



PETER KIEWIT SONS', INC.

KIEWIT PLAZA – OMAHA, NEBRASKA 68131 – (402) 342-2052

July 29, 2005

Director, TA&I-FSP
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, Connecticut 06856-5116

Letter of Comment No: 6
File Reference: FSP123R-A
Date Received:

Re: Proposed FASB Staff Position No. 123(R)-a.

Dear Director:

We thank you for the opportunity to comment on the Proposed FASB Staff Position No. 123(R)-a, "The Classification and Measurement of Freestanding Financial Instruments Originally Issued as Employee Compensation" ("FSP 123R-a"). We are extremely concerned with the severe and inappropriate impact that we believe Statement of Financial Accounting Standards No. 123R, "Share-Based Payment" ("SFAS No. 123R") will have upon the business operations of Peter Kiewit Sons', Inc. ("PKS"). In particular, we are troubled by the interaction of Financial Accounting Standards No. 150, "Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity" ("SFAS No. 150") and SFAS No. 123R. We believe that, given the Financial Accounting Standards Board's ("FASB") tentative conclusions as described in the recently issued Milestone Draft regarding the proposed classification for single-component financial instruments and certain other instruments (the "Milestone Draft"), FSP 123R-a must state clearly that the provisions of paragraph 29 of SFAS No. 123R as they apply to book value stock plans currently accounted for under Emerging Issues Task Force Issue No. 87-23, "Book Value Stock Purchase Plans" ("EITF 87-23") are deferred until FASB has amended or replaced SFAS No. 150 and all related FSPs. Such a statement is clearly consistent with the intent of FSP 123R-a.

PKS was founded in 1884 and is one of the largest construction contractors in North America. PKS' revenue and net income for the fiscal year 2004 were \$3.4 billion and \$201 million, respectively, and total redeemable common stock was \$1.3 billion as of December 25, 2004. PKS is a non-public entity as defined by SFAS No. 123R and SFAS No. 150. PKS has more than 500 stockholders, and therefore Section 12(g) of the Securities Exchange Act of 1934 requires PKS to register with the Securities and Exchange Commission (the "SEC") although no shares of PKS common stock are listed on any national exchange.

PKS' equity consists entirely of common stock that generally may only be owned by employees, and that is subject to repurchase agreements. Under the terms of the repurchase agreements, PKS is committed to purchase all common stock at the amount computed pursuant to its Restated Certificate of Incorporation in the event that the stockholder dies, retires, resigns or employment is otherwise terminated. (See Attachment 1 for a more complete description of PKS' common stock.) These agreements represent the only means for stockholders to realize value for their interest in PKS, and are central to PKS' desire to limit ownership solely to active employees and

directors. PKS' employee-owned stock program is a cornerstone of its historical and ongoing success.

Currently, PKS' redeemable common stock is accounted for under stock under EITF 87-23. Additionally, PKS has communicated the nature of the common stock to its numerous financial statement users for many years by presenting the stock under the caption "redeemable common stock", identifying the redemption value parenthetically within that caption on the face of the balance sheet, and by disclosing the terms of the stock in the footnotes to the financial statements as required by Regulation S-X 5-02.28 and ASR 268. Paragraph 17 of SFAS No. 150 indicates that statement does not apply to obligations under stock-based compensation arrangements if they are accounted for under APB Opinion No. 25, FASB Statement No. 123, AICPA Statement of Position 93-6 *or related guidance* (emphasis added). We believe that EITF Issue No. 87-23 is a stock based compensation arrangement under paragraph 17 of SFAS No. 150 and, PKS' redeemable common stock is not within the scope of SFAS No. 150. This position was reached in conjunction with consultation with our independent registered public accounting firm, KPMG LLP ("KPMG"), who confirmed with the FASB staff that EITF 87-23 is considered related guidance. Upon adoption of SFAS No. 123R, the scope exclusion previously provided under SFAS No. 150 will be nullified, and, as a result, the consequence of SFAS No. 123R will be to place PKS back in the scope of SFAS No. 150. Paragraph 29 of SFAS No. 123R, describes how that Statement interacts with SFAS No. 150 as follows.

FASB Statement No. 150, *Accounting for Certain Financial Instruments with Characteristics of both Liabilities and Equity*, excludes from its scope instruments that are accounted for under this Statement. Nevertheless, unless paragraphs 30—35 of this Statement require otherwise, an entity shall apply the classification criteria in paragraphs 8—14 of Statement 150, as they are effective at the reporting date, in determining whether to classify as a liability a **freestanding financial instrument** given to an employee in a share-based payment transaction. Paragraphs A230—A232 of this Statement provide criteria for determining when instruments subject to this Statement subsequently become subject to Statement 150 or to other applicable GAAP.

This description, along with the examples provided in Illustrations 11a and 21 of Appendix A indicates to us that PKS' common stock would fall under the provisions of SFAS No. 150 as a result of paragraph 29 of SFAS No. 123R.

Since the issuance of SFAS No. 150, the FASB deferred, through the issuance of FASB Staff Position 150-3 ("FSP 150-3"), the provisions of SFAS No. 150 as they relate to mandatorily redeemable financial instruments of certain nonpublic entities. Although this deferral has been helpful for the entities affected, it places PKS at a disadvantage in relation to the nonpublic entities affected by the deferral of SFAS No. 150, as the public company definition has been expanded to include all SEC registrants (including Section 12(g) filers). In fact, we believe that the impact of SFAS No. 150 upon the financial statements of PKS will be virtually unique. Since publicly traded companies do not use mandatorily redeemable equity as their primary source of capital, and since all nonpublic entities that are not registered with the SEC have received the aforementioned deferral, only an extremely limited number of companies like PKS will have their equity and net income eliminated by SFAS No. 150. In fact, we cannot find another similarly affected company.

Since the issuance of SFAS No. 150, the FASB has continued to consider that Statement's implications for mandatorily redeemable financial instruments through the Financial Instruments Liabilities and Equity Project. Based upon its reconsideration of those provisions, the FASB has reached a tentative conclusion that single component instruments that create a direct ownership

relationship would be displayed within the equity section of the balance sheet. Our redeemable common stock appears to fall within those definitions of paragraph 20 of the Milestone Draft :

.20. Direct ownership instruments must have both of the following characteristics:

- a. The instruments represent proportional claims to share of the net assets of the entity that are neither limited nor guaranteed (that is, there is no ceiling or floor other than zero net assets) either before or after liquidation. An instrument that is redeemable at book value or a formula base on book value also meets this characteristic if (1) there is no active market for the instrument or (2) the instrument can be exchanged only with the reporting entity.
- b. The claims represented by the instruments have no priority over any other claims if the issuer were to liquidate on the date the classification decision is being made.

Currently, SFAS No. 123R, and thus indirectly SFAS No. 150, will be effective for PKS beginning January 1, 2006, PKS' first quarter. Upon adoption, PKS will be forced to reclassify its redeemable common stock to a liability. This effective date coincides with when the FASB currently intends to issue a Preliminary Views document regarding the tentative conclusions. When the tentative conclusions described above ultimately become codified, PKS will have reported its common stock as a liability for a relatively short period of time, and then will be required to change back to an equity presentation that is similar to today's presentation. We believe that such a transition will be very confusing for the users of our financial statements, particularly considering that there would be no change in the underlying nature of the redeemable common stock or PKS' stock ownership plan.

This potentially temporary liability classification of PKS redeemable common stock places PKS at a significant disadvantage in a number of ways.

- o PKS will be unable to satisfy net worth and credit quality requirements required for bidding. The lack of flexibility in state laws precludes PKS from obtaining an exemption from the prequalification rules by merely explaining the impact of SFAS No. 150.
- o Bonding and licensing often have net worth and credit quality requirements. Convincing third parties that no fundamental economic change in the enterprise has occurred, despite the accounting change, will not be possible in many circumstances
- o Financing, letter of credit arrangements, and subcontractor relationships normally involve net worth and credit quality requirements. Again, convincing these third parties that no fundamental change has occurred will not be possible in many circumstances.
- o PKS' publicly traded competitors will generally not face this situation. Their common stock is not generally subject to "mandatory redemption" and, as such, they will continue to classify their shares as equity. Therefore, public companies, only by the convention of the accounting, will be able to satisfy net worth and credit quality requirements whereas PKS will not.
- o FSP 150-3's deferral provisions mean that PKS will be at the same disadvantage when comparing itself to nonpublic companies simply by virtue of the fact that they qualify for the deferral.

The concerns described above are more thoroughly described in our letters dated June 25, 2004 and September 24, 2003 which are attached for your reference as Attachments 2 and 3. These concerns are even more distressing when it is considered that the conclusions of SFAS No. 150 may be reversed in the near future as part of the Financial Instruments Liabilities and Equity project as described above. Changes of this nature will undoubtedly be extremely confusing for

the users of PKS' financial statements and will occur without any change to the nature of PKS or PKS' common stock.

To summarize the points we have made above, we believe:

1. Book value stock purchase plans of nonpublic companies are currently accounted for under the provisions of EITF 87-23 and are not within the scope of SFAS No. 150,
2. Book value stock purchase plans of nonpublic companies will be within the scope of SFAS No. 123R beginning the first quarter of calendar 2006,
3. SFAS No. 123R paragraphs 29 and A 230 –A232 put book value stock purchase plans back within the scope of SFAS No. 150,
4. Given the deferral provided by FSP 150-3 and the capital structure of publicly traded companies, the application of SFAS No. 150 to PKS will result in a unique outcome in which equity and net income are eliminated,
5. Such presentation puts PKS at a clear disadvantage, and PKS strongly believes that this is an incorrect accounting treatment for the redeemable common stock,
6. The preliminary conclusions of the Milestone draft affirm PKS' belief that SFAS No. 150 has reached an incorrect conclusion with regard to book value stock purchase plans like PKS',
7. FSP 123R-a is intended to provide relief in situations like PKS' in which current accounting could be significantly changed through the Financial Instruments Liabilities and Equity project,
8. FSP 123R-a appears to provide relief for PKS' situation, but the language in the proposal does not clearly confirm that is the case.

As a result, we believe that FSP 123R-a must clearly state that the provisions of paragraph 29 and A203 –A232 of SFAS No. 123R, as they apply to book value stock purchase plans currently accounted for under EITF 87-23, are deferred until FASB has amended or replaced SFAS No. 150 and all related FSPs. Companies, whether public or non-public, with book value stock purchase plans such as PKS' must not be required to implement the provisions of SFAS No. 150 until work is completed on the Financial Instruments Liabilities and Equity project.

In assessing the impact of SFAS No. 123R and indirectly SFAS No. 150, we have consulted with KPMG. More specifically, we discussed these issues with Dan Koraleski, local KPMG Engagement Partner, John Lindell, KPMG SEC Concurring Review Partner, Carmen Bailey, Department of Professional Practice Partner, and Brian Stevens, Senior Manager at the Department of Professional Practice.

Thank you for your consideration.

Sincerely,

/s/ Michael J. Piechoski
Michael J. Piechoski
Senior Vice President and Chief Financial Officer

/s/ Michael J. Whetstine
Michael J. Whetstine
Controller and Assistant Secretary

Attachment 1
Description of Peter PKS Sons', Inc.'s Common Stock and Employee Ownership Plan

PKS has more than 500 record owners ("Stockholders") of its \$0.01 par value common stock ("PKS Stock"), and PKS Stock is registered under the Securities and Exchange Act of 1934, as amended (the "1934 Act"), pursuant to Section 12(g) thereof. There is no public market for PKS Stock. Ownership of PKS Stock is generally restricted to "Employees" as that term is defined in PKS' Restated Certificate of Incorporation (the "Certificate"). Each sale is contingent upon execution of a repurchase agreement which generally requires that PKS Stock be sold back to PKS upon the purchaser's death, retirement, or termination of employment. Under the Certificate, other than transfers upon foreclosure of certain loans secured by such PKS Stock, the holders of PKS Stock may not sell such stock to anyone except PKS. PKS must generally repurchase PKS Stock upon demand, for cash. PKS' Board of Directors ("Board") has the power to suspend PKS' duty to repurchase PKS Stock for as long as one year, under certain circumstances. Under the Certificate, PKS Stock can be sold by PKS only to Employees at a formula price and can be resold only to PKS at the then-applicable formula price. The formula price of PKS Stock is defined in the Certificate and is related to the book value of PKS.

The Board and management, in their sole discretion, select the Employees to whom PKS Stock will be offered and determine the number of shares to be offered. PKS Stock is offered only to Employees who are satisfactorily performing on a continuing basis in either an executive, managerial, administrative or professional capacity, and who are paid on a salaried basis. The following factors are among those considered in determining whether an Employee will be offered PKS Stock and the amount of PKS Stock to be offered: the Employee's effort and relative contribution to PKS' economic performance; the Employee's level of responsibility; potential displayed by the Employee; the Employee's length of service; and the amount of securities presently owned by the Employee. If the Board determines that a Stockholder owns an excessive amount of PKS Stock, the Board may require the Stockholder to sell some or all of such PKS Stock back to PKS. If a Stockholder voluntarily sells only some of his or her PKS Stock, PKS may repurchase the remaining shares.

PKS is not required to offer PKS Stock in any particular year, nor is PKS obligated to offer PKS Stock to any particular Employee (whether or not that person is already a Stockholder) in any particular year.

Full payment of the purchase price must be received by PKS before shares of PKS Stock will be issued. PKS does not provide credit to individuals to enable them to purchase PKS Stock. PKS has no payroll deduction program in connection with purchases of PKS Stock.

The Certificate provides that PKS Stock may be pledged by Employees for loans in connection with the ownership of PKS Stock. The Certificate also provides that "qualified financial institutions" to which PKS Stock has been pledged may own such PKS Stock upon foreclosure of such PKS Stock, provided that such qualified financial institutions shall be required to sell such PKS Stock back to PKS at any time upon ten (10) days' written notice and demand by PKS.

Attachment 2



PETER KIEWIT SONS', INC.

KIEWIT PLAZA – OMAHA, NEBRASKA 68131 – (402) 342-2052

June 25, 2004

Ms. Suzanne Bielstein
Director of Major Projects and Technical Activities
Financial Accounting Standards Board
401 Merritt 7, P.O. Box 5116
Norwalk, Connecticut 06856-5116

Re: Exposure Draft of a Proposed Statement of Financial Accounting Standards, "Share-Based Payment" (File Reference No. 1102-100)

Dear Ms. Bielstein:

We wish to express our serious concerns regarding the severe impact that we believe the Exposure Draft of a Proposed Statement of Financial Accounting Standards, "Share-Based Payment" (the "ED") will have upon the business operations of Peter Kiewit Sons', Inc. ("PKS"). In particular, we are troubled by the provisions regarding the interaction of the ED with Statement of Financial Accounting Standards No. 150 ("SFAS No. 150"). We believe that the provisions of the ED will cause PKS to comply with the provisions of SFAS No. 150, placing PKS at a significant disadvantage in relation to both our publicly traded and private competitors. In addition to our concerns regarding the interaction of the ED with SFAS No. 150, we believe that the ED should directly address and exclude from its scope certain convertible debt issued to employees.

PKS was founded in 1884 and is one of the largest construction contractors in North America. PKS' revenue and net income for the fiscal year 2003 were \$3.4 billion and \$157 million, respectively, and total redeemable common stock was \$1.1 billion as of December 31, 2003. PKS is a non-public entity as defined by the ED and SFAS No. 150. PKS has more than 500 stockholders, and therefore Section 12(g) of the Exchange Act requires PKS to register with the SEC although no shares are listed on any national exchange.

PKS' equity consists entirely of common stock that may only be owned by employees, and that is subject to repurchase agreements. Under the terms of the repurchase agreements, PKS is committed to purchase all stock at the amount computed pursuant to the Restated Certificate of Incorporation in the event that the stockholder dies, retires, resigns or is otherwise terminated. (See Attachment 1 for a more complete description of PKS' common stock.) *(This Attachment is the same as Attachment 1 above, and has not been repeated with this letter.)* These agreements represent the only means for stockholders to realize value for their interest in PKS, and are central

to PKS' desire to limit ownership solely to active employees and directors. Our employee-owned stock program is a cornerstone of our historical and ongoing success.

As mentioned above, we are deeply concerned by the provisions regarding the interaction of the ED with SFAS No. 150. Currently, SFAS No. 150 specifies that the provisions of that statement do not apply to obligations under stock-based compensation arrangements if those obligations are accounted for under APB Opinion No. 25, "Accounting for Stock Issued to Employees," FASB Statement No. 123, "Accounting for Stock-Based Compensation", AICPA Statement of Position (SOP) 93-6, "Employers' Accounting for Employee Stock Ownership Plans", or related guidance. PKS accounts for the redeemable common stock under EITF No. 87-23, "Book Value Stock Purchase Plans", which is considered to be related guidance. As a result, PKS does not classify the redeemable common stock as a liability under SFAS No. 150.

Paragraph 39A of Appendix A, however, describes how the ED interacts with SFAS No. 150 as follows.

Statement 150 excludes from its scope instruments that are accounted for under this Statement. Nevertheless, an entity shall apply the classification criteria in paragraphs 8-14 of Statement 150 as they are effective at the reporting date in determining whether to classify as a liability a freestanding financial instrument granted to an employee in a share-based payment transaction.

This description, along with the examples provided in Illustrations 10a and 20 of Appendix B indicates to us that PKS' common stock would fall under the provisions of SFAS No. 150 if the ED is adopted as currently written.

Under a letter dated September 24, 2003, we expressed to you our concerns regarding the severe impact that we believe SFAS No. 150 will have upon PKS. We have attached that letter for your reference as Attachment 2 (*This Attachment has been renumbered to Attachment 3 herein.*). In that letter, we indicated our belief that, among other things, SFAS No. 150 places PKS at a significant disadvantage in relation to our publicly traded competitors, and we urged the Financial Accounting Standards Board (the "Board") to reconsider its decision to make SFAS No. 150 applicable to nonpublic entities, as that term is defined in SFAS No. 150. Since that time, the Board wisely considered the points that were included in our letter as well as the letters of numerous others, and deferred, through the issuance of FASB Staff Position 150-3 ("FSP 150-3"), the provisions of SFAS No. 150 as they relate to mandatorily redeemable financial instruments of certain nonpublic entities. Although this deferral has been helpful for the entities affected, it places PKS at a further disadvantage in relation to the nonpublic entities affected by the deferral if SFAS No. 150 should become applicable to PKS' common stock. In fact, we believe that the impact of SFAS No. 150 upon the financial statements of PKS will be virtually unique. Since publicly traded companies do not use mandatorily redeemable equity as the majority of their capital, and since all nonpublic entities that are not registered with the Securities and Exchange Commission ("SEC") have received a deferral, only an extremely limited number of companies like PKS will have their equity and net income eliminated by SFAS No. 150. We therefore urge the Board to either 1) continue to exclude from the scope of SFAS No. 150 instruments issued through a share-based payment arrangement or 2) expand the deferral of SFAS No. 150 to include all nonpublic entities, including SEC registrants that are not publicly traded, as that term was originally defined in SFAS No. 150, until the Board completes its reconsideration of that standard.

SFAS No. 150 requires classification of "mandatorily redeemable financial instruments" as liabilities. A financial instrument is mandatorily redeemable if it requires unconditional

redemption by transferring assets at a specified or determinable date or upon an event that is certain to occur. Among such events are death or the termination of employment of an individual stockholder. PKS' common stock appears to meet this definition. Since all of our equity is in the form of mandatorily redeemable instruments, the requirements of SFAS No. 150 will eliminate PKS' net worth. Additionally, PKS' net income will be eliminated as we will be required to record interest expense equal to the growth in the redemption value of the common stock.

To our knowledge, PKS is the only entity registered with the SEC with equity consisting entirely of mandatorily redeemable stock. A limited inquiry made by our independent public accountants has confirmed this belief. Allowing that our search for similar entities may not be entirely complete, PKS is none the less a member of a very small population. As a result, it is apparent that the provisions of SFAS No. 150 that would eliminate the net worth of entities similar to PKS will apply only to a very small group of entities.

PKS has communicated the nature of the common stock to its numerous financial statement users for many years by presenting the stock under the caption "redeemable common stock", identifying the redemption value parenthetically within that caption on the face of the balance sheet, and by disclosing the terms of the stock in the footnotes to the financial statements as required by Regulation S-X 5-02.28 and ASR 268. We find the changes to this presentation that are required by SFAS No. 150 to be extremely problematic.

We believe that the classification of our common stock as a liability under SFAS No. 150 places PKS at a significant disadvantage in relation to our competitors because many large state and federal agencies require minimum "tangible net worth" as a prequalification to submitting bids. Since SFAS No. 150 will eliminate PKS' net worth, PKS will be placed at a disadvantage as it will be unable to satisfy net worth and credit quality requirements, and therefore will be unable to qualify as a bidder on construction contracts. Further, PKS will be unable to obtain financing, letters of credit, bonding and licensing, and will be unable to establish or maintain vendor and subcontractor relationships. Additionally, since the provisions of SFAS No. 150 will also eliminate net income, PKS will appear to not be a profitable enterprise. This is true even though the financial position, operations and underlying economic characteristics of PKS have remained unchanged. PKS has long been recognized as a financial leader in the construction industry, yet it will now find itself at a competitive disadvantage when compared to both its nonpublic and publicly traded counterparts. Convincing third parties that no fundamental economic change in the enterprise has occurred will not be possible in many circumstances. For instance, the lack of flexibility in state laws precludes us from obtaining an exemption from the prequalification rules by merely explaining the impact of SFAS No. 150. As a result, we will likely be forced, at a minimum, to restructure ownership and other agreements to mitigate or avoid the adverse effects of SFAS No. 150. In contrast, publicly traded companies will generally not face this situation. The majority of their common stock is not usually subject to "mandatory redemption" and, as such, they will continue to classify their shares as equity. Therefore, public companies, only by the convention of the accounting, will be able to satisfy net worth and credit quality requirements whereas PKS will not. This places PKS at a decided disadvantage when comparing its net worth to public companies. Furthermore, FSP 150-3's deferral provisions also mean that PKS will be at the same disadvantage when comparing its net worth to nonpublic companies simply by virtue of the fact that they qualify for the deferral. Consequently, SFAS No. 150's impact upon PKS will be virtually unique and will force PKS to choose between either a balance sheet that shows a limited net worth that is not comparable to that of any other company, or a severe restructuring of a stock ownership program that has been critical to PKS' success.

Due to the above concerns, we believe that SFAS No. 150 will have unduly harsh and unwarranted consequences when applied to PKS and respectfully urge the Board to either 1)

continue to exclude from the scope of SFAS No. 150 instruments issued through a share-based payment arrangement or 2) expand the deferral of SFAS No. 150 to include all nonpublic entities, including SEC registrants that are not publicly traded, as that term was originally defined in SFAS No. 150. To do otherwise is to apply a standard with very harsh consequences (consequences that are currently under reconsideration by the Board) to such a limited number of entities that they will be put at an unreasonable competitive disadvantage. We believe that the presentation and disclosure practices in place before the issuance of SFAS No. 150 provide users with the appropriate information necessary to understand the financial position, results of operations and cash flows of PKS and to compare such financial information to that of other public and nonpublic entities.

In addition to our concerns regarding the interaction of the ED with SFAS No. 150, we also feel that the treatment of convertible debt issued to employees should be directly addressed by the ED. PKS issues convertible debentures to certain stockholders based upon criteria that is similar to that described in Attachment 1 with regard to the issuance of common stock to employees. Stockholders that purchase debentures pay the face amount of the debenture upon issuance. The debentures generally have a term of ten years, and are convertible into PKS common stock during a one month period at the beginning of the 6th year that the debentures are outstanding. This is the only time the debentures may be converted to common stock. The debentures convert into the number of common shares determined by dividing the face amount of the debentures by the formula value at the date the debentures were purchased by the stockholders, and this number of common shares does not change unless a stock split or some similar event occurs while the debentures are outstanding.

Based upon our reading of the definition of a share-based payment arrangement, it could be construed that PKS' convertible debentures are compensatory. In our review of the ED, however, we could not identify specific commentary or illustrations that address convertible debt issued to employees. As a result, we believe that the ED should specifically address these types of transactions. Further, we believe that convertible debt purchased by employees should not be considered compensatory when the employee has fully paid for the face amount of the debt and the debt converts to stock based upon the fair value (or formula value in the case of nonpublic companies) at the time the debt is purchased. We believe that this is appropriate because the debt-holder is fully at risk for the value of the investment throughout the term of the debt.

Thank you for your consideration.

Sincerely,

/s/ Michael J. Piechoski

Michael J. Piechoski

Vice President and Chief Financial Officer

/s/ Michael J. Whetstine

Michael J. Whetstine

Controller and Assistant Secretary

Attachment 3



PETER KIEWIT SONS', INC.

KIEWIT PLAZA – OMAHA, NEBRASKA 68131 – (402) 342-2052

September 24, 2003

Mr. Robert Herz, Chairman
Financial Accounting Standards Board
401 Merritt 7, P.O. Box 5116
Norwalk, Connecticut 06856-5116

Dear Chairman Herz:

We wish to express our serious concerns regarding the severe impact that we believe Statement of Financial Accounting Standards No. 150 ("SFAS No. 150") will have upon the business operations of Peter Kiewit Sons', Inc. ("PKS"). We believe that, among other things, SFAS No. 150 places PKS at a significant disadvantage in relation to our publicly traded competitors. We urge the Financial Accounting Standards Board (the "Board") to reconsider its decision to make SFAS No. 150 applicable to non-public entities, as that term is defined in SFAS No. 150.

PKS was founded in 1884 and is one of the largest construction contractors in North America. PKS' revenue and net income for the fiscal year 2002 were \$3.7 billion and \$193 million, respectively, and total redeemable common stock was \$995 million as of December 31, 2002. PKS is a non-public entity as defined by SFAS No. 150. Section 12(g) of the Exchange Act requires PKS to register with the SEC although no shares are listed on any national exchange.

PKS' equity consists entirely of common stock that is subject to repurchase agreements. Under the terms of the repurchase agreements, PKS is committed to purchase all stock at the amount computed pursuant to the Restated Certificate of Incorporation in the event that the stockholder dies, retires, resigns or is otherwise terminated. These agreements represent the only means for stockholders to realize value for their interest in PKS, and are central to PKS' desire to limit ownership solely to active employees and directors. Our employee-owned stock program is a cornerstone of our historical and ongoing success.

SFAS No. 150 requires classification of "mandatorily redeemable financial instruments" as liabilities. A financial instrument is mandatorily redeemable if it requires unconditional redemption by transferring assets at a specified or determinable date or upon an event that is certain to occur. Among such events are death or the termination of employment of an individual stockholder. PKS' common stock appears to meet this definition. Since all of our equity is in the form of mandatorily redeemable instruments, the requirements of SFAS No. 150 will effectively eliminate PKS' net worth. Additionally, PKS' net income will be effectively eliminated as we will be required to record interest expense equal to the growth in the redemption value of the common stock.

PKS has successfully communicated the nature of the common stock to its numerous financial statement users for many years by presenting the stock under the caption "redeemable common stock" and identifying the redemption value parenthetically within that caption on the face of the balance sheet, and by disclosing the terms of the stock in the footnotes to the financial statements as required by Regulation S-X 5-02.28 and ASR 268. We find the changes to this presentation that are required by SFAS No. 150 to be extremely problematic for a number of reasons.

First, we believe that the classification of our common stock as a liability under SFAS No. 150 places PKS at a significant disadvantage in relation to our publicly traded competitors because many large state and federal agencies require minimum "tangible net worth" as a prequalification to submitting bids. Since SFAS No. 150 will effectively eliminate PKS' net worth, PKS will be placed at a disadvantage as it will be unable to satisfy net worth and credit quality requirements, and therefore will be unable to qualify as a bidder on construction contracts. Further, PKS will be unable to obtain financing, letters of credit, bonding and licensing, and will be unable to establish or maintain vendor and subcontractor relationships. Additionally, since the provisions of SFAS No. 150 will also effectively eliminate net income, PKS will appear to not be a profitable enterprise. This is true even though the financial position, operations and underlying economic characteristics of PKS have remained unchanged. PKS has long been recognized as a financial leader in the construction industry, yet it will now find itself at a competitive disadvantage when compared to its publicly traded counterparts. Convincing third parties that no fundamental economic change in the enterprise has occurred will not be possible in many circumstances. For instance, the lack of flexibility in state laws precludes us from obtaining an exemption from the prequalification rules by merely explaining the impact of SFAS No. 150. As a result, we will likely be forced, at a minimum, to restructure ownership and other agreements to mitigate or avoid the adverse effects of SFAS No. 150. In contrast, publicly traded companies will generally not face this situation. Their common stock is not usually subject to "mandatory redemption" and, as such, they will continue to classify their shares as equity. Therefore, public companies, only by the convention of the accounting, will be able to satisfy net worth and credit quality requirements whereas PKS will not. This places PKS at a decided disadvantage when comparing its net worth to public companies. Consequently, SFAS No. 150 will force PKS to choose between either a balance sheet that shows a limited net worth that is not comparable to that of public companies, or a severe restructuring of a stock ownership program that has been critical to PKS' success.

Second, the balance sheet and income statement presentations that will be required by SFAS No. 150 will reduce the usefulness of the financial statements to our stockholders as they attempt to understand how the growth in the value of their stock is represented by financial statements that show limited equity and net income. Explaining this presentation to our stockholders will be difficult, and would undoubtedly require additional presentations of financial data that would reconcile the financial statements to the growth in redemption value.

Third, we believe that the requirements of SFAS No. 150 present an overly pessimistic picture of PKS' financial position. In most cases, assets are available to satisfy obligations to creditors prior to the obligations to redeem shares, just as with a public entity. Indeed, state corporate laws include provisions that govern the ability of a corporation to redeem its shares, and such laws clearly provide that contributed capital and retained earnings constitute equity and not a liability.

Lastly, the income statement recognition provisions of SFAS No. 150 will cause additional confusion in a number of ways. PKS' redemption value is based on its book value, and is calculated, per the bylaws, only at year-end. Changes to redemption value from the previous fiscal year end reporting date will primarily be attributable to net income generated during the current fiscal year. Since redemption value is measured only annually, no interest cost related to

the growth in redemption value will be recorded until the fourth quarter of each fiscal year. As a result, PKS will report net income during the first through third quarters, but in the fourth quarter PKS will report a significant loss that effectively reduces the entire fiscal year earnings to zero. The treatment of earnings at quarter-end versus year-end is inconsistent and could actually be misleading.

In addition to the timing of the recognition of the interest cost, the presentation of that interest will provide conflicting information to financial statement users. The presentation of a significant interest cost that effectively eliminates net income in years when redemption value has increased impairs the user's ability to understand the results of the year. This contradiction becomes even more apparent when you consider that, during a year when the redemption value has declined due to losses, a significant interest income will be presented that will again effectively eliminate the net loss.

Finally, the income statement recognition provisions of SFAS No. 150 will render the presentation of earnings per share meaningless and potentially misleading.

Due to the above concerns, we believe that SFAS No. 150 will have unduly harsh and unwarranted consequences when applied to PKS and respectfully urge the Board to act promptly to reconsider its decision to make SFAS No. 150 applicable to non-public entities. We believe that the presentation and disclosure practices in place before the issuance of SFAS No. 150 provide users with the appropriate information necessary to understand the financial position, results of operations and cash flows of non-public entities that issue mandatorily redeemable securities to capitalize their operations.

Thank you for your consideration.

Sincerely,

/s/ Kenneth E. Stinson
Kenneth E. Stinson
Chairman and Chief Executive Officer

/s/ Michael J. Piechoski
Michael J. Piechoski
Vice President and Chief Financial Officer