

TROUTMAN SANDERS LLP

ATTORNEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

401 9TH STREET, N.W. - SUITE 1000
WASHINGTON, D.C. 20004-2134
www.troutmansanders.com
TELEPHONE: 202-274-2950

Sandra L. Brown
sandra.brown@troutmansanders.com

Direct Dial 202-274-2959
Fax: 202-654-5603

September 16, 2008

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VIA Hand Delivery

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

SEP 16 2008

Part of
Public Record

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:

The Oregon International Port of Coos Bay ("Port") hereby files this Errata regarding the Reply filed by the Port on September 12, 2008 in the above-captioned case. Sixteen copies of all paper materials referenced herein are being filed today and three copies of any electronic submission discussed herein is being provided on three compact discs.

First, it bears noting that the Port's ability to fully and comprehensively reply to all issues raised in this proceeding has been hampered by the condensed procedural schedule which shortened the time for the Port's reply in this proceeding by more than five weeks from the Board's standard regulations. In addition, CORP did not serve its Response on the Port's counsel until 7:16 pm on Friday, August 29 which made it impossible for Port's counsel to get it copied and into the FedEx overnight delivery on Friday which delayed delivery to the Port and consultants until after FedEx re-opened on Tuesday after the long holiday. Nevertheless, the Port has abided by the STB's procedural schedules imposed in these very important proceedings. However, this Errata is necessary to clarify and correct certain aspects of the Port's Reply.

The Port failed to mention in its cover letter from September 12, 2008 that no Confidential Version of Volume I was created. All the redacted material from Volume I was Confidential except for certain redactions to material designated by CORP as Highly Confidential and discussed on pages 12 and 60-63. These Highly Confidential redactions referred to a document that is already in the possession of the Central Oregon & Pacific Railroad

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("CORP") and was previously designated Highly Confidential by CORP. Hence, we have informed CORP's outside counsel that the Highly Confidential Version can be treated as the Confidential Version with respect to CORP. Consistent with the Protective Order in this proceeding, any other party requesting a Confidential Version will be provided a paper or electronic copy or a list of all "highly confidential" information that must be redacted from its Highly Confidential Version as appropriate.

In addition, a small chart within the Reply Verified Statement of Jay DeVoe (Exhibit 2) should have been redacted from the Public Version of the Reply. This chart is located on page 11 of the R.V.S. DeVoe, and contains information that is publicly available but upon further review was designated as Confidential by CORP and thus we are correcting our designation. The Port has attached a replacement page 11 of the R.V.S. DeVoe (Exhibit 2) to replace page 11 in the Public Version.

The Port inadvertently omitted pages 2 and 3 of Attachment B to the Highly Confidential Version of the Revised Verified Statement of Gene A. Davis (Exhibit 1). The public versions of these pages were correctly included in the Public Version of the Reply. The tables on these two pages are important because they show the rapid rise in steel prices in the time since (1) the Central Oregon & Pacific Railroad embargo began on September 21, 2007; and (2) the final tunnel condition report of Milbor-Pita was given to CORP on September 24, 2004. These tables and accompanying workpapers also provide the Board with data to calculate an averaged or earlier net liquidated value of the Line in response to CORP's unlawful embargo and deferred maintenance on the Line. Replacement pages 2 and 3 are attached.

A correction is also necessary to language on pages 7 and 60. In particular, the first sentence in section D.1 on page 7 should say: "The Port has determined that the NLV of the Line is no greater than \$14,233,031..." Similarly, the first sentence in section E on page 60 should read: "The Port offers to purchase the Line at its NLV of no greater than "\$14,233,031..." This qualifying language that was inadvertently omitted on pages 7 and 60 comports with statements the Port made elsewhere in its Reply. For example, the Port showed on pages 18-19 that it is appropriate for the Board to value the Line as of September 21, 2007 due to the unlawful embargo of CORP. As shown on page 2 of Attachment B of Exhibit 2 (R.V.S. Davis), the value of these same steel assets was only \$9.76 million before bridge removal costs as of September 21, 2007.

Alternatively, the Port explained, at length in Volume I, that if the Board found that it could not value the Line as of September 21, 2007, the Board has authority to value the Line using an average of recent steel prices, such as from September 21, 2007 to August 15, 2008¹.

¹ The Port used August 15, 2008 as its last valuation date since that is the last day the Port's track

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Reply at 14-17. The Port showed that the Board has previously used an average steel valuation price on page 15 of the Reply. Furthermore, the Port described how CORP's failure to properly designate the Line on the System Diagram Map ("SDM") as likely to be abandoned forestalled community efforts to acquire the Line earlier.² CORP's assurances during the embargo, such as the newspaper advertisement of December 22, 2007, had the same effect. Therefore, the Port set forth a comprehensive argument that the steel assets of the Line should be valued at an earlier date or at least averaged beginning with an earlier date. Thus, the Port's offer to purchase is a not to exceed amount to comply with the Board's regulation at 49 C.F.R. § 1151.3(a)(5) and should be viewed under the spirit of Board's statutes which were designed to be followed by railroads in order to prevent the sudden and unexpected shut down of a rail line vital to an entire region of a state.

The Port's witness Gene A. Davis inadvertently referred to "August 15, 2007" on page 4 of the R.V.S. Davis (Exhibit 1) when the correct date should have been "August 15, 2008."

After filing its Reply at the Board, the Port recognized that footnote 5 on page 10 contained an editing error. As corrected, footnote 5 should read: "Ironically, the day after CORP's Response filing, CORP also filed an Opposition to the Port's Motion to Compel that claimed that CORP had provided two inspections already and that the Port was asking for a third inspection."

The signature pages for its witness Jay DeVoe were inadvertently omitted in the Public Version. These signature pages were included in the Highly Confidential Version. The Port has attached the correct signature pages, and these should be included in the R.V.S. DeVoe (Exhibit 2) at page 49 of Attachment 2, and at the very end of the entire Exhibit 2.

Key words were omitted from the last sentence on page 34, thereby clouding its meaning. This sentence should read: "In light of his experience, Mr. Coffey discusses the various encumbrances affecting CORP's real property along the Line, and addresses how these burdens would be perceived by residents of the region."

expert physically inspected the assets.

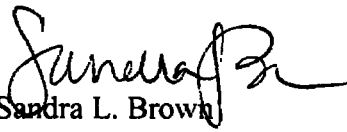
² If CORP had appropriately designated the Line on its SDM after receiving the Milbor-Pita report in 2004, at which time the evidence shows that CORP knew of the repairs needed but did not initiate the level of repairs required to keep the Line in operation, the value of the steel assets of the Line would have only been \$5.65 million as of September 24, 2004 before subtracting bridge removal costs; the Port and others would have then had the opportunity to initiate this proceeding before the Line deteriorated to its current point of being in jeopardy of abandonment and before the price of steel began to skyrocket.

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Finally, some workpapers were inadvertently omitted from the materials filed on Friday and are being provided to the Board and counsel for CORP with this letter.

Please feel free to contact me if you have any questions.

Very truly yours,


Sandra L. Brown

Enclosures

cc: Terence M. Hynes
Parties of Record (w/o workpapers but with copies of replacement Public Version pages)

In regard to Veneta, Witness Cecil provides data, analysis, and opinions that are wrong. His two examples of CORP property sold to K. Larson and Larry Larson prove none of the things that he claims. Again, he has failed to provide any other market data as a control element that might establish that no discount is reflected for rights reserved by SPT, which should be basic protocol for an experienced appraiser or any other credible comparison. The RMI Midwest appraisal ordered by Mr. Cecil shows that a discounted value was paid by the Larson's for these parcels; reference is made to "Figure 20. Veneta Commercial Sales (Land Use 35) found on page 25 of the RMI Midwest appraisal provided by CORP Witness Rex as Attachment 1, which I present a copy of below. This indicates that the three CORP sales sold at discounts over 60% relative to the three sales not involving former CORP property. The value discount must be associated with the SPT reservations/easement because the other likely factor, the City's Greenway Overlay zone relevant to the properties, was not enacted until 2006 (after the CORP sales) as explained after the presentation of Rex Figure 20.



D. Veneta Greenway Zoning Overlay

Witness Cecil has claimed that "Veneta's 'Greenway' zoning regulations clearly did not render the property worthless", but I offer the following data that directly

Certificate of Review Appraiser

The undersigned does hereby certify as follows:

- The facts and data reported by the review appraiser and used in the review process are true and correct.
- The analyses, opinions, and conclusion in this review report are limited only by the assumptions and limiting conditions stated in this review report, and are my personal, unbiased professional analyses, opinions and conclusions.
- I have no present or prospective interest in the property that is the subject of this report and I have no personal interest in the subject property or with respect to the parties involved.
- I have no bias with respect to the property that is the subject of the work under review or to the parties involved with this assignment.
- My engagement in this assignment was not contingent upon developing or reporting predetermined results.
- My compensation is not contingent on an action or event resulting from the analyses, opinions, or conclusions in this review report.
- My analyses, opinions, and conclusions were developed and this review report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice.
- I have personally viewed the subject property as described in the summary of appraisal review scope (page 3 of this report).
- Steven M. Beaman, CCIM provided significant assistance in the form of verifying market data, compiling market trend data, providing various opinions, and proof-reading the report. No one else provided significant professional assistance to the person signing this review report.
- As of the date of this report, Jay J. DeVoe has completed the requirements of the continuing education program of the International Right of Way Association and the Appraisal Institute. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.
- My final overall opinion of the appraisal under review is that it is not reasonably reliable or credible.



Jay J. DeVoe, MAI, SR/WA

September 10, 2008
Date

VERIFICATION

I, Jay J. DeVoe, declare under penalty of perjury that the foregoing is true and correct.

Further, I certify that I am qualified authorized to file this verified statement.



Jay J. DeVoe
J.J. DeVoe & Associates

Dated: September 10, 2008