

EXPEDITED ACTION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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

**CENTRAL OREGON & PACIFIC RAILROAD, INC.'S
MOTION FOR WAIVER OF BOARD REGULATIONS
AT 49 C.F.R. §§ 1114.26 & 1114.31(a)**

Central Oregon & Pacific Railroad, Inc. ("CORP") respectfully requests that the Surface Transportation Board waive its regulations at 49 C.F.R. §§ 1114.26 & 1114.31(a) setting forth deadlines for responding to discovery requests, filing motions to compel and replies to such motions. The regulations specify 15 days as the customary response time for interrogatories, 49 C.F.R. § 1114.26(a), 10 days to file a motion compel after any failure to respond, and 20 days for filing a reply. 49 C.F.R. § 1114.31(a). The regulations do not specify a minimum time for responding to document requests, instead counseling that the time to respond should be "reasonable." 49 C.F.R. § 1114.30(b).

In light of the greatly expedited procedural schedule for this proceeding announced by the Board on August 1, 2008, CORP requests that the Board modify the deadlines for discovery responses and motions to compel in this case as follows:

- Answers and objections to interrogatories and requests for production of documents will be due seven (7) days after service of the discovery requests on a party. 49 C.F.R. §§ 1114.26 & 1114.30.
- If a party fails to answer, gives incomplete answers, or fails to produce requested documents, the party seeking discovery may file a motion to compel within three (3) days of the failure. 49 C.F.R. § 1114.31(a).

- A reply to a motion to compel may be filed within two (2) days. 49 C.F.R. § 1114.31(a)(1).

There is good cause for the Board to adopt such a modified discovery schedule in this case. The procedural schedule adopted by the Board on August 1, 2008 substantially shortened the time for replies by CORP and other interested parties, from October 11, 2008 to August 29, 2008. With little more than 3 weeks remaining until reply filings are due, it is not possible for CORP to serve its discovery requests, obtain and review the Port's responses, and (if necessary) pursue a motion to compel further responses prior to the due date for its reply evidence. CORP had no prior notice of the Board's intention to truncate the time for filing reply evidence in this proceeding, and had been planning to serve its discovery requests on the Port this week. Under the filing deadline prescribed by the regulations (October 11, 2008), CORP would have had ample time to pursue discovery in support of its case.

CORP needs discovery in order to test the Port's assertions regarding a variety of issues, including whether the Port is a "financially responsible person," whether the sale of the Coos Bay line to the Port would be "likely to result in improved railroad transportation for shippers", and whether the amount offered by the Port represents the constitutional minimum value of the line. The requested modification of the customary deadlines governing discovery is necessary to afford CORP a reasonable opportunity to pursue such discovery.

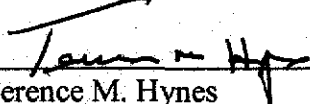
Counsel for CORP has consulted with counsel for the Port regarding this request, and has been authorized to inform the Board that the Port does not object to the relief requested by CORP in this motion.

Finally, in light of the expedited schedule for filing reply evidence, CORP respectfully requests that the Board accord this motion expedited consideration.

Wherefore, CORP respectfully requests that the Board adopt the proposed discovery schedule.

Scott G. Williams
Senior Vice President and
General Counsel
RailAmerica, Inc.
5300 Broken Sound Boulevard N.W.
Boca Raton, Florida 33487
(561) 994-6015

Respectfully submitted,


Terence M. Hynes
Paul A. Hemmersbaugh
Matthew J. Warren
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005
(202) 736-8000

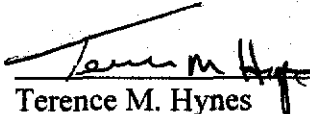
Counsel for Central Oregon & Pacific Railroad, Inc.

Dated: August 4, 2008

Certificate of Service

I hereby certify that I have caused the foregoing Motion for Waiver of Board Regulations at 49 C.F.R. §§ 1114.26 & 1114.31(a) to be served by email and first class mail, postage prepaid, this 4th day of August 2008 on:

Sandra Brown
Troutman Sanders, LLP
401 Ninth Street, N.W., Suite 1000
Washington, D.C. 20004


Terence M. Hynes