



BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423

EX PARTE
STB 677

COMMON CARRIER OBLIGATIONS

STATEMENT OF ALLYN FORD
ON BEHALF OF THE
COOS-SISKIYOU SHIPPERS COALITION

On behalf of the Coos-Siskiyou Shippers Coalition, and my own company Roseburg Forest Products, I wish to thank the Surface Transportation Board for holding this hearing.

I am the Chairman of Roseburg Forest Products, an Oregon corporation, with forest products manufacturing facilities throughout the United States but heavily concentrated in southern Oregon and northern California. We employ over 3,500 employees in our line of engineered wood products, composite panels, softwood and hardwood plywood, lumber, and in the management of our own timberlands. Most of our facilities are located in rural areas and represent the principal employer in these communities.

As with most wood products companies, we are heavily dependent upon the ability to ship both our raw material and finished product by rail. Roseburg Forest Products has had a close relationship over the years with the various railroads, including in 2004 assisting with the reopening of the line between Winston, Oregon and

Dillard, Oregon when the line was closed due to a major landslide; in 2006 assisting in repairing tunnels on the Coos line; and, in providing financial assistance for repairing tunnels and thereafter reopening the Siskiyou Line.

In addition to my own company, I am here on behalf of the Coos-Siskiyou Shippers Coalition, a coalition consisting in part of American Bridge, Co.; Georgia Pacific LLC; Southport Lumber Company; and, Timber Products, Co. These entities are dependent upon shipping materials on the Coos Line and/or the Siskiyou Line which are operated by Central Oregon and Pacific Railroad (“CORP”), a short line railroad wholly owned by Rail America.

Attached is a list of the members of the Coalition, which includes shippers, as well as local entities who rely on the shippers for their economic well being. These other entities have joined the Coalition because of the fear that CORP’s actions to curtail service on both the Siskiyou and Coos Lines will hurt rural Oregon and California communities. In the face of recent embargoes and deteriorating conditions of the railroad lines, these entities have come together with a common goal of restoring and maintaining safe and efficient rail service in Southwestern Oregon, particularly on the Coos and Siskiyou rail lines.

This coalition formed shortly after CORP’s September 21, 2007, embargo of the Coos Line (See Embargo No CORP 000107). The embargo left the shippers scrambling not only to find alternative shipping but also to keep their businesses operating. Compounding the difficulties was the fact that the embargo was imposed with only one day’s notice. My company had orders awaiting shipment and targeted for delivery on specific dates, and as a result of the short embargo notice we really had to improvise to find timely alternate transportation. Our story was experienced by the other members of the coalition as well.

Not only were coalition members’ shipments disrupted, but in the case of American Bridge, who refurbishes trusses for bridges throughout the United States, its ability to compete for contracts and orders were severely disrupted.

While the Coos Line embargo was based on tunnel safety issues, the railroad was aware of the tunnel problems for a period of time yet only provided one day's notice of embargo. Clearly the tunnels did not become unsafe overnight. In fact a year earlier CORP was cited for maintenance and safety issues on the line.

Historically, the shippers have been willing to provide both financial assistance as well as equipment to repair tunnels, landslides, and resolve deferred maintenance issues. CORP, however, clearly did not see this as a railroad-shipper partnership and cavalierly shut the line down. Prior to the embargo no attempt was made by CORP to address the issue with the shippers or explore ways for the shippers and railroad to solve the tunnel problem and in turn keep the line operational. In fact, CORP did not provide an assessment of the capital needs to restore the line to service until several months after closure and only then after pressure from our state legislators and the Governor's office.

On both the Siskiyou Line and the Coos Line, CORP has benefited in the past from the shippers and local governments stepping up to the plate and providing assistance in resolving maintenance and other disruptions of service. Notwithstanding this history, in this case, CORP did not embark upon a similar path to reopen the line rather it simply viewed the embargo as a way to extract further concessions from the shippers and subsidies from the government.

At the time of the embargo, CORP's analysis, which was not made available to the shippers until several weeks later, identified that the tunnels could be repaired within twelve months at an expenditure of \$2,865,000.00. However, rather than make the repairs on the three tunnels and reinstitute service, CORP stated it would not open the line unless the shippers, State of Oregon, Port of Coos Bay, and the Union Pacific agreed to pay three-quarters of not only the immediate tunnel repair costs but also what Rail America described as the neglect and deferred maintenance that has taken place on the line over the past twenty years. The proposed solution was for an investment of approximately \$23 million to bring CORP's rail line up to safe operating standards. This funding was to be derived from the State of Oregon (\$4.66 Million); Port of Coos Bay (\$4.66 Million); Union Pacific Railroad (\$4.66 Million); shippers (\$4.66 Million) and the CORP (\$4.66 Million). In

addition, CORP also stated that even if these monies were forthcoming, CORP would not reopen the line unless the State of Oregon provided an additional “operating subsidy” of \$2 Million/year in maintenance subsidies; as well as \$1.5 Million/year in revenue subsidies. This latter condition is one that the State of Oregon cannot accept, which CORP obviously knew when they laid the proposal on the table. Further, they have steadfastly refused to do anything to fix the tunnels unless all of these financial commitments have been agreed to by all of the parties.

Also disturbing to the shippers is the fact that in the past the shippers and governmental entities have provided assistance and agreed to surcharges, however, CORP and Rail America have not always used these funds for either the stated repair or maintenance on the line.

In the face of our situation, the Surface Transportation Board’s decision to examine the railroad’s common carrier obligations is particularly timely and we appreciate this opportunity to provide testimony.

Of the items identified in the hearing notice, the Coos-Siskiyou Shippers’ experience has demonstrated that with respect to the issue of “carrier-imposed requirements for infrastructure investments by shippers”, it is clear that the STB needs to assert more oversight and control. Further, with respect to the issue of what constitutes a “proper use of rail embargoes,” it is also clear from our situation that CORP is willing to abuse the embargo power to extract monetary concessions. While it is clear that embargos play an essential role with respect to rail transportation, the current system is subject to abuse. It is our position that the STB needs to assert a stronger role in ensuring that the railroads meet their common carrier obligations.

We have always assumed that inherent in a common carrier’s obligations would be a duty of good faith both in maintaining the railroad lines and in dealing with shippers. However, it is becoming abundantly clear that it is a common practice to defer maintenance – in effect milking the resource. We have also assumed that the rates are set at a level that not only cover operation and maintenance, but also provide a reasonable profit. In our case, the short line operator has admitted that the lines have not been maintained for a period of twenty years and clearly was not reinvesting the maintenance component of the rate into the line. The net result has

been a history of derailments and curtailments that affect the safety and economic stability of the local communities and industries.

The question of whether it is appropriate for the shippers to pay the cost of maintenance, particularly deferred maintenance, is not an easily answered question. However, it should be readily understood, that when Fortress recently acquired Rail America, they knew the condition of both the Coos and Siskiyou lines and assumed responsibility. The purchase price surely reflected the condition of the infrastructure. The short line should not now be allowed to blame the poor condition of the line on prior operators, when in fact the maintenance of the line to a safe standard was an obligation they willingly undertook and the negotiated sale price so reflected. The ongoing failure to repair or maintain the lines is not a reflection of rates, rather it is a reflection of short term inflation of the bottom line without making investments any prudent business would undertake.

The situation on the south end of the Siskiyou line where the track climbs over the Siskiyou Summit connecting southern Oregon to northern California is a more recent development and another example of the arrogance of CORP in dealing with the shippers who have for decades relied on rail service for the delivery of finished products to market as well as raw material to mills. In a letter to the shippers dated December 13, 2007, CORP announced that they would no longer take finished products south to California from mills in Southern Oregon. With that change all freight now generated in southern Oregon is taken to Eugene and then transferred to the Union Pacific for delivery throughout the country. Aggravating the situation is the recent major slide on the UP line just east of Eugene which has now forced all this freight to be delivered from Eugene north to Portland and then east up the Columbia Gorge connecting to the mainlines that travel south and east. Even with the UP line closure CORP has refused to haul freight south which action has added untold days for delivery and hundreds of miles of extra travel.

In the December 13, 2007 letter to the shippers, CORP also announced that they intended to curtail shipments of raw materials, green veneer and logs, north over the Siskiyou Summit from Roseburg Forest

Products in Weed, California, and from Timber Products in Yreka, California to the companies' finishing plants in southern Oregon. Prior to this letter, CORP had been pulling cars 5 days per week, pursuant to the letter they now intended to reduce this service to only two days per week. While CORP explained that their goal was to improve profitability by either reducing the expense of operating over the Siskiyou Summit or by hauling more cars at an increased rate, it is clear that the strategy was to make it sufficiently uneconomic and/or inconvenient that shippers would allow them to discontinue service. CORP further stated that by April 15, if operating revenues resulting from the reduction to two days per week did not increase, the line would be shut down and all deliveries would only be made by taking freight south to the Black Butte interchange near Mt. Shasta, then on the UP line north through Klamath Falls, Oregon and across the Cascades to Eugene, and then back south to the southern Oregon mills of Roseburg Forest Products and Timber Products.

The shippers in good faith have tried to negotiate new rates to improve CORP's revenues but the demand by CORP of a 300 to 400% increase in shipping rates over the Siskiyou makes the haul cost prohibitive. Both companies are now evaluating the difficult decision that the only alternative left for them to keep their operations viable is to truck their raw material up Interstate 5 to their southern Oregon mills. Based on normal operating conditions this could result in an additional 36,000 truckloads per year on Interstate 5. As a result the shippers will be hauling substantial volumes by truck in a less efficient mode than rail and further contributing to traffic congestion on an important segment of the interstate highway system. This will be a very difficult and expensive process for us, one that could have been avoided if CORP had worked with us in good faith to maintain service.

The actions by CORP on the Coos and Siskiyou lines are unfortunately a perfect example of why the Surface Transportation Board needs to establish more oversight over the short line railroads to provide the shippers, our employees, and our communities with the reliable rail service. Certainly the April 11, 2008 order that the Board issued to RailAmerica and CORP to show cause why the ongoing failure to provide service on the Coos Bay Line is not an unlawful abandonment sends a very clear signal that the common carrier obligation

is a serious one that can't be ignored. On behalf of Roseburg Forest Products and the Coos Siskiyou Shippers Coalition we sincerely thank you for weighing in on the Coos Bay Line situation and also for this opportunity to testify today.