

Testimony of the Honorable Peter A. DeFazio
Member of Congress
Surface Transportation Board Hearing
on
CORP Abandonment Application and the International Port of Coos Bay's Feeder
Line Application
August 21, 2008

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Chairman Nottingham, Vice Chairman Mulvey, and Board Member Buttrey, I want to thank you for holding this hearing in Oregon. I appreciate the opportunity you are giving state and community leaders, employers, and local citizens to directly inform the Board's decisions about the future status of the embargoed Central Oregon and Pacific Railroad (CORP) rail line

Access to rail is critically important for my congressional district. The embargo of the CORP rail line connecting the south coast of Oregon with the Union Pacific mainline here in Eugene has already had a significant impact on the economy of southwest Oregon. I have no doubt the proposed abandonment of the line will have devastating consequences.

I am here to urge the Board to approve the feeder line application by the International Port of Coos Bay and to reject the CORP abandonment application. I also want to encourage the Board to rule quickly and re-activate the Coos Bay rail line.

The CORP line is vital for shippers and industry along the south coast of Oregon, but last September CORP gave less than 24 hours notice it would be shutting down the line. CORP, a subsidiary of RailAmerica, Inc. (RailAmerica), announced it was stopping service on its Coos Bay line between Coquille, Oregon, and Vaughn, Oregon, due to unsafe tunnel conditions. Shippers on the south coast, with no direct access to Interstate highways and no other rail lines, were suddenly without a cost-effective way to get their goods to market.

CORP's recent abandonment application is further evidence the company is singularly interested in profits, rather than its common carrier obligation to offer service. The application proposes the company maintain ownership of a small, but key, segment of the line that runs from Noti to Eugene, though breaking up the line would make future service from the Oregon coast to Union Pacific's mainline in Eugene impossible.

The Board should not allow CORP to break up the Coos Bay Line. In *Caddo Antoine and Little Missouri Railroad Company v Surface Transportation Board*, the 8th Circuit found that lines historically operated as a single line should be kept as a single line. I hope the Board follows that precedent. Additionally, I encourage the Board to order CORP to bring the line back up to FRA Class 2 operation standards before CORP is permitted to benefit from the sale of its assets.

The State of Oregon, shippers, and the Oregon congressional delegation strongly support the Port's feeder line application. The Oregon Transportation Commission has agreed to put \$4 million toward the purchase and rehabilitation of the Line. Several shippers have offered letters of credit that could be used in the unlikely event that the Port defaults on its loans. In addition, I successfully included a provision in H.R. 3248, the SAFETEA-LU Technical Corrections Act of 2007, to transfer \$8 million to help the Port of Coos Bay purchase and rehabilitate the Line.

I originally secured the funding in SAFETEA-LU to help the Port make repairs to a rail bridge on the Line. However, the Port has made sufficient repairs to extend the life of the bridge another ten years with funding secured by the 1998 highway bill. Combined with the \$4 million in state matching funds, the Port will have access to \$12 million to help purchase and rehabilitate the line. Currently, H.R. 3248 is pending in the Senate, but expected to pass before Congress adjourns for the year in late September.

This abandonment application has far reaching and devastating economic implications for my congressional district. I thank the Board for traveling to the state for

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this hearing so all interested parties have the opportunity to provide input. As I said when I testified before the Board in April, I believe the Board must do more to protect shippers from the improper use of rail embargoes. It is far too easy for railroads to forgo investing in the maintenance of lines and then to use the deteriorated track as an excuse to embargo. They create an easy out for filing for abandonment, or, in the case of RailAmerica, for holding a state and shippers hostage until the ransom is paid.

An embargo allows a carrier to suspend its duty to fulfill its common carrier obligation. A short embargo might be necessary to make repairs, but the Coos Bay line has been embargoed for almost one year. Other than asking other parties to foot the majority of the bill, CORP and RailAmerica have not done a thing to fix the line.

The shippers in my district made a reasonable request for service. In the Board's decision earlier this year directing RailAmerica to prove the embargo of the Coos Bay line is not an unlawful abandonment, it stated a "carrier is not given a free pass to choose not to serve just because of circumstances that make it difficult or expensive to provide service."

I ask the Board to use its full authority to reject CORP's abandonment application, approve the Port's feeder line application, and quickly re-activate service on this vital rail line.

Again, thank you for the opportunity to testify in person today. I would be happy to entertain questions.