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August 5, 2008

Via E-filing (after 5:00 p.m.)
The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

RE: STB Finance Docket No. 35160 *Oregon International Port of Coos Bay—Feeder Line Application—Coos Bay Line of the Central Oregon & Pacific Railroad, Inc.*

Dear Secretary Quinlan:

On August 4, 2008, Central Oregon & Pacific Railroad, Inc. ("CORP") filed a Motion for Waiver of Board Regulations at 49 C.F.R. § § 1114.26 & 1114.31(a). As counsel for CORP noted, the Oregon International Port of Coos Bay ("Port") does not object to the relief requested particularly in light of the compressed procedural schedule issued by the Board on August 1, 2008 for this proceeding.¹

However, the Port did qualify its "no objection to the relief requested" with the condition that CORP would agree to an extension of time for a Port Motion to Compel, if necessary, for the discovery that the Port had served on CORP on July 11, 2008 and for which CORP has not yet served many documents that CORP states it has in its possession but has not sought a protective order it claims it needs notwithstanding that 49 C.F.R. § 1114.21(c) states that "any party [including] by the person from whom discovery is sought... for good cause shown" may seek an order of protection. Because CORP did not include this part of the exchange in its Motion, the Port is filing this letter to clarify and seek a waiver of 49 C.F.R. § 1114.31(a) for the Port's Motion to Compel, if it becomes necessary, so that it would be due three days after the Board

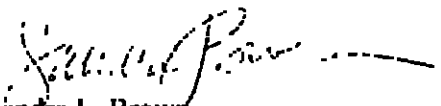
¹ By agreeing to the compressed discovery time frames, the Port does not concede that the discovery from the Port, that CORP states in its Motion for Waiver that it intends to seek, is either appropriate or relevant. Further, the Port notes that its Feeder Application was filed nearly a month ago and CORP could have asserted its right to file discovery already. In any event, the Port will respond appropriately within the time frames requested by CORP if the Motion for Waiver is granted.

The Honorable Anne K. Quinlan
August 5, 2008
Page 2

issues its decision on the re-designations and protective order to cover both the abandonment and feeder proceedings.² The Port has no way of knowing whether a Motion to Compel will actually be necessary until the Port sees the documents CORP states it will produce and can determine whether CORP has failed to fully respond to any discovery request.³ CORP's counsel stated on August 4th that it did not object to such an extension and Port's counsel attempted to reach CORP's counsel again tonight before filing this letter to reconfirm that there was no objection. Even if CORP were to object to this request, the Board should grant this request because it is consistent with CORP's request for waiver and since CORP has already availed itself of the full 15 day time frame to respond to the Port's discovery and has still not provided all documents CORP states it has that are responsive to the Port's request.

Therefore, the Port respectfully requests that the Board waive 49 C.F.R. § 1114.31(a) and find that the Port's Motion to Compel CORP's discovery responses, if necessary, will be due three days after the Board issues its decision on the re-designations and protective order to cover this proceeding and AB-515 (Sub-No. 2). Please feel free to contact me if you have any questions.

Very truly yours,


Sandra L. Brown
Counsel for the Oregon International
Port of Coos Bay

cc: Terence M. Hynes

² As the Port stated in its July 30, 2008 Motion to Re-Designate at footnote 1, the Port does not object to the Board issuing a Protective Order to cover both AB-515 (Sub-No.2) and FD 35160 as long as CORP abides by the true spirit of the Protective Order and does not continue to try and hide data and facts that should be Public or Confidential, rather than Highly Confidential, under the guise of a "hyper-technical" reading argument of a Protective Order that CORP drafted.

³ More than one half of the Port's discovery requests were answered by CORP by stating that documents will be produced to the Port subject to an appropriate protective order. In addition, the Port's discovery served nearly a month ago also sought access to CORP's property consistent with 49 U.S.C. § 1114.30(a)(2). Even though the Port had requested the access informally many months ago, CORP waited the full 15 days to respond before agreeing (in theory) to the entry. The Port is hopeful that the parties can quickly work out the start date and terms for the right of entry, but the Port does note that the terms recently proposed by CORP appear to limit the right of entry in a manner not fully consistent with 49 U.S.C. § 1114.30.