crushed Stone has operated a limestone quarry halfway between Round Rock and Georgetown (Williamson County), Texas. In 2008, our family-owned business was No. 1 on the U.S. Geological Survey's list of top producing single quarries. The quarry spans about 7,500 acres and is the state's largest.

#### 1. BACKGROUND

The railroad industry has been a cornerstone for Texas Crushed Stone. My father, Edwin Brazelton Snead, went into business for himself when he founded E.B. Snead Construction Company in 1932. Ten years later, he opened his first quarry in Austin, TX on the Missouri Pacific Railroad. In 1947, he incorporated Texas Crushed Stone and also opened a second quarry, at the corner of MoPac and Far West Boulevard in Austin.

In 1958, with the limestone almost depleted in the second quarry, my father began looking for a new quarry site, which he found near Georgetown. At the same time, the Missouri Pacific Railroad was trying to abandon a branch line railroad running between Round Rock and Georgetown. Some Georgetown businessmen, however, wanted to ensure that their city would continue to be served by two railroads.

In those days, before Interstate 35 was built, having a quarry that far from Austin typically made shipping difficult, so he chose to locate his new quarry along

this rail line for easy access for shipments to Houston and east Texas. He and the businessmen worked together and incorporated the Georgetown Railroad. Historically, about half of what comes out of the quarry goes by rail. Georgetown Railroad connects with two Class I railroads, Burlington Northern Santa Fe Railroad (BNSF) and Union Pacific Railroad (UP).

In 1965 after a three-year tour of duty with the U.S. Air Force, I started working for my father full time. I am a graduate of Texas A&M University; I now serve as President of Texas Crushed Stone and I hold a majority interest in the Georgetown Railroad. However, this statement is filed on behalf of Texas Crushed Stone.

Texas Crushed Stone operates in a highly competitive industry. Limestone is a rock primarily composed of calcium carbonate that can form organically or chemically. No products are made from the rock at Texas Crushed Stone. The company simply removes limestone from the earth, breaks it into various sizes and supplies the resulting crushed stone, also known as aggregate, to various end users. The company's top sellers are used in concrete, hot mix asphalt, as a road base material and agricultural limestone, a soil fertilizer primarily used in East Texas and Louisiana. Every day, an average of 30,000 tons of rock is quarried at Texas Crushed Stone. One thousand trucks and until recently, 100 rail cars then ship the rock to construction jobs in Central and East Texas. Texas Crushed Stone employs 120 people.

Limestone is an exempt commodity, so 100% of Texas Crushed Stone's rail shipments are exempt from regulation by the Surface Transportation Board (STB or Board).

It is my understanding that the exemption provisions pertaining to railroads were first adopted in the Railroad Revitalization and Regulatory Reform Act (4R Act) of 1976, and later modified in the Staggers Rail Act of 1980. However, I do not recall that anyone ever solicited an opinion from me personally or from Texas Crushed Stone, regarding the potential benefits or disadvantages of being a shipper of an exempt commodity. If they had, it is possible that we would not have viewed the exemption as a problem because the business environment was different when the Staggers Rail Act was passed. In the 1980's, the major railroads scrambled for market share. The railroads had excess capacity, so they aggressively competed with motor carriers and the rail-to-rail competition that was in place for many rail customers created an industry culture that focused heavily on competition.

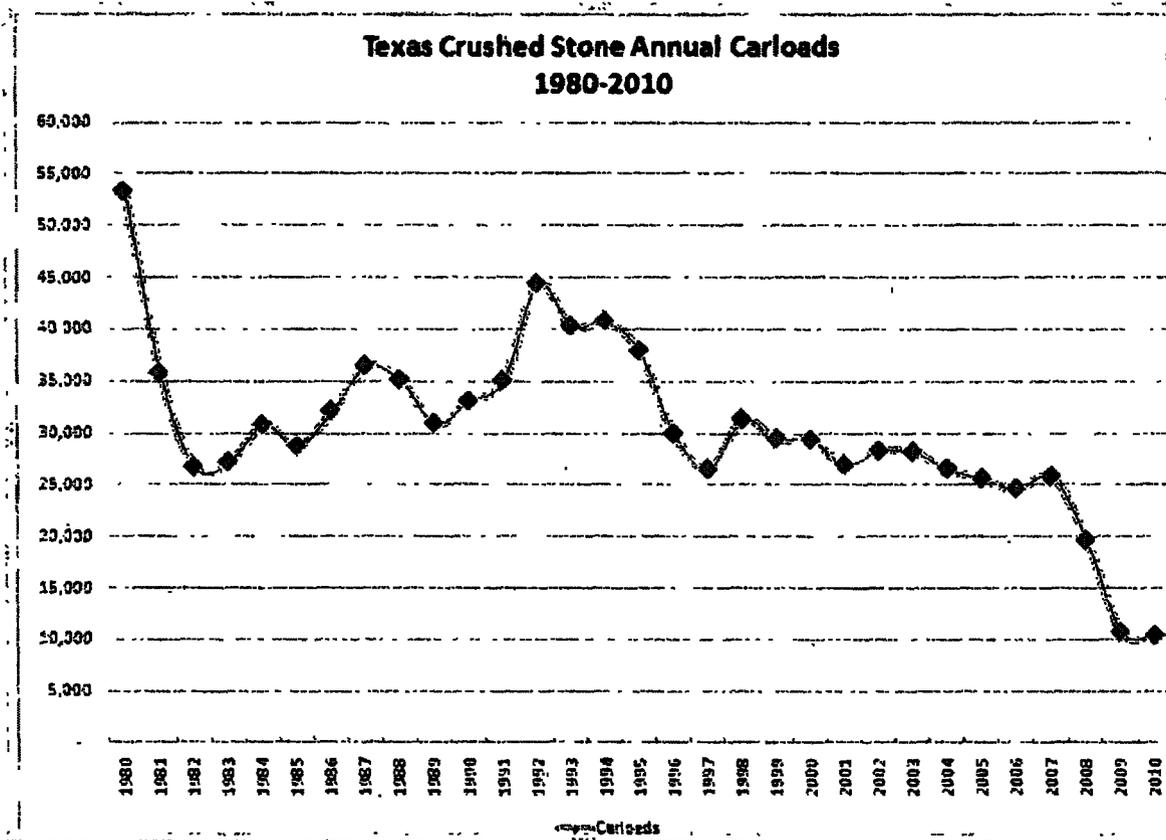
However, the business landscape of the rail industry has changed significantly since the passage of the Staggers Rail Act. The number of Class I railroads consolidated from 22 companies in 1980 to only seven today, and four of those generate 95% of Class I revenues. Total miles of rail line in the United States decreased from about 170,000 miles in 1980 to slightly more than 100,000 miles in 2000. As part of the rationalization, the number of locomotives decreased by 30 percent, the number of freight cars fell by 23 percent, and railroad employment declined by 56 percent. This shrinkage of rail capacity affects all modes of transportation.<sup>1</sup>

Today, the railroads have incredible pricing power and they have made decisions that have made a significant negative impact on Texas Crushed Stone's

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<sup>1</sup> "Statistics Not the Whole Story for Rails", Patricia Abbate, Traffic World Magazine, February 13, 2006.

ability to be market competitive. It has been very difficult to understand their point of view as it seems our business would fit their business models. Georgetown Railroad furnishes the cars, and we ship unit trains or multiple car shipments based on our customers' track capacity, so it is good "hook and haul" business for the Class I carriers. Yet we have experienced a series of aggressive rate increases and more than one railroad representative told us they did not want our business. While Georgetown Railroad connects with two Class I railroads, the preponderance of the shipments are captive as most of the customers are local to one railroad. Truck is not a practical solution as there are not enough trucks or drivers to handle the volumes we have shipped in the past. Bottom line result is we have lost business. Shown below is a graph of our annual carloads since 1980.



Our customers tell us our rail rates place us at a disadvantage. Last year, we consulted with a transportation attorney and we hired a consultant who performed a benchmarking study. We learned from the study that some of our competitors have lower rates and that our business is good, profitable business for the railroad. Further, we confirmed that the rates exceed regulatory guidelines (180% of variable costs). We met with the offending railroad and presented our case, focusing on the fact we are not competitive and the resulting loss of business, but they maintained their position.

We considered the option of coming to the STB with a complaint, but we would have been required to request revocation of the exemption and were reluctant to assume additional legal costs, especially when the outcome would have been uncertain.

2. Texas Crushed Stone Needs to Have Access to the STB to Obtain Relief from Unreasonable Rates and Practices

Texas Crushed Stone commends the Board for opening this proceeding and initiating a process to determine if certain current class-wide exemptions should be continued or revoked. Texas Crushed Stone and other aggregate shippers need to have access to the Board to seek relief from rates or unreasonable practices. Many of our shipments are captive to one railroad and we should have the same legal options as non-exempt rail customers.

The class-wide exemptions have been the subject of criticism in numerous proceedings and S. 2889, the STB Reauthorization Bill that was developed by the Senate Commerce, Science and Transportation Committee in consultation with the

freight rail industry and rail customers would require the Board to address the exemptions. I could cite some of the legal arguments presented in some of these proceedings, but I decided instead to simply speak from the heart and to focus on the impact this issue has on my business.

We believe our request for revocation of the exemption on shipments of aggregates is basic common sense, and it is only fair and reasonable. This does not necessarily mean that we are planning to react by filing a complaint with the Board, but we should have that option if needed.

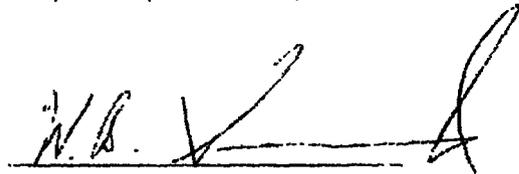
I would like to state that currently, we have an excellent relationship with BNSF. Others have told me they are reluctant to participate in this proceeding because they are concerned about protecting relationships with their carriers. However, this is a decision that will have an impact long term and experience has taught us that the industry can change and companies change personnel and policies, so our ability to access the Board is a current and future need.

Further, the possibility of revocation of exemptions does not justify continuation of the exemptions. It is my understanding that there have been a few instances where the STB has revoked class exemptions to allow rail customers limited access to the Board. However, the need to request revocation of an exemption is a barrier that has discouraged Texas Crushed Stone from approaching the Board, and my guess is it has been a barrier for others as well. The fact that the Board has the ability to partially revoke an exemption to provide relief to exempt rail customers that deserve relief, underscores the fact that the class exemptions do not appear to serve any purpose.

3. Summary.

Texas Crushed Stone encourages the Board to repeal the class-wide exemption on aggregates. The business landscape in the railroad industry has changed since the Staggers Rail Act was enacted. Competition has been reduced as a result of a series of rail mergers and acquisitions and some railroads have abused their market power. We need the ability to go to the Board to seek relief from unfair rates and unreasonable practices, if we are to protect our current and future interests.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'W. B. Snead', written over a horizontal line.

**William B. Snead, President  
Texas Crushed Stone, Inc.**