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Office of Proceedings
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October 27, 2017

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration - Office of
Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: ICC Finance Docket No. 31676
Port of Tillamook Bay Railroad - Modified Rail Certificate
Notice of Intent to Partially Terminate (Abandon) Service
Joint Notice of Interim Trail Use / Rail Banking Agreement

Dear Ms. Brown:

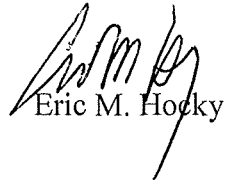
In accordance with 49 C.F.R. §1152.29(h), the undersigned counsel for Port of Tillamook Bay Railroad (POTB) submits for filing, the attached fully executed Joint Notice of Interim Trail Use / Rail Banking Agreement Between POTB and the Salmonberry Trail Interagency Authority (STIA) covering the line of railroad approved for abandonment between milepost 775.01, near Banks, Washington County, Oregon., and milepost 856.08, near Tillamook, Tillamook County, Oregon.

Cynthia T. Brown
October 27, 2017
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Please let me know if there are any questions about this filing.

Respectfully,

CLARK HILL PLC



Eric M. Hocky

EMH/e

cc: POTB
Salmonberry Trail Interagency Authority
Oregon Department of Transportation, Rail Division

October 23, 2017

VIA E-FILE

The Honorable Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E. Street, S.W.
Washington, DC 20024

Re: ICC Finance Docket No. FD 31676
Port of Tillamook Bay Railroad – Modified Rail Certificate Notice of Intent to Partially
Terminate (Abandon) Service

JOINT NOTICE OF INTERIM TRAIL USE / RAIL BANKING AGREEMENT BETWEEN
PORT OF TILLAMOOK BAY AND SALMONBERRY TRAIL INTERGOVERNMENTAL
AGENCY IN ACCORDANCE WITH 49 C.F.R. 1152.29(h)

Dear Ms. Brown:

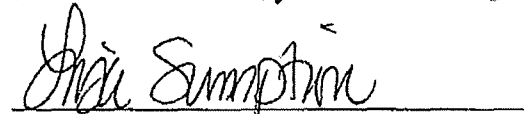
The Port of Tillamook Bay ("POTB") and the Salmonberry Trail Interagency Authority ("STIA") hereby jointly notify the Board that they have entered into a trail use/rail banking agreement (the "Trail Use Agreement") covering the rail line from milepost 775.01, near Banks, Washington County, Oregon, to milepost 856.08, near Tillamook, Tillamook County, Oregon, for a total distance of 81.07 miles.¹ Attached to this Joint Notice as Exhibit A and made a part hereof is a map depicting an accurate description of the railroad right-of-way, including mileposts, that is the subject of said Trail Use Agreement. In accordance with the requirements of 49 C.F.R. 1152.29(h), POTB and STIA hereby certify that the Trail Use Agreement includes provisions requiring the trail sponsor, STIA, to fulfill the responsibilities described at 49 C.F.R. 1152.29(a)(2). A copy of STIA's Statement of Willingness to Assume Financial Responsibility under the Trail Use Agreement is attached hereto as Exhibit B and is hereby made a part hereof.

¹ STIA has discovered that there was a discrepancy in its original trail use request filed with the Board on June 17, 2016. In the "statement of willingness" the line was correctly described as ending at milepost 856.08 near Tillamook, and being a total of 81.07 miles (as also described in POTB's notice of intent to partially terminate); however, in the body of the letter there was a typographical error showing the endpoint as milepost 856.06. STIA always intended to acquire the entire line for trail use, and the Trail Use Agreement covers the entire line. To the extent necessary, STIA and POTB request that the Board correct its records to show that the NITU covers through milepost 856.08.

Please let us know if there are any questions regarding this filing.

Sincerely,


Port of Tillamook Bay

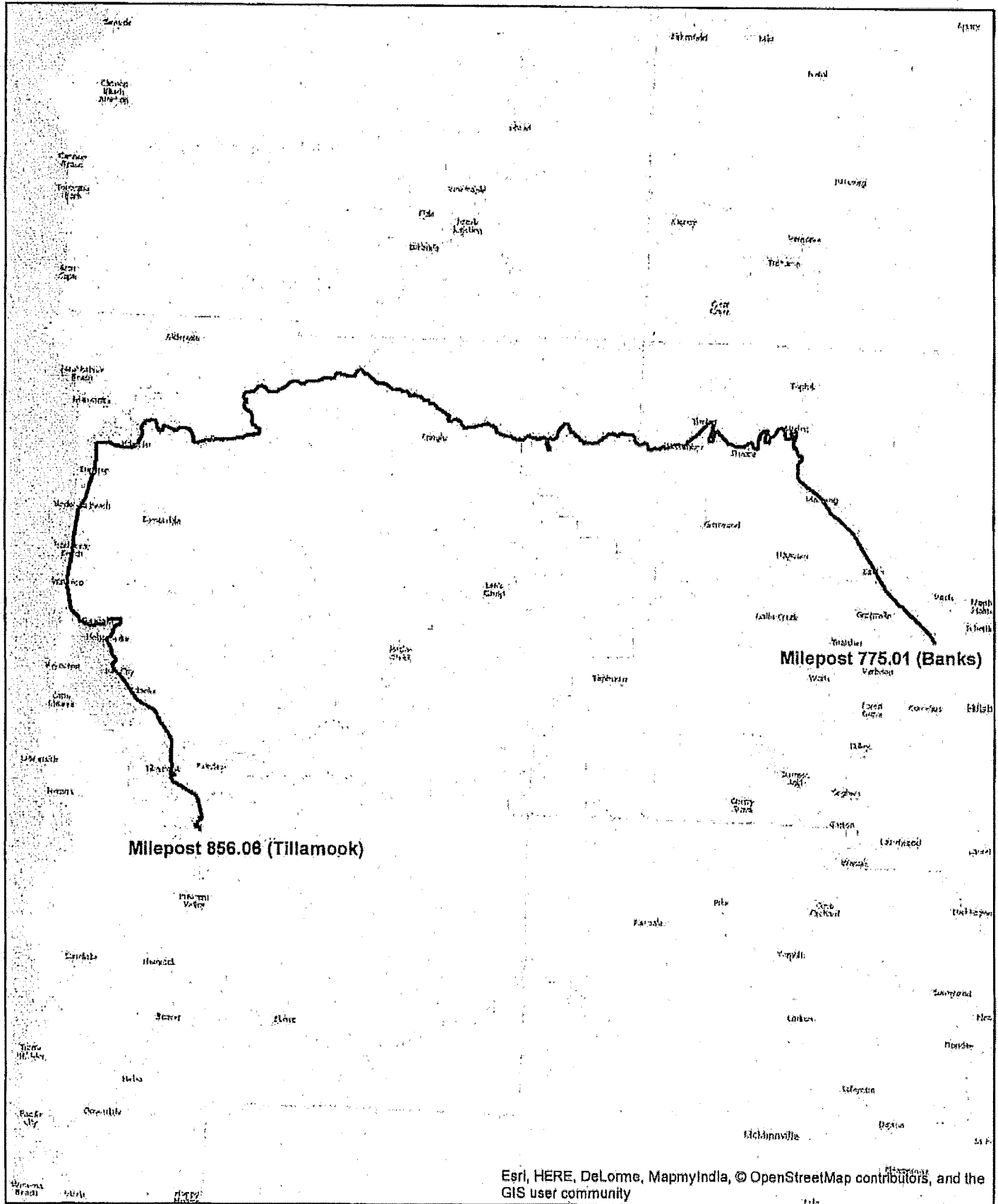

Salmonberry Trail Interagency Authority

Enclosures:

Exhibit A. MAP

Exhibit B. June 7, 2016 Trail Use Request / Statement of Willingness

Port of Tillamook Bay Railroad Proposed Railbanking Corridor



SALMONBERRY TRAIL INTERGOVERNMENT AGENCY

725 Summer St. N.E., Suite C
Salem, Oregon 97301

June 7, 2016

Ms. Cynthia Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street
Washington, DC 20024

RE: ICC Finance Docket No. 31676
Port of Tillamook Bay Railroad -- Modified Rail Certificate
Notice of Intent to Partially Terminate (Abandon) Service

Dear Ms. Brown:

This request is filed on behalf of the Salmonberry Trail Intergovernmental Agency (STIA), which is an intergovernmental agency interested in supporting local economies, conservation and outdoor recreation opportunities which is hereinafter referred to as 'proponent'.

While not taking a position on the merits of this abandonment, proponent requests issuance of a Public Use Condition, as well as a Certificate or Notice of Interim Trail Use for that portion of the Port of Tillamook Bay Railroad (POTB), between Milepost 775.01 near Banks, Washington County, Oregon, and Milepost 856.06 near Tillamook, Tillamook County, Oregon.

Proponent notes that the Board's predecessor, the Interstate Commerce Commission, desired to preserve the future possibility of public use by imposing conditions in previous decisions involving the subject line. In Finance Docket No. AB-339X, *Port of Tillamook Bay—Discontinuance of Trackage Rights Exemption—In Washington and Tillamook Counties, OR.*, served October 22, 1990, (copy attached) the Commission was petitioned by the Rails-to-Trails Conservancy and the Oregon Parks and Recreation Department to revisit an earlier AB-339X decision and impose an advance notice condition for the benefit of trail-use advocates. In the October 22, 1990, decision it was noted "that the Commission has held that it retains sufficient jurisdiction to entertain requests under the Trails Act when modified rail certificate service is terminated. They [the petitioners] request 60 days' advance notice by POTB of termination of rail service under the modified rail certificate in order to ensure that the Commission does not lose jurisdiction to entertain a Trails Act request. Under the circumstances, the requested relief is in effect an extension or continuation of the relief granted in Tillamook Branch Abandonment.¹ A condition requiring 60 days' notice to petitioners will be imposed."

A. Public Use Condition

Proponent requests the STB to find that this property is suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:

1. An order prohibiting the carrier from disposing of the corridor, other than the tracks, ties and signal equipment, except of public use on reasonable terms. The justification for this condition is that the corridor will make an excellent recreational trail connecting the coast with the urban Portland area. The railroad is along the Salmonberry River and conversion of the property to trail use is in accordance with local planning efforts. The corridor provides important wildlife habitat and its preservation as a recreational trail is consistent with that end. The time period sought is 180 days from the effective date of the abandonment authorization. Proponent needs this much time because we have not had an opportunity to commence negotiations with the carrier.

2. An order barring removal or destruction of potential trail-related structures such as bridges, trestles, culverts and tunnels. The justification for this condition is that these structures have considerable value for recreational trail purposes. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.

B. Interim Trail Use

The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public use conditions sought above, proponent also makes the following request:

STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY

In order to establish interim trail use and rail banking under section 8(d) of the National Trails System Act, 16 U.S.C. §1247(d), and 49 C.F.R. §1152.29, the Salmonberry Trail Intergovernmental Agency is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned and operated by the Port of Tillamook Bay.

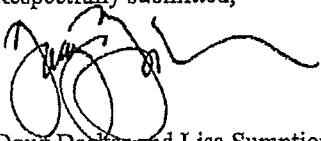
The property, known as the Port of Tillamook Bay railroad extends from railroad milepost 775.01 near Banks, Washington County, Oregon to railroad milepost 856.08 near Tillamook, Tillamook County, Oregon a distance of 81.07 miles in Tillamook and Washington Counties, Oregon. The right-of-way is part of a line of railroad proposed for termination (abandonment) of service in ICC Finance Docket No. 31676, STB-filed May 26, 2016. A map depicting the right-of-way is attached.

The Salmonberry Trail Intergovernmental Agency acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon Port of Tillamook Bay, 4000 Blimp Blvd, Tillamook, OR 97141, by U.S. Mail, postage prepaid, first class, on [date].

With respect to the filing fee, the STIA is a local government entity. It is our understanding that this filing fee will likely be waived pursuant to the provisions of 49 C.F.R. 1002.2(e)(1), which allows for a waiver of such fees for local government entities.

Respectfully submitted,



Doug Decker and Lisa Sumption, Co-Chairs
On behalf of Salmonberry Trail Intergovernmental Agency



Attachments: Finance Docket No. AB-339X, *Port of Tillamook Bay—Discontinuation of Trackage Rights exemption—In Washington and Tillamook Counties, OR*

Map

¹ See Docket No. AB-12 (Sub-No. 108), *Southern Pacific Transportation Company—Abandonment—Tillamook Branch in Washington and Tillamook Counties, OR*, served August 28, 1986.