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June 2, 2008

222524

Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: Central Oregon & Pacific Railroad, Inc – Coos Bay Rail Line
STB Finance Docket No 35130

Enclosed for filing is the original and ten copies of COOS-SISKIYOU SHIPPERS COALITION REPLY TO THE RESPONSE OF RAILAMERICA, INC AND CENTRAL OREGON & PACIFIC RAILROAD, INC TO ORDER TO SHOW CAUSE

Sincerely,

Ronald S Yockim

/kp
Enclosures

Cc Service List
Client

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO 35130

22524

CENTRAL OREGON & PACIFIC RAILROAD, INC – COOS BAY RAIL LINE

COOS-SISKIYOU SHIPPERS COALITION REPLY TO THE RESPONSE OF RAILAMERICA, INC AND CENTRAL OREGON & PACIFIC RAILROAD, INC TO ORDER TO SHOW CAUSE

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The Coos-Siskiyou Shippers Coalition[1] respectfully submits this Reply to the "Response of RailAmerica, Inc and Central Oregon & Pacific Railroad, Inc to Order to Show Cause" ("RailAmerica Response") By *Show Cause Order* dated April 11, 2008, the Surface Transportation Board ("Board" or "STB") directed RailAmerica, Inc ("RailAmerica") and Central Oregon and Pacific Railroad, Inc ("CORP") to show cause why the Board should not consider CORP's ongoing failure to provide service on the Coos Bay Line (the "Line" or "Coos Line") to be an unlawful abandonment, and why CORP should not be required to either promptly repair the tunnels on the Line and resume rail service or, in the alterative, to seek abandonment authority (*Show Cause Order* at 1)

BACKGROUND

This proceeding originated in response to the September 21, 2007 embargo by CORP of that section of the Coos Line situated between Coquille and Richardson, Oregon (Embargo Number. CORP000107 hereinafter referenced as "Embargo")(RailAmerica Response, Ex 7) While the Embargo was amended on September 24, 2007, to allow by permit only the movement of outbound traffic of cars which were currently on the Line, it was subsequently amended to disallow permits as well (RailAmerica Response, Ex 7)

[1] The Coos-Siskiyou Shippers Coalition is a coalition consisting of shippers and local governments Included among its members are Roseburg Forest Products, Southport Lumber, American Bridge & Manufacturing, Inc , and, Georgia Pacific

In issuing the Embargo, CORP stated the Embargo was a result of the "unsafe conditions in Tunnels 13, 15, and 18" (RailAmerica Response. Ex 7, p 2)

Simultaneously with the imposition of the Embargo. on September 21, 2007 the CORP Marketing and Sales Manager stated that "[t]he Coos Bay line just doesn't have enough business on it today to justify us making the repairs "
(http //www rtands com/breaking_news_archive shtml p 98 of 619, accessed 1/3/2008)
(Shippers' Ex 1)

The Marketing and Sales Manager also stated that in the future they may reopen the Line "to support a container terminal at Coos Bay if such terminal be developed " (Shippers' Ex 1) His statements clarified that notwithstanding its common carrier obligation, CORP would not be making the repairs necessary to reopen the Line in the near future

In this proceeding Mr Lundberg does not mention CORP's earlier affirmation that the Embargo was financially driven, rather he states that

> "[t]he increasing hazardous conditions in the tunnels along the Coos Bay Line led CORP management to bring the situation to RailAmerica's attention on September 18-19, 2007 [2] RailAmerica agreed with CORP that the line should be embargoed for safety reasons "

(Verified Statement of Paul Lundberg, p 7)

While RailAmerica asserts that the Embargo was in response to serious and well-documented safety concerns relating to the condition of the three tunnels (RailAmerica Response, p 2), this statement only tells part of the story, for it ignores not only the company's previous description of the Embargo as an economic issue, but also ignores

[2] There is no explanation as to why it took CORP over 60 days to bring these "immediate" repair and hazardous conditions" to the attention of RailAmerica nor does it explain why CORP did not act on its own initiative when faced with these increasingly hazardous and immediate safety concerns

that these safety concerns were well documented and repeatedly described as "*immediate*" repair needs for thirteen years prior to the Embargo

The hazardous conditions Mr. Lundberg referenced as the reason for the embargo had been brought to CORP's attention several times over the years prior to Embargo

In July 2007, Shannon & Wilson[3] reported to CORP's Chief Engineer (Verified Statement of Paul Lundberg, p 6) that

> "[i]ndications of severe liner and/or rock deterioration and instability *requiring immediate repair* (Repair Levels 1 and 2)[4] were observed at several locations in the timber-lined sections of Tunnels 13, 15, and 18, where the timber sets are heavily decayed, crushed, and/or offset We also observed rockfall hazards at several locations in Tunnels 13 and 15, where timber sets were removed and replaced with steel sets, but the timber lagging was left in place and has now deteriorated and rotted away In addition, we identified rockfall hazards in two, short, unlined sections, also in Tunnel 13 Because of evident recent rockfalls, we strongly recommend repairs in these areas as well "

(RailAmerica Response, Ex 6, pp 3-4) (*emphasis* added)

Similarly, in its September 21, 2007 report, Shannon & Wilson observed that the problems in Tunnels 15 and 18 had been *previously identified and discussed with RailAmerica as early as November 2006* Further, it noted that other problem areas had been observed in November 2006 to January 2007 as well (RailAmerica Response, Ex 6, pp 12-13)

Likewise, the condition of Tunnels 13, 15, & 18 were also the subject of a tunnel inspection by Milbor-Pita & Associates, Inc in 2004, wherein Tunnel 15 was described

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[3] In their letterhead, Shannon & Wilson, Inc identify themselves as " geotechnical and environmental consultants" (*See* RailAmerica Response, Ex 6, p 1)

[4] In its July 16, 2007 letter, Shannon & Wilson characterizes areas in need of immediate repair as Repair Level 1 which they defined as in need of repair within six months Repair Level 2 was defined as those areas that should be repaired within the next 12 months (RailAmerica Response, Ex 6, p 2)

as an "extremely serious section that in our opinion could suffer a tunnel collapse at any time"

> The Milbor-Pita & Associates report described the conditions in Tunnel 15[5] as
>
> "Four hundred feet (+/-) of the north end of the tunnel just in from the concrete portal structure are supported with highly deteriorated timber sets placed on a spacing of 1 to 2 feet, in an area of heavy seepage In many cases the timber sets have racked and/or pushed inward, and the face-to-face contacts of the timber segments are almost completely crushed In our opinion these timber sets have almost no support capacity and are in a zone of heavy ground, i e hence the very close spacing of the sets Heavy ground, likely soil and/or very weathered bedrock, combined with heavy seepage in an area supported with deteriorated timber supports is a recipe for a major collapse that will close the tunnel for weeks if not longer"

(Milbor-Pita & Associates May 5, 2004 letter attached to Central Oregon & Pacific Railroad, Inc letter to Mike Gaul, Port of Coos Bay, August 3, 2005 attached hereto as Shippers' Exhibit 2, p 21)[6]

In addition, Milbor-Pita described the conditions on Tunnel 13 as the second most serious tunnel problem The report described the presence of "very wet, deteriorated timber sets" near the middle of the tunnel, a "section of close-spaced steel sets" which are "lagged with severely deteriorated wood planks that allow rock blocks to punch through and fall on the track", and, "voids in back of the planks" The report recommended that the steel sets should be lagged with steel channel as an immediate re-support, and eventually the voids backfilled with clean concrete or expansive grout (Shippers' Exhibit 2, p 22)

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[5] The report discussed the tunnels in order of most serious to the least serious, the most serious was Tunnel 15, which we assume would therefore be the referenced 'extremely serious section"

[6] Milbor-Pita & Associates, Inc are "geotechnical and tunnel consultants" from Woodinville, Washington (*See* Shippers' Ex 2, p 21)

The 2004 geotechnical and tunnel consultant's findings relative to Tunnels 13 & 15 read very similar to the July 16, 2007 report (*Compare* RailAmerica Response, Ex 6, pp 3-4) Furthermore, the Milbor-Pita & Associates report was also not the first time that the need for immediate repairs in these tunnels was documented

Similarly, in November 2006. Shannon & Wilson identified and discussed with RailAmerica, the state of deterioration and immediate rehabilitation work that was necessary on Tunnels 15 and 18 (Shannon & Wilson (RailAmerica Response Ex 6, p 12)) Shannon & Wilson described these discussions in its September 21. 2007 letter by noting

> "[a]s stated and described in detail in our tunnel inventory report dated July 2007, we identified and classified numerous sections in the tunnels, that are in various states of deterioration and, in our opinion, require immediate rehabilitation work (within six months) in order to reduce the currently high risk of rock falls and timber collapses to more acceptable levels *Some of the areas – particularly in Tunnel 15 and Tunnel 18, were identified and discussed with you as early as November 2006, when emergency repairs were initiated in Tunnel 15* "

(RailAmerica Response, Ex 6, pp 12-13) (*emphasis* added)

The need for immediate repairs in Tunnels 13 and 15 was also documented in a March 1, 1994 study by Shannon & Wilson, Inc (Shippers' Exhibit 2, pp 2-20) [7] In this report, Shannon & Wilson described the tunnel condition and "short-term rehabilitation requirements" by noting

> "[s]igns of important instability *requiring immediate repair* were observed in the timber sets in Coos Bay Tunnels 15 and 18, and in the gunite/steel lining in Coos Bay Tunnel 20 "[8]

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[7] The 1994 Shannon & Wilson Report was prepared for CORP's predecessor Montana Rail Link (*See* Shippers' Ex 2)

[8] In its July 16, 2007 letter, Shannon & Wilson defines areas in need of immediate repair as Repair Level 1 and as in need of repair within six months Repair Level 2 represented those areas that should be repaired within the next 12 months (*See* RailAmerica Response, Ex 6) Applying this classification to the 1994

(Shippers' Exhibit 2, p 7) (*emphasis* added)

While CORP was well aware of the immediate need for repair prior to Embargo, it made no effort to initiate these repairs either before or after the Embargo The July 2007 Shannon & Wilson's report that CORP relies on for its Embargo, recommended not only that immediate repairs be undertaken, it also clearly stated that the necessary design work and the preparation of construction plans and specifications would be required prior to commencing on- site reconstruction (RailAmerica Response, Ex 6, p 6) [9] Shannon & Wilson also offered to prepare these design, plans, and specification documents *if RailAmerica were to request them* (RailAmerica Response, Ex 6, p 6) Notwithstanding CORP's own geotechnical engineers advising that these documents were needed, the record is silent as to whether the recommended designs, plans and specifications were ever ordered or prepared Nonetheless, one can infer that they were not prepared given that there is no discussion of these documents – or of any repair steps being initiated – ever being prepared in either the subsequent September 21, 2007 Shannon & Wilson letter (RailAmerica Response, Ex 6, pp 12-13) or in CORP's November 2007 request to terminate CORP's compliance agreement with the Federal Railroad Administration ("FRA"). (November 28, 2007 letter to Paul Wilson FRA from Kevin Spradlin, GM CORP, attached hereto as Shippers' Exhibit 3)

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report, indicates that Shannon & Wilson was stating Tunnels 15 and 18 were in need of "immediate repair" within six months of March 1, 1994

[9] Shannon & Wilson stated that "[w]e would be pleased to submit a detailed proposal for the engineering design work and the preparation of construction plans and specifications for your next phase of repair work on the Coos Bay Tunnels" (RailAmerica Response, Ex 6, p 6)

In the November 2007 letter to the FRA, CORP stated that its "Capital Plan for 2008 does not include most of the Coos Bay Sub (approx 117 mi beyond Vaughn)" (Shippers' Exhibit 3, p 2)

Robert G Paul, P E , P L S , the Public Works Director for Douglas County,[10] noted that based upon his experience in receiving and reviewing geotechnical reports of this nature, he would have expected if the railroad intended to make the repairs, that the next step after CORP received the July 2007 letter would have been for the railroad to acquire the specific and detailed engineering designs, construction plans and specifications Once these were produced, he would then have expected the project engineer to order the necessary materials, arrange for equipment, and. establish a work schedule. (Verified Statement of Robert G Paul. P E , P L S, pp 2-3)

While Mr Paul describes what would be the norm in the public transportation industry for this region, CORP does not appear to have taken any of these steps In fact neither Mr Lundberg's April, 2008 verified statement nor the September 21, 2007 Shannon & Wilson letter describe any of these steps having occurred, let alone any steps being taken to initiate a repair program

If CORP intended to repair the tunnels in a timely manner, it clearly would have requested or prepared the "detailed proposal for the engineering design work and the preparation of construction plans and specifications" and included the repairs in their Capital Plan for 2008 [11] The absence of any reference to the engineering and design

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[10] That part of the Coos Line situated north of the Coos County line and South of the Lane County line is within Douglas County

[11] Furthermore, if CORP seriously believed its public-private partnership proposal was viable it would have included the tunnel repairs in its 2008 Capital Plan in anticipation of the repairs being conducted during 2008

documents in the September 2007 report, serves to corroborate the Marketing and Sales Manager's statements that CORP was not going to make the repairs or reopen the line (Shippers' Ex 1)

While Shannon & Wilson initially reported that the tunnels "require immediate rehabilitation work (within six months) ", in its follow-up report dated September 21, 2007, it does not describe that any repairs or changes in tunnel conditions have occurred since the July report (RailAmerica Response, Ex 6, p 12) Notably it referenced that the condition of the tunnels are in fact the same as they discussed with CORP in November 2006[12] - in other words there has been no change over this 10-11 month period Particularly noteworthy is the Shannon & Wilson comment that with respect to at least Tunnel 15 and Tunnel 18 it had previously advised CORP in 2006 that these tunnels required immediate rehabilitation work[13] (RailAmerica Response, Ex 6, p 12)

Notwithstanding that Shannon & Wilson had indicated there was an immediate need for repairs in November 2006 and then again in its July 2007 report, it reported in September 2007 that due to the delays that it may not now[14] be possible to undertake all of the repairs until the drier months of 2008 (RailAmerica Response, Ex 6, p 13)

The September 21, 2007 letter advised that

> "[h]owever, the increased seepage rate *in some areas* of the tunnels that normally accompanies the rainy season will contribute to an increased risk of instability and also makes *the application of remedial shotcrete in these seepage areas*

[12] Shannon & Wilson describe the same tunnel problems that it had discussed in the July 2007 report They note that the recent rockfall in Tunnel 19 now requires immediate attention as well Tunnel 19 was last visited in June 2007, prior to the July 2007 report

[13] Shannon & Wilson define the term "immediate" as those repairs that should be done within six months (See Rail America Response Ex 6, p 2

[14] The authors are flagging the fact that as a result of the failure to timely act on their July recommendations it may now not be possible to undertake all of the repairs in a timely manner and thereby adding several additional months to the original time period in which they recommended the repairs be completed

impossible and hazardous Consequently, it may not be safe for *much of the repair work* to be undertaken until the drier months of next spring and summer "

(RailAmerica Response, Ex 6, p 13) (*emphasis* added)

Notably while Mr Lundberg cites the September report for the premise that no repairs could be undertaken until spring, in fact the report only identified the application of remedial shotcrete as being impossible and hazardous. it did not state that all repairs would be precluded [15]

After reviewing the same report, Douglas County Public Works Director Robert G Paul, observed that based upon his experience with construction projects in Douglas County, it would be difficult to apply shotcrete under wet conditions However, he also noted that other activities could have been undertaken prior to applying the shotcrete and further noted that shotcrete could be applied in areas where seepage was not a problem (Verified Statement of Robert G Paul, P E , P L S , pp 3-4) He also took issue with Mr Lundberg's statement that weather conditions precluded tunnel repairs Mr Paul observed that while some repairs may have been precluded during the rainy season, not all repairs were, and, most importantly, he stated that the engineering, design, materials acquisition, etc were in-office type activities that could have and should have been done before any physical construction activities were initiated (Verified Statement of Robert G Paul, P E , P L S , pp 4-5)

Mr Paul also noted that the Verified Statement of Mr Lundberg does not explain why neither the repairs nor the engineering design work were commenced during the

[15] The author of the letter carefully chose his words by including qualifiers such as "it may not be " and "for much of" when describing the repairs, in other words it would clearly depend on the type of repair and the timing of when repairs commenced

summer of 2007 given that the Shannon and Wilson report was issued in July, 2007 well before the rainy season (Verified Statement of Robert G Paul, P E , P L S , pp 4-5)

Further contradicting Mr Lundberg's interpretation of the limited construction season is the fact that CORP's earlier repairs in Tunnel 15 were undertaken during November of 2006 (Verified Statement of Paul Lundberg, p 6) – indicating that not only could the repairs be undertaken during the fall time period but also that CORP was well aware that the repairs were feasible between the July through November time period

It is also worth noting that CORP was able to initiate the 2006 repairs within 30 days after it received the October 2006 joint inspection report by the FRA and ODOT (Verified Statement of Paul Lundberg, pp 5-6) [16] Based on the past practice, one would expect that if CORP had intended to restore service in a timely manner it would have initiated the repairs shortly after the July 16, 2007 report or at least concurrent with the Embargo [17]

It is abundantly clear that RailAmerica elected not to initiate repairs during periods when it was possible to undertake tunnel repairs – an election which was based solely on economic concerns rather than any physical limitation that was outside the control of CORP

While Shannon & Wilson reported in July 2007 that the repairs in Tunnels 13, 15, & 18 were of an immediate nature, its findings relative to the immediacy for repairs was

[16] Obviously the repairs could have been initiated in July 2007 or even as late as October 2007, as evidenced by the prior actions of RailAmerica

[17] Further, since Shannon & Wilson physically inspected the tunnels between March 26-30, 2007 while accompanied by a RailAmerica escort, one would have expected oral discussions communicating the immediate need for tunnel repairs would have occurred at that time – several months before the date of the July 16, 2007 report (*See* RailAmerica Response Ex 6, pp 1-2)

not the first time it and other geotechnical engineers had brought these issues to CORP's attention

Rather than respond to the repeated call for immediate repairs, CORP simply elected to defer the repairs The Embargo was clearly a direct result of CORP's consciously withholding essential repairs of the tunnels that had been identified as in need of *immediate* repairs over the previous thirteen years

While Mr Lundberg asserted that "[t]he timing of the tunnel failures made it impossible for CORP to commence repairs immediately following the embargo" (Verified Statement of Paul Lundberg, p 7), his statement simply glosses over the fact that CORP was well aware that there has been an *immediate* need for tunnel repairs for over 13 years and glosses over the fact that CORP simply elected to defer the repairs

Not only was it possible for CORP to have initiated the repairs in July - or at least by the date of the Embargo,[18] it was also possible to have commenced and completed repairs any time during the 13 years that the geotechnical engineers were repeatedly advising of the need for "immediate repair" in these precise tunnels It is clear that contrary to Mr Lundberg's Verified Statement, the repairs could not only have been commenced, but also could have been completed within a short period after either the July 21, 2007 report or the September 21, 2007 embargo, let alone any time after the March 1, 1994 report All of these reports and discussions documented to CORP the necessity of immediate repair on these tunnels

[18] As evidenced by the 2006 repairs, CORP had demonstrated an ability to initiate tunnel repairs commencing as late as October in 2006

If Mr Lundberg was correct that it would only take four months to complete all of the Level 1 and Level 2 repairs[19] identified in the July 2007 report, then by his own estimate, it is also clear that if the repairs had been commenced shortly after they received the report, then CORP would have completed all of the repairs by November, 2007 – well before the rainy season [20]

As a direct result of CORP's failure to timely repair the tunnels and thereby fulfill its common carrier obligation, the shippers on the Coos Line have suffered extensive damage Ray Barbee, Vice President of Sales and Marketing for Roseburg Forest Products noted that his company alone is incurring $208,000 to $250,000 per month in increased transportation costs (Verified Statement of Ray Barbee) Further, Mr Barbee observed that lacking access to rail, his company is unable to access its traditional markets throughout the United States and as a result it is in turn being forced to market on a more limited regional scale (Verified Statement of Ray Barbee)

Similarly, Fred Jacquot , plant manager for American Bridge Manufacturing, Inc . a bridge manufacturing and restorer in Reedsport, Oregon, noted that as a result of the Embargo it is without the rail system necessary to ship in and out of its Reedsport, Oregon facility the heavy bridge components it relies upon for its business (Verified Statement of Fred Jacquot) As a result of the Embargo it the American Bridge Manufacturing facility is no longer able to process the bridge repairs the facility was designed to repair (Verified Statement of Fred Jacquot)

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[19] It is notable that Shannon & Wilson described the Level 1 repairs as being necessary within six months while the Level 2 repairs were of less risk and could be undertaken in twelve months

[20] They would also have been done prior to the date they initiated tunnel repairs in November 2006

DISCUSSION

Under the common carrier obligation set forth in 49 U S C 11101(a), railroads have a duty to provide service on reasonable request. (*Bar Ale Inc v California Northern Railroad Co and Southern Pacific Transportation Company*, STB Finance Docket No 32821, p 5 (July 20, 2001)("*Bar Ale*"), *Groome & Associates v Greenville County Economic Development Corporation* STB Doc 42087 (July 27, 005)("Groome")

The very heart of the common carrier obligation is the recognition that the railroads are in a position of a unique public trust and are therefore held to higher standards of responsibility than other private enterprises *GS Roofing Products Co v STB*, 143 F 3d 387, 393 (8th Cir 1998) ("*GS Roofing*")

The common carrier obligation may, however, be temporarily suspended by the use of an embargo in emergency situations that are beyond the railroad's control which result in the railroad being unable to perform its duty as a common carrier (*Bar Ale* at p 5)

Notwithstanding a properly imposed embargo, a carrier may still be found to be in violation of the common carrier obligation if the embargo is premised on damage that can be readily and inexpensively fixed, or if the embargo remains in effect too long (*GS Roofing at* 392)

An embargo must be reasonable at all times and if it extends beyond a reasonable time it can be construed as an unlawful abandonment (*GS Roofing* at 392)

If a carrier does not fix a line over which service is requested, it must take steps to obtain abandonment or discontinuance authority (*Groome* at p 8. *Bar Ale* at 5-7, *GS*

Roofing at 393. *Decatur County Commissioners et al v Central Railroad Company of Indiana*, STB Finance Docket No 33386. (September 28, 2000) ("*Decatur*"))

In the absence of an emergency situation outside its control, an embargo cannot be used by a railroad to unilaterally abandon or discontinue service on a line (*Bar Ale* at 5) A common carrier cannot unilaterally cease operations merely because upgrading the line would be financially inconvenient (*G S Roofing* at 393)

What constitutes a valid embargo is a fact specific inquiry Typically an embargo is valid if justified by physical conditions beyond the control of the railroad affecting safety such as acts of God (i e weather and flood damage, tunnel deterioration), or operating restrictions such as congestion (*Bar Ale* at 5)

In considering whether a failure to serve is reasonable, as well as how long the failure to serve may reasonably continue, the Board generally balances the following factors the cost of repairs necessary to restore service, the amount of traffic on the line, the carrier's intent,[21] the length of the service cessation, and the financial condition of the carrier [22] (*Groome* at p 9, *GS Roofing* at 392. *See also Decatur v STB* 308 F 3d at 715, *Bar Ale* at 5-7)

The linchpin inquiry is whether the carrier's actions were initially, and continue to be, reasonable under the circumstances

If conditions that resulted in the embargo can be easily rectified, the embargo will not be valid beyond the reasonable time necessary to restore service (*GS Roofing* at 392)

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[21] CORP's Marketing and Sales Manager stated CORP did not intend to reopen the line unless a container facility was built at Coos Bay (Shippers' Ex 1)

[22] In this case RailAmerica has not presented any evidence or statement as to its financial condition

While a railroad may have initially acted reasonably in embargoing a storm-damaged line, it may not be reasonable in maintaining the embargo if the railroad could have repaired the track in short order (*GS Roofing* at 394)

Once an embargo becomes unreasonable, then the carrier is no longer excused from its duty to provide service (*Bar Ale* at 5, *Groome* at p 5)

Whether an embargo is, and continues to be, reasonable, is examined in the context of (1) whether the railroad's initial decision to impose an embargo was reasonable, and (2) whether the railroad made all efforts that it reasonably could under the circumstances be expected to make to facilitate the reinstitution of service (*Decatur* at p 5)

In *Interstate Commerce Commission v Baltimore and Annapolis Railroad Company*, 398 F Supp 454 (1975)("*Baltimore & Annapolis Railroad*"), the Court recognized that while the original embargo was due to circumstances entirely beyond the control of the railroad (i e , the occurrence of Hurricane Agnes (i d p 462), it also recognized that in order for the embargo not to be an illegal abandonment, the cessation must continue to be beyond the control of the railroad throughout the entire embargo period (i d at 459)

In this case, even if the Embargo had initially been proper -- which it was not, CORP's failure to initiate the repairs after either the July 16, 2007 Shannon & Wilson report or the September 21, 2007 Embargo, resulted in the Embargo no longer being beyond the control of CORP Therefore, when CORP announced on September 21, 2007 that it would not reopen the Line due to financial considerations and subsequently

announced that it had removed the Line from its Capital Projects for 2008,[23] the cessation was no longer beyond the control of the railroad[24] and became an improper and illegal use of the embargo process

Under the railroad's public trust obligations, an embargo is not justified simply because it would be inconvenient or less profitable to continue to provide service (*GS Roofing* at 394)

Further, given CORP's longstanding knowledge of the immediate need for tunnel repairs and its failure to make the repairs, argues strongly that the Coos Line Embargo was unlawful at its inception In an analogous situation, the Court in *Baltimore & Annapolis Railroad* ruled that if the unsafe track conditions have resulted in large part from the railroad's own policy of deferred maintenance, then the original cessation of service is not deemed beyond the control of the railroad and the embargo provisions are not applicable (*Baltimore & Annapolis Railroad* at 463) (*See also I C C v Chicago Rock Island & Pac R R*, 501 F 2d 908, 911-13 (8th Cir 1974)("*Chicago, Rock Island & Pac R R*")

While in *Baltimore & Annapolis Railroad*, the Court found that the damage to the bridge resulting from Hurricane Agnes had in fact resulted in the cessation of railroad operations on the line, it also found that the damage wreaked by the hurricane would not have occurred had the Baltimore & Annapolis Railroad performed routine maintenance

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[23] Consistent with CORP's statement that it did not view the Coos Line as justifying the repairs on November 28, 2007 the GM for CORP advised the Federal Railroad Administration that the "Capital Plan for 2008 does not include most of the Coos Bay Line (approx 117 mi beyond Vaughn) or the Siskiyou Sub between Belleview and Montague (approx 50 mi)" (Shippers' Ex 3)

[24] Between the date of the Embargo and November 28, 2007, the railroad had not taken any steps to restore service, at best they were what Mr Lundberg described as "formulating a plan to secure funding " (Verified Statement of Paul Lundberg, p ___)

on the bridge over the years The Court noted that "if the unsafe track conditions have resulted in large part from the railroad's policy of deferred maintenance, the cessation is not deemed 'beyond the control' of the railroad " (1 d p 463) The Court further observed that "virtually the entire cost of repairing the track to safe conditions is a result of B & A's longstanding policy of "deferred maintenance " (1 d p 463) As a result, the Baltimore and Annapolis Railroad's embargo was found to be illegal from its inception

Likewise, in this case, the conditions that led to the September 21, 2007 Embargo are a direct result of CORP's failure to make the tunnel repairs in a timely manner

Rather than make the repairs, CORP simply elected to take the risk and defer the repairs As in *Baltimore & Annapolis Railroad*, the embargo would not have been necessary had CORP consciously not withheld maintenance and repairs over the preceding years.

Given CORP's election to adopt a policy of deferring maintenance and repairs to these tunnels, the Embargo was illegal from its onset Further, even if the Embargo was initially legal, it ceased to be legal once CORP announced - concurrent with the Embargo, that it did not intend to make the repairs and in fact followed through with that announcement by failing to initiate any steps necessary to accomplish the repairs

In this case, the Embargo was illegal at its onset and continues to be illegal for each and every day that CORP fails to repair and reopen the Line

As an unreasonable and illegal embargo, CORP is not excused from its duty to provide service The common carrier obligation imposes a public trust on CORP which it may not ignore by unilaterally ceasing operations

CONCLUSION

The Surface Transportation Board should issue an order declaring the Embargo, as an illegal embargo and set a date certain by which CORP must reopen the Coos Line in a manner consistent with its common carrier obligations

Dated June 2, 2008

Respectfully submitted,

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Central Oregon & Pacific Railroad, Inc - Coos Bay Rail Line	)	Finance Docket No 35130

VERIFIED STATEMENT OF ROBERT G. PAUL, P.E., P.L.S.

My name is Robert G Paul I am a resident of Roseburg, Oregon situated in Douglas County, Oregon. I am the Public Works Director for Douglas County Prior to becoming the Public Works Director in 2002, I was employed in the Engineering Division of the Douglas County Public Works Department and with the Oregon Department of Transportation for 22 years I have a degree in Civil Engineering and I also hold a Professional Engineer ("P E "). and a Professional Land Surveyor (P L S) license with the State of Oregon I am the Oregon Chapter President for the National Society of Professional Engineers

In my capacity as the Public Works Director I am responsible for all public works projects undertaken by Douglas County These projects are situated throughout Douglas County, and include projects from the high mountains of the Cascade Mountains to the coast They involve operations in all types of weather and all types of situations, such as floods, landslides, and, debris flows

I supervise a staff of 122 Included within my department's responsibilities are the construction, improvement, repair, and maintenance of public roads, bridges, and facilities

I personally am responsible for determining the type of projects to be undertaken, scheduling, cost accounting, and engineering

It is based on these professional and personal experiences and knowledge that I make the following comments

1 I have reviewed the July 16. 2007 "Tunnel Inventory – Coos Bay Subdivision, Oregon" report prepared by Shannon and Wilson relative to the condition of Tunnels 13, 14, 15, 16, 17, 18, 19, 20, and 21 I have also reviewed the Verified Statement of Paul Lundberg relative to the deterioration of the tunnels and the proposed action I also reviewed the FRA Report set forth as Exhibit 8 to the Verified Statement of Mr Lundberg

2 In the Shannon & Wilson, Inc report, the report authors noted the short-term or immediate rehabilitation that needed to be done (p 3) These immediate tunnel stability problems were described as being related to the progressively and intensely deteriorated and rotted conditions of timber in timber-lined sections in Tunnels 13, 15. and 18 and unlined sections with associated rockfall hazard in Tunnel 13 The authors recommended relining and supporting these areas with steel fiber-reinforced shotcrete. rockbolts, and steel ribs The estimated construction cost was in the order of $2.865,000 (Exhibit 6, p 6) While the authors recommended these actions, they did not include any engineering design work The authors specifically stated that they would be pleased to submit a detailed proposal for the engineering design work and the preparation of construction plans and specifications for your next phase of repair work on the tunnels (Exhibit 6, p 6)

Based upon my experience in receiving and reviewing geotechnical reports of this nature, I view this report as a preliminary report and one that may not be adequate for a construction contractor or a civil engineer to undertake the rehabilitation described

therein In other words prior to any on the ground rehabilitation work, there would need to be more specific and detailed engineering designs, constructions plans and specifications prepared Once these documents were prepared then one would normally expect there would be a bid package or submittal made to qualified parties to submit bids on the project Following the acceptance of a bid, then one would expect the project engineer would order the necessary timber sets, steel sets, steel sets with timber tagging, concrete portal barrels, and, rock bolts, arrange for the necessary equipment (either rental or through ownership); and establish a work schedule These items would not require a significant amount of time Shannon & Wilson also recognized the need for this additional work as evidenced by the final paragraph on Exhibit 6, page 6

3. I also reviewed the September 21, 2007 "Tunnel Condition, Assessment for Coos Bay Subdivision, Oregon" prepared by Shannon & Wilson, Inc This report is designed as an update as to the status of the tunnels subsequent to the July 2007 report This report notes that the water seepage problems that normally accompanies the rainy season will contribute to an increased risk of instability and also make the application of remedial shotcrete in the seepage areas impossible and hazardous Based upon my experience, it is difficult to apply shotcrete when operating under wet conditions However, in reading the Shannon & Wilson report and based upon my engineering experience, shotcrete would be one of the last items one would apply after the grouted rock bolts had been installed through the timber liner and the timber ribs had been removed Further, it is possible one could schedule the project so that by starting with the steel sets in Tunnel 15, one could initiate rehabilitation in a manner that leaves the

shotcrete sets until last Further, one could commence the shotcrete in areas where the seepage did not make the project impossible during the rainy season

4 In my opinion, if one desired to restore service on the Coos line as soon as possible one would have immediately after receipt of the Shannon and Wilson Report, undertaken the engineering design, scheduling and ordering of materials Not all of the rehabilitation was precluded by the rainy season My opinion is supported by the statement in the September 21, 2007 report wherein the statement is made that it may not be safe "for much" of the repair until the drier months While Mr Lundberg stated that it was impossible to commence, there is nothing in his statement that supports that conclusion, in fact the Shannon and Wilson reports state the opposite While Shannon and Wilson commenced the study in March 2007, after the November 2006 tunnel collapse in Tunnel No 15, the Embargo was not issued until September 21, 2007 I question why, if the geotechnical engineers were recommending immediate repairs, the engineering, design, construction plans and specifications as well as the repairs were not commenced during the Summer of 2007.

5 Mr Lundberg states that they used the fall/winter period to "gauge the interest of other stakeholders" in preserving rail service over the line Notably he does not describe any activities relative to the engineering, construction planning, development of specifications, or actual repairs While he notes that they undertook the gauging of interest during a period in which he describes as a period when the weather conditions precluded tunnel repairs in any event (Lundberg p 9) However, his interpretation of weather conditions precluding tunnel repairs is clearly misleading While some tunnel repairs may have been precluded, not all repairs were and most importantly, the

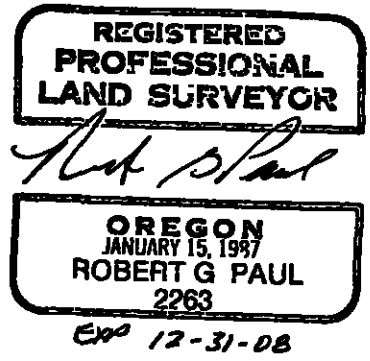
engineering, design, materials acquisition etc were in-office type activities that could have and should have been done before construction The fact that he does not mention any of these activities as occurring, I question whether they were ever done

VERIFICATION

I, Robert G Paul, declare under penalty of perjury that the foregoing is true and correct Further, I certify that I am qualified and authorized to file this verified statement

ROBERT G PAUL, P E, P L S

Executed on June 2, 2008



BEFORE THE
SURFACE TRANSPORTATION BOARD

Central Oregon & Pacific Railroad, Inc - Coos Bay Rail Line	)	Finance Docket No 35130

VERIFIED STATEMENT OF RAY BARBEE

I, Ray Barbee, declare under penalty of perjury that the foregoing is true and correct Further, I certify that I am qualified and authorized to file this verified statement

I am the Vice President for Sales & Marketing with Roseburg Forest Products Roseburg Forest Products, is 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, 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 As a result of our dependence on rail transportation, Roseburg Forest Products has had a close relationship over the years with the various railroads, including in 2004 assisting Central Oregon & Pacific Railroad ("CORP") 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 CORP in repairing tunnels on the Coos line, and, in providing CORP with financial assistance for repairing tunnels and thereafter reopening the Siskiyou Line

I have been closely monitoring the shipping and the impacts on our company as a result of the CORP's September 21, 2007, embargo of the Coos Line (See Embargo No CORP 000107) The embargo was imposed with only one days' notice by CORP and as a result left us scrambling not only to find alternative shipping but also to keep our businesses operating My company had orders awaiting shipment and targeted for delivery on specific dates, and as a result of the short embargo notice we were placed in the difficult situation of having to scramble to find timely transportation

At the time of the embargo, CORP's own analysis, which was not made available to the shippers until several weeks later, identified that the tunnels could be repaired within four 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 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 CORP steadfastly refused to do anything to fix

the tunnels unless all of these financial commitments were agreed to by all of the parties Since the State of Oregon has refused, CORP has not moved forward with the tunnel repairs

After the embargo, CORP offered Roseburg Forest Products a $200 per car allowance if our shipments were reloaded elsewhere on the CORP line However, we were not able to avail ourselves of this allowance since CORP never provided us with a contract, rate item or any type of publication outlining what they would pay, how one was to file for the allowance or other information as to how the allowance would operate My Traffic Manager for Rail requested a written agreement from CORP several times however CORP never issued one

At my request my Transportation and Logistics Director has estimated that the annual financial impact of the closure of the Coos Bay Line has resulted in an additional $208,000 to $250,000 per month ($2 5 to $3 0 Million/year) in hard transportation costs due to trucking instead of rail In addition there are additional costs that we have not quantified but are clearly additional costs, for such items as increased wear and tear on our private transportation infrastructure (i e truck loading docks, scales, and roads), administrative costs, and inventory carrying costs

In addition, the loss of rail transportation for our finished product from our facility in Coquille, Oregon has increased our transportation costs from this facility to the point that we are no longer cost competitive in some of our markets out of the West Coast While we have traditionally been able to access markets throughout the United States, we are no longer able to competitively serve those markets from this facility

I, Ray Barbee, declare under penalty of perjury that the foregoing is true and correct Further, I certify that I am qualified and authorized to file this verified statement

RAY BARBEE

Executed on June 2, 2008.

BEFORE THE
SURFACE TRANSPORTATION BOARD

Central Oregon & Pacific Railroad, Inc - Coos Bay Rail Line	)	Finance Docket No 35130

VERIFIED STATEMENT OF FRED JACQUOT

My name is Fred Jacquot I am plant manager for American Bridge Manufacturing, Inc , and have been in that capacity for 1 1/2 years During this time period I have been the manager of the Reedsport, Oregon facility This facility was developed by American Bridge to repair and construct bridge components for use all over the United States One of the requirements for our facility was the presence of a rail transportation system

1 I was advised of the CORP Embargo one day prior to the imposition of the Embargo At the time I had several bridge projects that were in various stages of construction and we were under a tight time line to complete and deliver to their final location Due to the embargo of the line American Bridge Manufacturing had to scramble to find alternative transportation for incoming material While CORP proposed to provide us with financial assistance, it was contingent upon our reloading at their Eugene facility, however since their facility could not handle the size and weight of the material components we have been forced to receive the materials in Portland to reload to truck, and to ship finished components by truck to Portland for reload to rail Therefore the offer of reload assistance by CORP has not been of any value

2 As a direct result of the Embargo and the increased trucking expenses, American Bridge & Manufacturing is no longer able to competitively bid on projects in

our traditional markets utilizing this site The majority of the projects require shipping by rail since the weight precludes transporting on the highway system As a result of the loss of rail we are simply not able to undertake the projects at this facility

VERIFICATION

I, Fred Jacquot declare under penalty of perjury that the foregoing is true and correct Further, I certify that I am qualified and authorized to file this verified statement

Fred Jacquot

FRED JACQUOT

Executed on June 2nd, 2008

between the wheels of the locomotive and rail cars and the tracks, including wheel/rail profiles, wheel/rail friction management, and wheel/rail inspection equipment and procedures

The Railroad Research Foundation, a part of the Association of American Railroads, is receiving a $500,000-grant to demonstrate technology based on industry standards that would allow for the interoperability of different Positive Train Control systems as a train travels from one railroad network to another Union Pacific is receiving a $150,000-grant to study if locomotive emissions and fuel consumption can be reduced through the use of rail car-based rail lubrication systems by lessening the amount of friction between the wheels and the track The railroad is contributing $244,280 toward this project

The Minnesota Department of Transportation is receiving a $495,000 grant from FRA to upgrade approximately one-mile of track owned by the Minnesota Valley Regional Rail Authority near the town of Hamburg

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CORP discontinues operations on Coos Bay Line **September 21, 2007**

The Central Oregon and Pacific Railroad is discontinuing operations between Vaughn, Ore , and Coquille, Ore , due to unsafe tunnel conditions The rail line segment has nine tunnels, each more than 115 years old, several of which are no longer safe to transit The rail carrier has notified its customers along the line and will issue an embargo notice to the Association of American Railroads notifying all other rail carriers that rail cars will no longer be accepted for delivery Final deliveries of goods in transit are expected to be completed by the end of the month

Late in 2006, the carrier began extensive repairs to one of the tunnels The repair work triggered a tunnel collapse that cost almost $2 million to repair Since that time, CORP has engaged an internationally known geotechnical and environmental engineering firm with particular expertise in rail tunnel repairs to assess the status of the tunnels on the line The experts determined that three of the nine tunnels require extensive, immediate repairs to be made safe for rail operations and minimize the risk of collapse

CORP General Manager Kevin Spradlin said the company would seek to form a public-private partnership to make repairs to the line, but that the amount of money required is significant, totaling nearly $7 million over the next five years for tunnel repairs alone

Previous efforts to increase rail rates on the line through a surcharge were unsuccessful "The Coos Bay line just doesn't have enough business on it today to justify us making the repairs," said CORP Marketing and Sales Manager Tom Hawksworth "Even if the money were suddenly available, it's not safe to make the repairs until after the rainy season next spring "

Hawksworth added that the line could be reopened to support a container terminal at Coos Bay should such a terminal be developed

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NICTD outlines plans for service to Lowell, Valparaiso, Ind. **September 21, 2007**

As the South Shore line nears its 100th anniversary, the organization that now runs the railroad is planning its first major extension The leaders of the organization recently outlined plans to extend service to Lowell and Valparaiso, local newspapers report

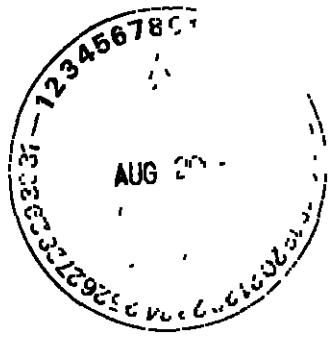
"These are logical extensions that would create a lot of economic development in this area," Gerald Hanas, general manager of the Northern Indiana Commuter Transportation District, said "Indiana will pay a congestion tax if we don't expand "

EXHIBIT 1
PAGE 1 OF 1

2

CENTRAL OREGON & PACIFIC RAILROAD, INC
333 S E Mosher Ave • PO Box 1083 • Roseburg, OR • 97470 • 541-957-5966 • Fax 541-957-0686

August 3, 2005



Mike Gaul
Port of Coos Bay
125 Central Avenue
Suite 300
Coos Bay, Oregon 97420-0311

Dear Mike,

Enclosed please find the information you have requested regarding improvement of the Coos Bay Tunnels to enable handling of Plate H double stack containers

Clearance work for the Coos Bay Tunnels is fairly well spread out over all of the tunnels, and includes undercutting, concrete liner notching and timber replacement with shotecrete and rock bolts Double stack clearances will require some work in all of the tunnels, however crown mining and/or undercutting will be required only in Tunnels 13, 16 and 21 on the Coos Bay Branch

I have enclosed a copy of a study done in 1994, by Shannon Wilson, a review of the Tunnel conditions by Milbor-Pita in May of 2004 and the most recent estimate of costs from $1,966,400 to $2,416,400 by Milbor-Pita

As you are aware, cost for materials changes constantly and these estimates are subject to change We can do a more in-depth study and firm up these costs once a decision is made to pursue this further

Hope this is what you need

Sincerely

Dan Lovelady
General Manager

Jon, we only looked at Plate "F" for the Coos Bay Line, not for Double Stack (Plate "H"). I will look for the 1994 study later today.

Siskiyou Branch — Gerry

- Tunnel 14 - 60 LF of wet, deteriorated timber supports in center of tunnel should be pulled, the crown rock bolted and shotcreted. Some collapse occurred in Spring 2004 in this area.

Long Term Liner Rehabilitation Recommendations

The long-term rehabilitation requirements, which we identified during our reconnaissance, are related to the removal of timber sets in areas of unstable ground or areas of seepage, deteriorated gunite in GOSS sections, loose or failing shotcrete arch lining, or loose slabs of rock in unlined sections. These are identified in Tables 1 and 2 with a rating of "B", and are summarized below with engineer level cost estimates shown in Table 4. The cost for the long-term rehabilitation work is estimated to be $1,400,000. It should be noted that some of the timber removal and re-lining would improve existing clearances to Plate "F".

Notes on the condition of the track structure are presented on the Tunnel Inspection Forms in Appendix A, and categorized in Tables 1 and 2. However, the costs to repair or improve the track structure are not included in this report.

Coos Bay Branch

- Tunnel 13 - 340 LF of bare steel sets need to be formed with channel lagging and backfilled with concrete or covered with shotcrete.
- Tunnel 15 – Repair crack in south portal concrete structure.
- Tunnel 17 - Portions of GOSS need new shotcrete.
- Tunnel 18 - 50 LF of timber in poor condition. Replace with steel sets and shotcrete.
- Tunnel 19 – 500 LF of arch needs additional shotcrete or rock bolt and straps for. Shotcrete missing in 2 locations.

Roseburg Branch

- Tunnel 5 - 100 LF of rock to be bolted and strapped in crown. 4-10 ft long rock bolts placed at 4 ft centers.
- Tunnel 6 - 80 LF of rock to be bolted and strapped in crown. 4-10 ft long rock bolts placed at 4 ft centers.
- Tunnel 7 - 77 LF of rock to be bolted and strapped in crown. 4-10 ft long rock bolts placed at 4 ft centers.
- Tunnel 9 – Needs drainage ditch.

Siskiyou Branch

- Tunnel 14 – 600 LF of timber sets should be replaced with shotcrete and rock bolts.

Possible Clearance Improvement Programs

The required clearance envelopes for Plates "F" and "H" were plotted onto the clearance cross-sections for the Coos Bay and Roseburg/Siskiyou Branches provided by CORP, and developed by CANAC in 2001. These are shown in Appendices C and D. For Plate

"F" clearance, we have used a standard of 17'6" ATR by 5'0" half-width, plus 1" per degree of track curvature. For Plate "H" clearance, we have used a standard of 20'6" ATR by 4'6" half-width, plus 1" per degree of track curvature.

Proposed Plate "F"

All of the tunnels on the Coos Bay Branch currently meet the Plate "F" standard.

There are 5 tunnels on the Roseburg/Siskiyou Branch that do not meet the Plate "F" standard. For Tunnels 5, 6, and 8, the proposed clearance improvement work consists of the removal of rock by drill-and-blast methods, with only minor securing of loose slabs with rock bolts. The rock "tights" are less than 12 inches, requiring the drilling of short blast holes in the haunches and crown (see photo #10). The CANAC clearance diagrams are summary plots of the tightest points around the tunnel perimeter for long distances in the tunnel; actual locations of "tights" may be significantly less than the entire length of the tunnel. To gain clearance in Tunnel 13, the track will have to be lowered approximately 18 inches; an alternative would be to re-mine the tight sections (replace GOSS) since most of the tunnel will clear Plate "F" after the current re-opening program is completed. To gain clearance in Tunnel 14, the coffin timber sets would have to be removed and replaced with shotcrete and rock bolts (see photo #11). This is summarized in Table 5.

Because the amount of rock to be removed per lineal foot of tunnel is minimal (<1 cubic yard) and the timber sets in Tunnel 14 can be easily removed, all of the work could be performed from hy-rail trucks without the need for air dumps or flat cars. The estimated cost of this work is $500 per lineal foot for blast excavation of rock, and $1000 per lineal foot for timber set replacement with rock bolts or shotcrete.

Proposed Plate "H" (Double Stack)

We have analyzed the tunnels on the Roseburg/Siskiyou Branch for Plate "H" clearance. Plate "H" clearance will require similar but more extensive work as outlined for Plate "F" clearance. Rock sections would require up to 24 inches of blast excavation in the arch (Tunnels 3-8), significant replacement of GOSS sections with larger-dimension steel sets and shotcrete (Tunnels 2-4, 9, 15), and a major track lowering in Tunnel 13. Track lowering in Tunnels 2, 3 and 15 is likely not feasible because of bridges near the tunnels forming "hard" track elevations. In order to make an accurate cost estimate for this work, we will need to obtain additional information, especially about the nature of the ground above the GOSS sections requiring replacement. With the current available information, we estimate a cost of at least $7,000,000.

Summary

In general, most of the lengths of the tunnels on the Coos Bay and Roseburg/Siskiyou Branches were excavated in fair to good ground, and require only a moderate repair program for immediate stability problems. Long-term maintenance requirements relate

EXHIBIT 2
PAGE 4 OF 23

Table 5 -Clearance for Plates "F" and "H"

Tunnel	Cleared for Plate "F"	Work Required	Costs	Cleared for Plate "H"	Work Required	Costs
Coos Bay						
13	Yes	None	0	No	NA	
14	Yes	None	0	No	NA	
15	Yes	None	0	No	NA	
16	Yes	None	0	No	NA	
17	Yes	None	0	No	NA	
18	Yes	None	0	No	NA	
19	Yes	None	0	No	NA	
20	Yes	None	0	No	NA	
21	Yes	None	0	No	NA	
		TOTAL				
Siskiyou/Roseburg						
2	Yes	NA	0	No	Replace arch with shotcrete or larger steel segments.	$200,000
3	Yes	NA	0	No	Replace arch with shotcrete or larger steel segments.	$400 000
4	Yes	NA	0	No	Drill and blast rock sections; lower track 18" or replace arch with shotcrete or larger steel segments in GOSS section.	$500,000
5	No	Drill and blast about 6" from springline to springline for clearance	$120,000	No	Drill and blast about 2' from springline to springline for clearance, 1 week of work	$200,000
6	No	Drill and blast about 6" from springline to springline for clearance	$220,000	No	Drill and blast about 2' from springline to springline for clearance	$400 000
7	Yes	NA	0	No	Drill and blast about 2' from springline to springline for clearance	$85 000
8	No	Drill and blast about 6" from springline to springline for clearance	$1,350,000	No	Drill and blast about 2' from springline to springline for clearance	$2,250,000
9	Yes	NA	0	No	Some arch liner notching/arch segment replacement/timber set replacment.	$300,000
13	under construction	Lower track 18"	$1,000,000	under construction	Lower track 48"	$1,300 000
14	No	Replace timber sets with shotcrete/rockbolts	$750,000	No	Replace timber sets with shotcrete/rockbolts and some additional rock excavation	$1,200,000
15	Yes	NA	0	No	Lower track 6" or replace arch with shotcrete or larger steel segments.	$650,000
		TOTAL	$3,440,000		TOTAL	$7,385,000

Notes

1. Drill and blast cost for Plate "F" clearance is estimated at $400/LF
2. Drill and blast cost for Plate "H" clearance is estimated at $800/LF
3. Timber replacement with shotcrete and rock bolts is estimated at $1000/LF
4. Track lowering is estimated at $300/LF for Plate "F", $400/LF for Plate "H"
5. "Costs do not include CORP flagging, work trains, and engineering support or contractor mob. Applying these costs are 30% of line costs.
6. Drill & Blast costs for Plate "F" clearance assume entire length of rock section is "bad", likely "lights" are local and costs will be significantly less

June 2005 Review

W-6694-01/34

Table 1: Coos Bay Branch Tunnel Inventory of Required Double Stack Clearance and General Rehabilitation Work

TUNNEL	TYPE OF OBSTRUCTION	PROPOSED REMEDIAL WORK		UNIT COST	ITEM COST
13	129 FT Concrete (10-12") 1759 FT Timber (only in curve)	1) Notch conc; remove timber on curve	300 LF	$1,000 LF	300,000
		or			or
		2) Undercut tunnel	3,000 LF	$250 LF	750,000
14	54 FT Concrete (18")	Remove concrete lining	54 LF	~~$2,000 LF~~ 3,000	~~108,000~~ 162,000
15	50 FT Concrete (7")	Notch conc and	50 LF	$200 LF	10,000
		Replace timber w/rockbolts and shotcrete	200 LF	~~$1,000 LF~~ 1500	~~200,000~~ 300,000
16	109 FT Concrete (18") 508 FT GOSS (2-6")	Undercut tunnel and notch concrete	1,500 LF	~~$250 LF~~ 350	~~375,000~~ 525,000
17	182 FT Concrete (3-6")	Notch concrete	182 LF	$200 LF	36,400
18	None	Remove deteriorated timber and replace with rockbolts and shotcrete (Table 3)	50 LF	~~$1,000 LF~~ 1500	~~50,000~~ 75,000
19	104 FT Concrete and GOSS (3")	Notch conc and gunite on steel sets	104 LF	$200 LF	20,800
		Install rockbolts in gunite section	4,000 LF	~~$15 LF~~ 30	~~60,000~~ 120,000
20	108 FT Concrete (6")	Notch concrete	108 LF	$200 LF	21,600
		Remove GOSS (62'), reline with rockbolts and shotcrete	62 LF	~~$1,500 LF~~ 2,000	~~93,000~~ 124,000
21	108 FT Concrete (4-6") ~~308 FT Timber (9-6")~~	Notch concrete	108 LF	$200 LF	21,600
		~~Replace timber with rockbolts and shotcrete~~	~~308 LF~~	~~$1,000 LF~~	~~308,000~~
		Mob/Demob			250,000
		Estimated Total Cost (Option 1)			1,922,400 ~~1,854,400~~
		Estimated Total Cost (Option 2)			2,416,400 ~~2,304,400~~

NOTE. All work assumed to be live track in 10-hour uninterrupted windows, except as noted

EXHIBIT 2
PAGE 5 OF 23

2/25/04 / ilm/mac

SHANNON WILSON, INC

SHANNON & WILSON, INC.
GEOTECHNICAL AND ENVIRONMENTAL CONSULTANTS

SEATTLE
HANFORD
FAIRBANKS
ANCHORAGE
SAINT LOUIS
BOSTON

March 1, 1994

Montana Rail Link
101 International Way
Missoula, Montana 59807

Attn: Mr. Richard Keller, Chief Engineer

RE: TUNNEL INVENTORY - COOS BAY AND SISKIYOU BRANCHES

INTRODUCTION

This report documents our observations and opinions regarding the condition of the Coos Bay and Siskiyou Branch tunnels, and the estimated costs and schedules to improve clearances in the tunnels for Plate "H" double-stack traffic (Tables 1 and 2), and Plate "F" clearances in Table 5. Estimated costs for short-term rehabilitation work are presented in Table 3, and for long-term rehabilitation work in Table 4. General data on the tunnels are presented in Appendices A and B.

The tunnel inventory was authorized by Mr. Richard Keller, Chief Engineer of Montana Rail Link on February 7, 1994. A group consisting of Mr. Keller and Dave Cook (MRL B&B supervisor), Jacques Fuller (SPRR Director of Plant Rationalization), Ed Barrow (SPRR B&B foreman), Mr. Larry Prinkki (Washington Contractors Group Geologist), and Gerry Millar inspected the tunnels on February 14 through 16 by hy-rail vehicle. Approximately 15 minutes were spent at each tunnel measuring the clearances and noting the structural condition of the lining and stability of the ground where visible The only documentation available for the visit and the preparation of this report are the SPRR tunnel data sheet and typical drawings of timber sets and gunite/shotcrete lining.

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SEATTLE WASHINGTON 98103
206-632-8020 FAX 206 633-6777

EXHIBIT 2
PAGE 6 OF 23

GENERAL CONDITION OF THE TUNNELS INCLUDING SHORT-TERM REHABILITATION REQUIREMENTS

The original tunnel construction (1880s) consisted of drill-and-blast excavation with occasional support with timber sets and portal structures. Larger clearance requirements and likely continued rock loosening led the SPRR to enlarge the tunnels and place continuous timber sets as support, along with concrete portal structures in the 1920's. The significant maintenance effort required to replace timber sets led the SPRR to a program of replacing the timber with steel sets (W8-31) covered with gunite (Figure 1). This latter program took place in the 1970s and early 1980s. At present, approximately 6,500 feet of tunnel are lined with gunite/steel and 9,000 feet with timber sets. Signs of important instability requiring immediate repair were observed in the timber sets in Coos Bay Tunnels 15 and 18, and in the gunite/steel lining in Coos Bay Tunnel 20 (Table 3).

The bedrock along both branches is generally slabby to massive blocky ground, almost always good tunneling ground away from the highly weathered portal areas. Approximately 8,500 feet are unlined or lined with a thin (1 to 4 inches) layer of gunite placed in the 1970s and 80s. Only localized areas of Tunnels 7 (Siskiyou) and 14 and 19 (Coos Bay) need immediate support with rock bolts and shotcrete (Table 3).

Lightly reinforced concrete linings were used only as portal structures, and date from the 1920s. All are in good condition, and total approximately 1,150 feet. In most cases, the concrete lining is the smallest with regard to clearances, the exception being unlined sections of the Siskiyou Branch tunnels (Tables 1 and 2).

LONG-TERM REHABILITATION REQUIREMENTS

All of the long-term rehabilitation requirements (excluding track structure work) are related to the removal of timber sets and re-lining with shotcrete and rock bolts in stable ground and with steel sets and shotcrete or concrete in unstable ground. This proposed work is summarized in Table 4, and is estimated to cost $8,000,000. It should be noted that the timber removal and re-lining would improve existing clearances to double-stack requirements, so that approximately $2,800,000 of the double-stack clearance program would be covered in this effort.

PROPOSED DOUBLE-STACK CLEARANCE IMPROVEMENT PROGRAM

The proposed double-stack clearance program is summarized in Tables 1 and 2. The Plate "H" clearance diagram is presented in Figure 3. This information is based on preliminary clearance data obtained by wide-spaced tunnel measurements taken during the inspection trip with an extendable surveyors rod and/or a sonic measuring device. These top-of-rail and sidewall width measurements were then plotted on the liner dimensions presented in the SPRR standards drawings for timber sets and gunite/steel linings (Figures 1 and 2), or on graphs of the concrete portal linings. The clearance standard used is a 4-inch cushion around a 20'2" high stack that is 8'6" wide, plus an additional inch of side clearance per degree of track curvature. For estimating purposes, the following clear top-of-rail dimensions were used:

- 21'2" for tangent track in timber or gunite/steel areas
- 21'8" for 10 degree curves " " " " "
- 22'0" for tangent track in concrete lined sections
- 22'10" for 10 degree curves " " " "

The major work to achieve double-stack clearance on the Siskiyou Branch consists of drill-and-blast rock removal in Tunnel 8, and major undercutting of Tunnels 13 and 14. The track structure in the latter two tunnels is severely deteriorated so the expense of clearance work also improves operating conditions in those tunnels. Clearance work in the Coos Bay Branch tunnel is fairly well spread over all of the tunnels, and includes undercutting, concrete liner notching and timber replacement with shotcrete and rock bolts. The estimated cost of $2,300,000 for the Coos Bay and $4,300,000 for the Siskiyou tunnels assumes live track work in 10-hour uninterrupted daily windows, except for the work in Siskiyou tunnels 13 and 14 which would be performed with the track out of service. We estimate that the Coos Bay Branch work would take four months using one work train (undercutting setup and crown mining setup), and the Siskiyou work six months using two work setups, one for the dead track undercutting and stabilization in Tunnels 13 and 14, and a separate setup for the live track rock removal in Tunnels 4 through 8. Work trains in the live track tunnels would likely consist of a combination of hy-rail trucks and flat cars/air dumps/water tankers moved by car movers. Locomotives and large locomotive cranes would not be necessary as prime movers for the work trains.

PROPOSED PLATE "F" CLEARANCE IMPROVEMENT PROGRAM

The required clearance envelope for Plate "F" traffic is presented in Figure 4, and the location and type of obstructions, along with the proposed clearance improvement activities, are presented in Table 5. Only the Siskiyou Branch tunnels are currently restrictive to this type of traffic. The proposed clearance improvement work consists solely of the removal of rock by drill-and-blast methods, with only minor securing of loose slabs with rock bolts. The rock "tights" are believed to be less than 12 inches thick, requiring the drilling of short blast holes in the haunches and crown of the tunnels. We estimate that this work would take approximately three months to accomplish with daily 10-hour work windows. Because the amount of rock to be removed per lineal foot of tunnel is minimal (< 1/2 cubic yard), all of the work could be performed from hy-rail trucks without the need for air dumps or flat cars to remove the broken rock. The estimated cost for this work is $800,000. It should be noted that we estimate that more extensive rock removal in these tunnels for double-stack

clearance would only cost $1,300,000 (Table 2) and take approximately two additional months to accomplish.

SUMMARY

In general, the Siskiyou and Coos Bay Branch tunnels were excavated in fair to good tunnel ground, and require only a moderate repair program for immediate stability problems other than track structure work (Table 3). Long-term maintenance requirements relate exclusively to the replacement of timber sets with a shotcrete or steel set/concrete lining (Table 4). Double-stack clearances will require some work in almost all of the tunnels; however, major crown mining and/or undercutting will be required only in Tunnels 8, 13, and 14 on the Siskiyou Branch (Table 2), and Tunnels 13, 16, and 21 on the Coos Bay Branch (Table 1). Plate "F" clearances require only the removal of rock above the springline in four tunnels on the Siskiyou Branch (Table 5).

The clearance information and proposed clearance improvement programs presented in Tables 1, 2, and 5 are based on minimal survey data taken during the three-day inspection tour. We feel that a much higher level of confidence can be placed on the costs and schedules for this work if clearances are measured with a hy-rail-mounted template or similar system. Eventually, a program of drilled probes through the concrete and gunite/steel linings will be useful in estimating liner removal and stabilization requirements We would be pleased to submit a detailed proposal for the clearance measurement, liner probing, and engineering design work when you require it.

As always, we appreciate the opportunity to work with you and look forward to answering any questions you have concerning the information presented in this report.

Sincerely,

SHANNON & WILSON, INC.

Gerry Millar
Manager of Railroad Services

Harvey W. Parker, P.E.
Senior Vice President
Underground Services

HARVEY WESTON PARKER III
STATE OF WASHINGTON
28724
REGISTERED
PROFESSIONAL ENGINEER
EXPIRES 12/23/94

GM:HWP/gm

Enclosures: Table 1 - Coos Bay Branch Tunnel Inventory of Required Double Stack Clearance and General Rehabilitation Work
Table 2 - Siskiyou Branch Tunnel Inventory of Required Double Stack Clearance and General Rehabilitation Work
Table 3 - Rehabilitation of Unstable Areas Requiring Immediate Attention
Table 4 - Long Term Maintenance Requirements Not Related to Clearance, Short Term Maintenance, or Track Structure Deterioration
Table 5 - Plate F - Clearance Requirements for Siskiyou Branch Tunnels
Figure 1 - Details of Gunite/Steel Lining
Figure 2 - Details of Timber Lining
Figure 3 - Plate "A" Clearance Design
Figure 4 - Plate "F" Clearance Diagram
Appendix A - Tunnel Inspection Forms, Coos Bay Branch
Appendix B - Tunnel Inspection Forms, Siskiyou Branch

W6694-01 LTR/W6694-lkd/lkd

Plate "H"

Table 1: Coos Bay Branch Tunnel Inventory of Required Double Stack Clearance and General Rehabilitation Work

TUNNEL	TYPE OF OBSTRUCTION		PROPOSED REMEDIAL WORK		UNIT COST	ITEM COST
13	129 FT	Concrete (10-12")	1) Notch conc; remove timber on curve	300 LF	$1,000 LF	300,000
	1759 FT	Timber (only in curve)	or			or
			2) Undercut tunnel	3,000 LF	$250 LF	750,000 —
14	54 FT	Concrete (18")	Remove concrete lining	54 LF	$2,000 LF	108,000
15	50 FT	Concrete (7")	Notch conc and	50 LF	$200 LF	10,000
			Replace timber w/rockbolts and shotcrete	200 LF	$1,000 LF	200,000
16	109 FT	Concrete (18")	Undercut tunnel and notch concrete	1,500 LF	$250 LF	375,000
	508 FT	GOSS (2-6")				
17	182 FT	Concrete (3-6")	Notch concrete	182 LF	$200 LF	36,400
18		None	Remove detenorated timber and replace with rockbolts and shotcrete (table 3)	50 LF	$1,000 LF	50,000 — ○
19	104 FT	Concrete and GOSS (3")	Notch conc and gunite on steel sets	104 LF	$200 LF	20,800
			Install rockbolts in gunite section	4,000 LF	$15 LF	60,000
20	108 FT	Concrete (6")	Notch concrete	108 LF	$200 LF	21,600
			Remove GOSS (62'), reline with rockbolts and shotcrete	62 LF	$1,500 LF	93,000
21	108 FT	Concrete (4-6")	Notch concrete	108 LF	$200 LF	21,600
	308 FT	Timber (6-8")	Replace timber with rockbolts and shotcrete	308 LF	$1,000 LF	308,000
			Mob/Demob			250,000
			Estimated Total Cost (Option 1)			1,854,400
			Estimated Total Cost (Option 2)			2,304,400

NOTE All work assumed to be live track in 10-hour uninterrupted windows, except as noted

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Plate "H"

Table 2: Siskiyou Branch Tunnel Inventory of Required Double Stack Clearance and General Rehabilitation Work

TUNNEL	TYPE OF OBSTRUCTION		PROPOSED REMEDIAL WORK	UNIT COST		ITEM COST
2		None				
3		None				
4	62 FT	Rock (20")	Remove rock and secure with rockbolts	62 LF	$400 LF	24,800
5	239 FT	Rock (40")	Remove rock and secure with rockbolts	239 LF	$400 LF	95,600
6	446 FT	Rock (40")	Remove rock and secure with rockbolts	446 LF	$400 LF	178,400
7	25 FT	Concrete (12")	Notch concrete	25 LF	$200 LF	5,000
	77 FT	Rock (40")	Remove rock and secure with rockbolts	77 LF	$400 LF	30,800
8	2669 FT	Rock (50")	Remove rock and secure with localized rockbolts	2,669 LF	$300 LF	800,700
9		None				
13	3000 FT	Timber and GOSS (40")	Undercut 30" (5000LF) and construct concrete footwall embedding timber sets, tie backs in footwall (dead track work)	5,000 LF	$350 LF	1,750,000
14	1192 FT	All lining types (20"-40")	Undercut 30" (3000LF) and construct concrete footwall embedding timber sets, tie backs in footwall (dead track work)	3,000 LF	$350 LF	1,050,000
15		None	Remove Timber 721 LF " Goss 139 LF " Conc 339 LF Mob/Demob			400,000
			Estimated Total Cost			4,335,300

NOTE All work assumed to be live track in 10-hour uninterrupted windows, except as noted

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Table 3: Rehabilitation of Unstable Areas Requiring Immediate Attention

TUNNEL	TYPE OF INSTABILITY	PROPOSED REMEDIAL WORK		UNIT COST	ITEM COST
Coos Bay Branch					
14	Loose slabs of rock	Rockbolt tunnel (1,000 LF)	1,000 LF	$20 LF	20,000
15	Racked and deteriorated timber sets (200 LF)	Remove timber and reline with shotcrete and rockbolts	200 LF	$1,500 LF	300,000
18	Racked and deteriorated timber sets (50 LF)	Remove timber and reline with shotcrete and rockbolts	50 LF	$1,500 LF	75,000
19	Loose slabs of rock (500 LF)	Rockbolt tunnel (4,000 LF)	4,000 LF	$20 LF	80,000
20	Major rockfall above gunite/steel lining (60 LF)	Remove gunite/steel and reline with rockbolts and shotcrete	60 LF	$2,000 LF	120,000
Siskiyou Branch					
7	Loose slabs of rock (70 LF)	Rockbolt tunnel (800 LF) and 30 cy of shotcrete	70 LF	$400 LF	28,000
			Subtotal		623,000
			Mob/Demob		100,000
		Estimated Total Cost			723,000

NOTE All work assumed to be live track in 10-hour uninterrupted windows, except as noted

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Table 4: Long Term Maintenance Requirements
Not Related to Clearance, Short Term Maintenance, or Track Structure Deterioration

TUNNEL	TYPE OF INSTABILITY	PROPOSED REMEDIAL WORK		UNIT COST	ITEM COST
Coos Bay Branch					
15	1355 LF Timber sets *(200 LF removed in short term repairs)*	Remove timber sets and reline with shotcrete and rockbolts	1,355 LF	$1,000 LF	1,355,000
17	417 LF Timber sets	Remove timber sets and reline with shotcrete and rockbolts	417 LF	$1,000 LF	417,000
18	548 LF Timber sets (50 LF removed in short term repairs)	Remove timber sets and reline with shotcrete and rockbolts	548 LF	$1,000 LF	548,000
21	308 LF Timber sets	Remove timber sets and reline with shotcrete and rockbolts	308 LF	$1,000 LF	~~308,000~~
Siskiyou Branch					
9	448 LF Timber sets	Remove timber sets and reline with shotcrete and rockbolts	448 LF	$1,000 LF	448,000
13	2800 LF Timber sets	Remove timber sets and reline with shotcrete and rockbolts, localized steel sets and spiling.	2,800 LF	$1,300 LF	3,640,000
14	754 LF Timber sets	Remove timber sets and reline with shotcrete and rockbolts	754 LF	$1,000 LF	754,000
				Subtotal	7,470,000
				Mob/Demob	700,000
				Estimated Total Cost (assumed 3 mob/demob)	8,170,000

NOTE All work assumed to be live track in 10-hour uninterrupted windows, except as noted

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Table 5: Plate F - Clearance Requirements For Siskiyou Branch Tunnels

TUNNEL	TYPE OF OBSTRUCTION	PROPOSED REMEDIAL WORK		UNIT COST	ITEM COST
5	Localized rock tights (assume 100 LF)	Remove rock.	100 LF	$200 LF	20,000
6	Localized rock tights (assume 100 LF)	Remove rock.	100 LF	$200 LF	20,000
7	Localized rock tights (assume 20 LF)	Remove rock.	20 LF	$200 LF	4,000
8	2669 LF Rock (12')	Remove rock.	2,669 LF	$250 LF	667,250
			Subtotal		711,250
			Mob/Demob		100,000
			Estimated Total Cost		811,250

NOTE All work assumed to be live track in 10-hour uninterrupted windows, except as noted.

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Figure 1 of Corrugated Lining

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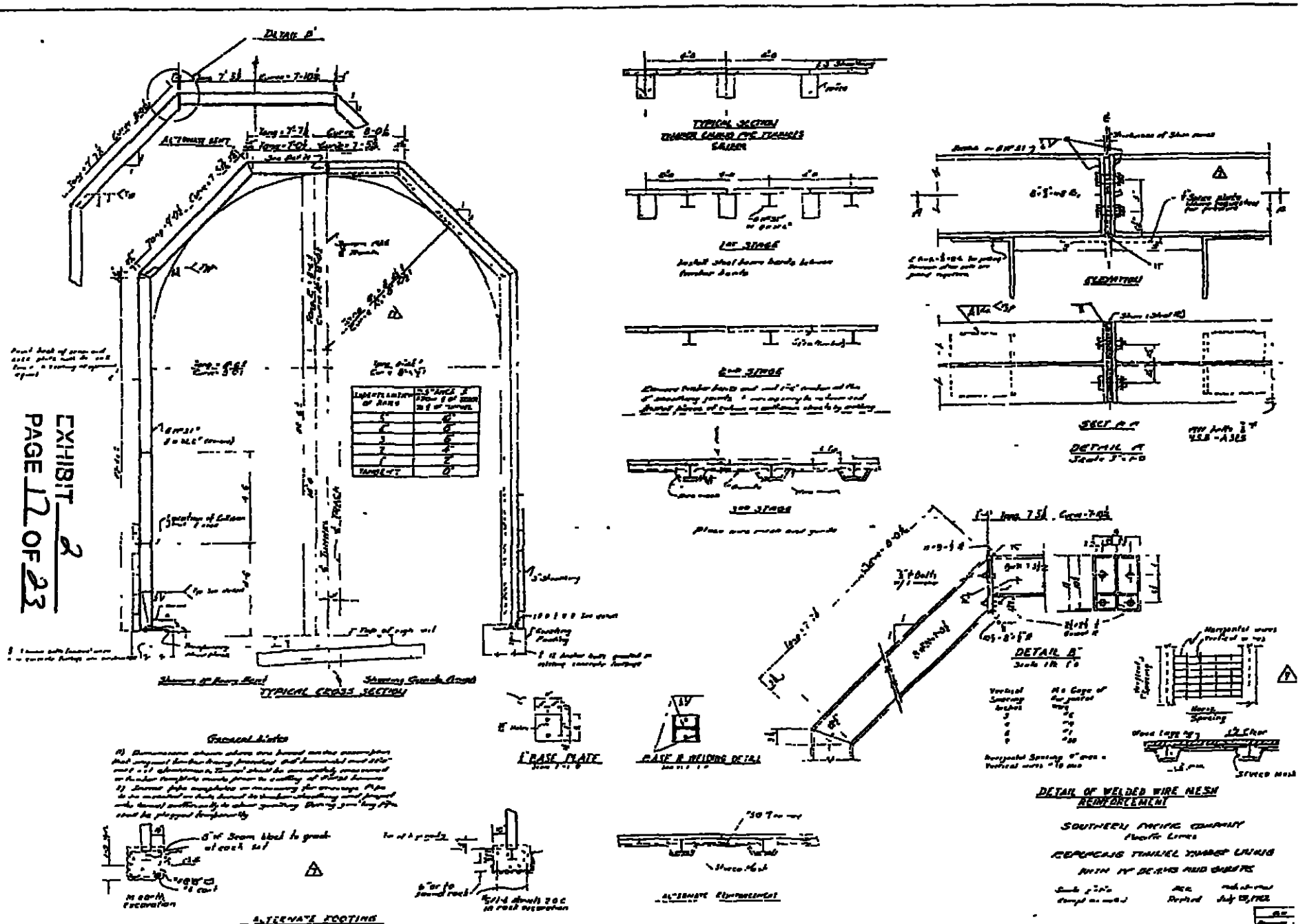

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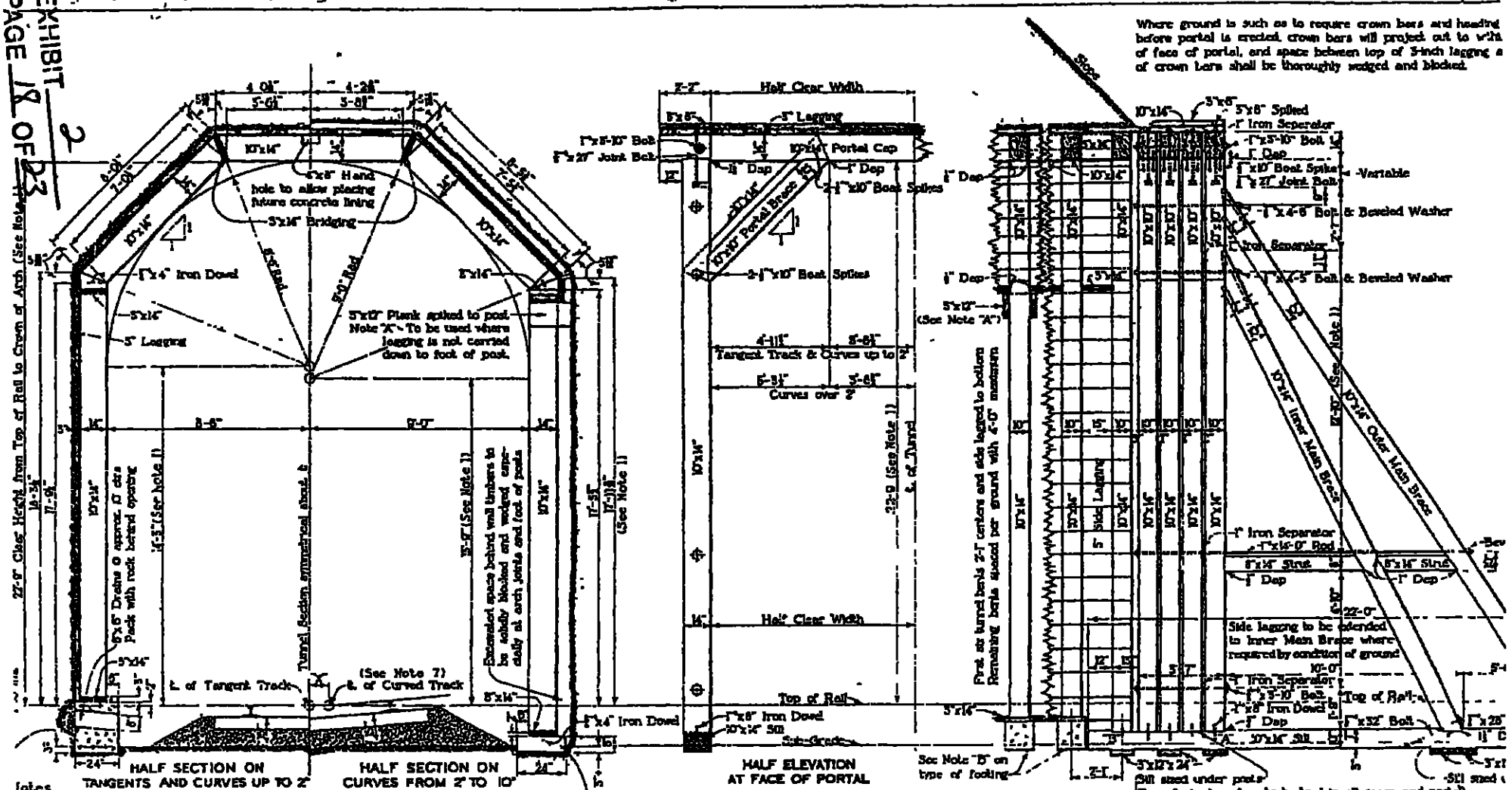


Notes

1. Clear height of tunnel section from top of rail to crown of arch to be 22'-6" except in California minimum clear height to be 23'-3". New tunnel portals will be constructed to provide a minimum clear height of 23'-3".
2. Clear width of tunnel section on tangent and curves up to 2° to be 17'-0".
3. Clear width of tunnel section on curves from 2° to 10° to be 18'-0".
4. Special plans will be furnished for curves greater than 10° and for exceptionally heavy ground.
5. In any tunnel where both tangent and curved tracks occur and tangent is 200 feet or less, proper width for curved portion shall be used for total length.
6. Where length of tangent is more than 200 feet, proper width of tunnel shall be maintained to a point 50 feet from B.C. of curve then gradually widened so that full width for curve will be reached at B.C. Above mentioned widening to be done on tangent.
7. On curved track center line of tunnel shall be located inside of center line of track as shown in accompanying table.
8. Footings to be carried down to firm foundation.
9. Timber to be redwood or Port-Orford cedar.
10. The clear width shown above is to be used where bents are placed 4'-0" or more c to c. If it is decided to place bents 5'-0" c to c, make clear width 6" greater.
11. Where nature of ground makes closer spacing necessary insert additional bents between 3'-0" or 4'-0" spacings but make lagging 3'-0" or 4'-0" long so that intermediate bents may be removed before concreting.
12. For use of struts between posts see C.S. 1751.

LOCATION OF ℄ OF TUNNEL ON CURVED TRACK	
Superelevation of Rails	Distance "X" from ℄ of Track to ℄ of Tunnel
5 inches	10 inches
4	8 "
3	6 "
2	4 "
1	2 "

Note "B" Type of footing to be determined by engineer depending upon nature of ground.

SOUTHERN PACIFIC
COMMON STANDA
TIMBER LINING FOR

NO SCALE

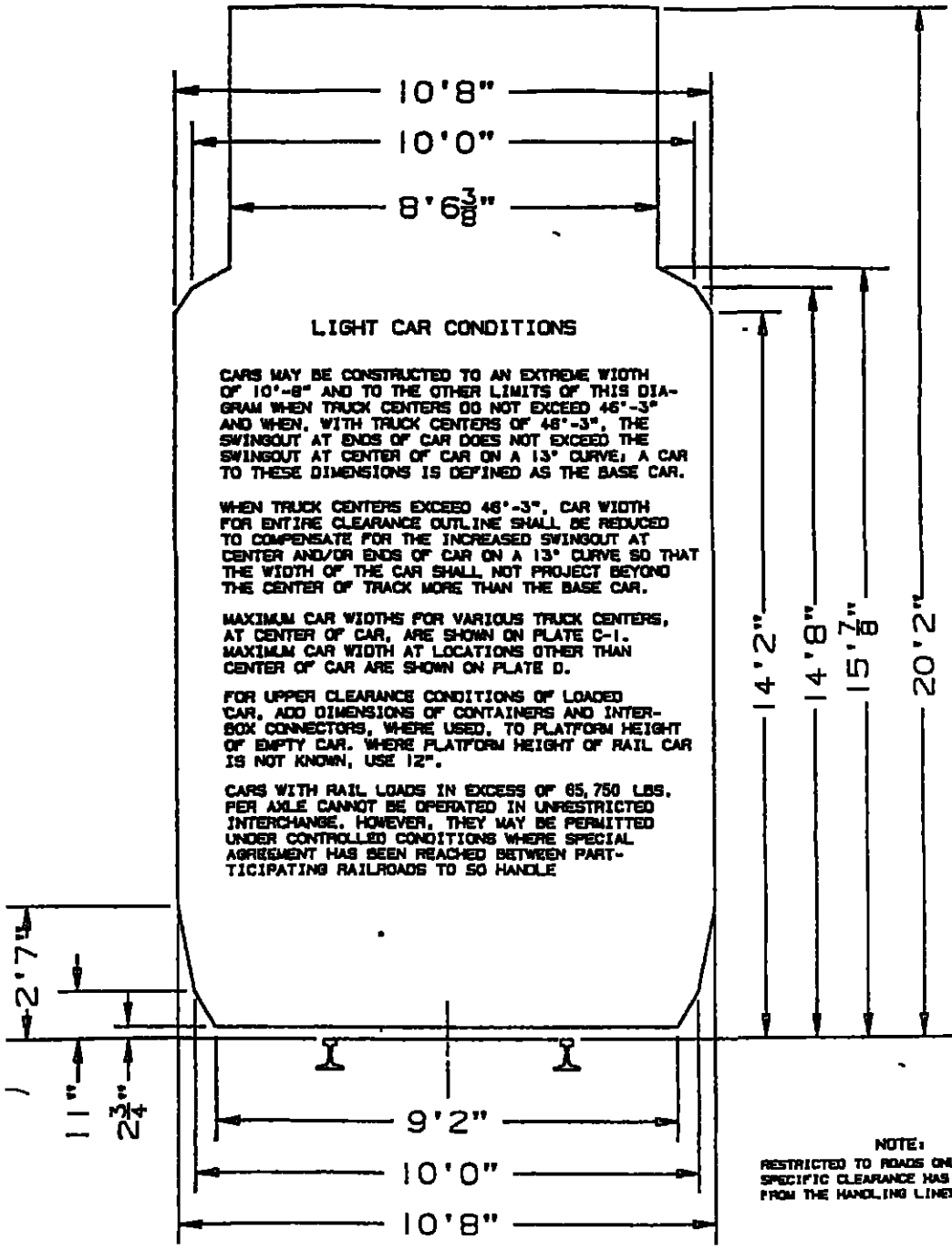
ADOPTE
REVISED

Figure 3 Plate "H" Clearance Diagram

EQUIPMENT DIAGRAM FOR DOUBLE-STACK CONTAINER CARS

STANDARD

S-2040-91 ADOPTED, 1991



LIGHT CAR CONDITIONS

CARS MAY BE CONSTRUCTED TO AN EXTREME WIDTH OF 10'-8" AND TO THE OTHER LIMITS OF THIS DIAGRAM WHEN TRUCK CENTERS DO NOT EXCEED 46'-3" AND WHEN, WITH TRUCK CENTERS OF 46'-3", THE SWINGOUT AT ENDS OF CAR DOES NOT EXCEED THE SWINGOUT AT CENTER OF CAR ON A 13° CURVE; A CAR TO THESE DIMENSIONS IS DEFINED AS THE BASE CAR.

WHEN TRUCK CENTERS EXCEED 46'-3", CAR WIDTH FOR ENTIRE CLEARANCE OUTLINE SHALL BE REDUCED TO COMPENSATE FOR THE INCREASED SWINGOUT AT CENTER AND/OR ENDS OF CAR ON A 13° CURVE SO THAT THE WIDTH OF THE CAR SHALL NOT PROJECT BEYOND THE CENTER OF TRACK MORE THAN THE BASE CAR.

MAXIMUM CAR WIDTHS FOR VARIOUS TRUCK CENTERS, AT CENTER OF CAR, ARE SHOWN ON PLATE C-1. MAXIMUM CAR WIDTH AT LOCATIONS OTHER THAN CENTER OF CAR ARE SHOWN ON PLATE D.

FOR UPPER CLEARANCE CONDITIONS OF LOADED CAR, ADD DIMENSIONS OF CONTAINERS AND INTER-BOX CONNECTORS, WHERE USED, TO PLATFORM HEIGHT OF EMPTY CAR. WHERE PLATFORM HEIGHT OF RAIL CAR IS NOT KNOWN, USE 12".

CARS WITH RAIL LOADS IN EXCESS OF 65,750 LBS. PER AXLE CANNOT BE OPERATED IN UNRESTRICTED INTERCHANGE. HOWEVER, THEY MAY BE PERMITTED UNDER CONTROLLED CONDITIONS WHERE SPECIAL AGREEMENT HAS BEEN REACHED BETWEEN PARTICIPATING RAILROADS TO SO HANDLE

NOTE:
RESTRICTED TO ROADS ONLY FROM WHICH SPECIFIC CLEARANCE HAS BEEN OBTAINED FROM THE HANDLING LINES

The 2 3/4" above top of rail is absolute minimum under any and all conditions of lading, operation, and maintenance

5'4

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EXHIBIT 9
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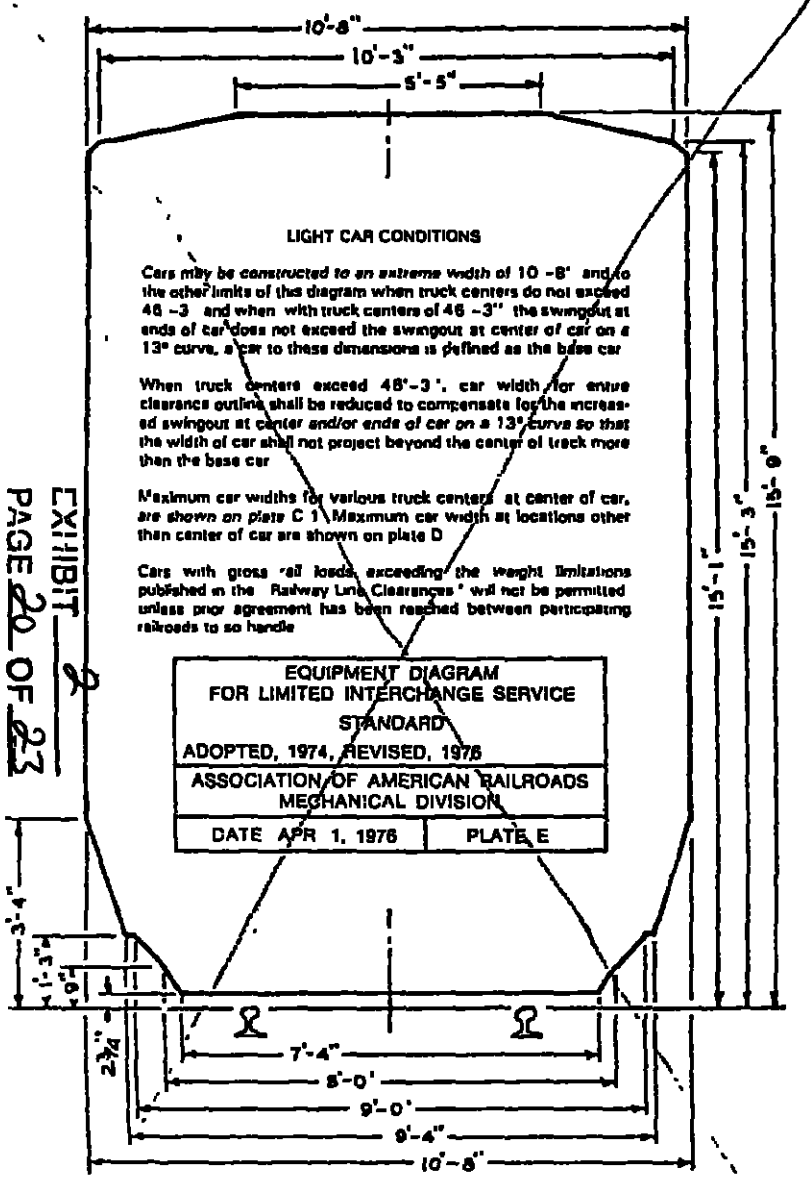


LIGHT CAR CONDITIONS

Cars may be constructed to an extreme width of 10'-8" and to the other limits of this diagram when truck centers do not exceed 46'-3" and when with truck centers of 46'-3" the swingout at ends of car does not exceed the swingout at center of car on a 13° curve, a car to these dimensions is defined as the base car

When truck centers exceed 46'-3", car width for entire clearance outline shall be reduced to compensate for the increased swingout at center and/or ends of car on a 13° curve so that the width of car shall not project beyond the center of track more than the base car

Maximum car widths for various truck centers at center of car, are shown on plate C-1 Maximum car width at locations other than center of car are shown on plate D

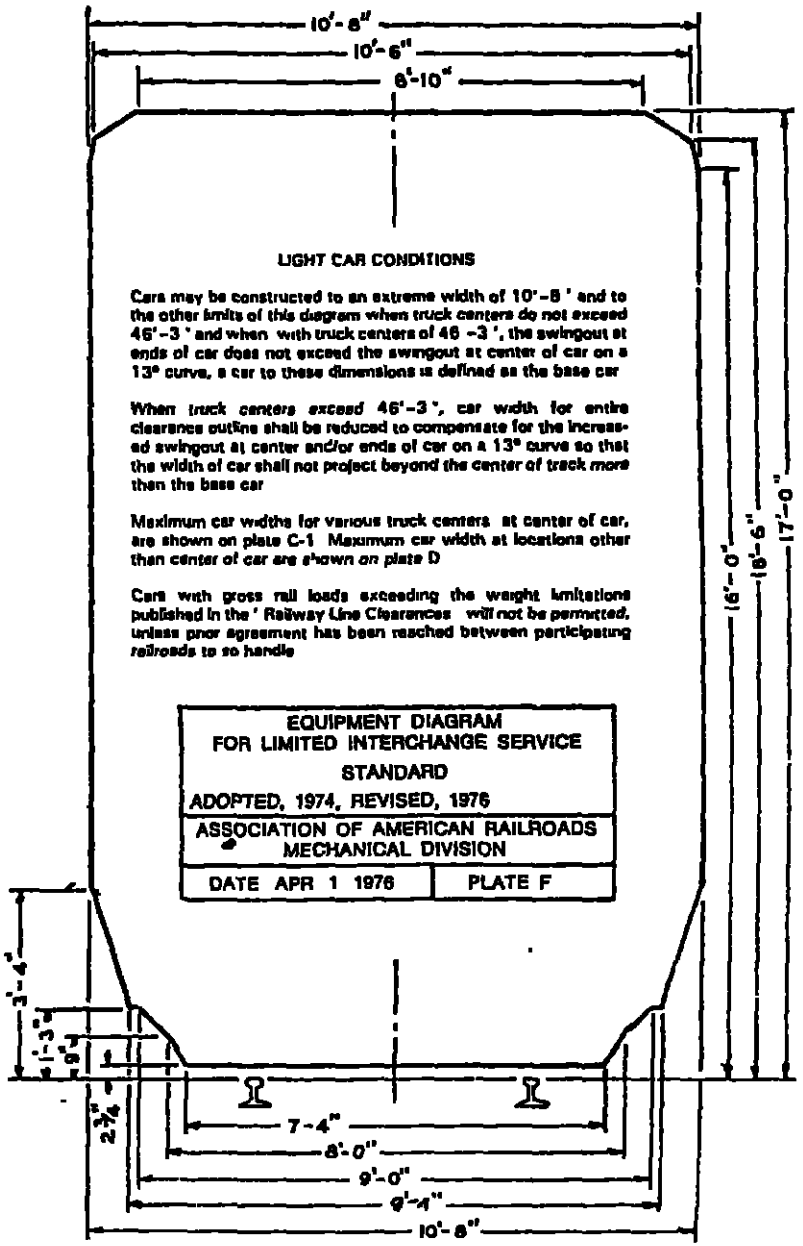
Cars with gross rail loads exceeding the weight limitations published in the "Railway Line Clearances" will not be permitted unless prior agreement has been reached between participating railroads to so handle

EQUIPMENT DIAGRAM FOR LIMITED INTERCHANGE SERVICE STANDARD	
ADOPTED, 1974, REVISED, 1976	
ASSOCIATION OF AMERICAN RAILROADS MECHANICAL DIVISION	
DATE APR 1, 1976	PLATE E

The 2 3/4" above top of rail is absolute minimum under any and all conditions of lading, operation and maintenance

NOTE

Restricted to roads only from which specific clearance has been obtained from the handling lines



LIGHT CAR CONDITIONS

Cars may be constructed to an extreme width of 10'-8" and to the other limits of this diagram when truck centers do not exceed 46'-3" and when with truck centers of 46'-3", the swingout at ends of car does not exceed the swingout at center of car on a 13° curve, a car to these dimensions is defined as the base car

When truck centers exceed 46'-3", car width for entire clearance outline shall be reduced to compensate for the increased swingout at center and/or ends of car on a 13° curve so that the width of car shall not project beyond the center of track more than the base car

Maximum car widths for various truck centers at center of car, are shown on plate C-1 Maximum car width at locations other than center of car are shown on plate D

Cars with gross rail loads exceeding the weight limitations published in the "Railway Line Clearances" will not be permitted, unless prior agreement has been reached between participating railroads to so handle

EQUIPMENT DIAGRAM FOR LIMITED INTERCHANGE SERVICE STANDARD	
ADOPTED, 1974, REVISED, 1976	
ASSOCIATION OF AMERICAN RAILROADS MECHANICAL DIVISION	
DATE APR 1 1976	PLATE F

The 2 3/4" above top of rail is absolute minimum under any and all conditions of lading, operation, and maintenance

NOTE

Restricted to roads only from which specific clearance has been obtained from the handling lines.

Milbor-Pita & ASSOCIATES, INC

May 5, 2004 DRAFT – Subject to Review

Central Oregon & Pacific Railroad
333 S.E. Mosher
P.O. Box 1083
Roseburg, Oregon 97470

Attn Jim Underwood – Manager of Track Maintenance
Marc Bader – Chief Engineer

Re: Coos Bay Branch Tunnel Inspection

Jim Underwood and I inspected most of the tunnels on the Coos Bay Branch on May 4, 2004 in order to estimate immediate liner maintenance requirements, in effect updating the March 1994 evaluation performed by Gerry Millar for Montana Rail Link/Southern Pacific Railroad. The tunnels on both occasions were subject to a cursory drive-through inspection because of the limitations of access by hy-rail SUV and minimal track time, however even this limited investigation allowed us to identify sections of several of the tunnels that are in need of structural repairs in the near future, and one extremely serious section that in our opinion could suffer a tunnel-closing collapse at any time These problems areas are discussed below, starting with the most serious to the least serious sections.

Tunnel 15 MP 720 2143 feet
Four hundred feet (+/-) of the north end of the tunnel just in from the concrete portal structure are supported with highly deteriorated timber sets placed on a spacing of 1 to 2 feet, in an area of heavy seepage. In many cases the timber sets have racked and/or pushed inward, and the face-to-face contacts of the timber segments are almost completely crushed In our opinion these timber sets have almost no support capacity and are in a zone of heavy ground, i.e. hence the very close spacing of the sets. Heavy ground, likely soil and/or very weathered bedrock, combined with heavy seepage in an area supported with deteriorated timber supports is a recipe for a major collapse that will close the tunnel for weeks if not longer.

The staged removal of the timber supports and the re-lining with shotcrete and rock bolts is not an option in this section because of the unstable nature of the ground and the heavy seepage The only viable live-track repair in our opinion is the construction of an overlay liner consisting of steel sets/channel lagging backfilled with concrete placed directly over the deteriorated timber supports. In effect, the steel sets/channel lagging are used as form

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work for the new liner and provide considerable structural reinforcement to the liner. The overlay liner is seated on a new footing wall placed just inboard of the existing footings to the timber supports. This new liner will reduce the lateral clearances from 17 feet total width to 15 feet, and the ATR clearance from 21 feet to 20 feet.

We have designed this type of remedial lining several times in the past 5 years, and one is currently being installed under similar conditions in a BNSF tunnel in Wyoming during daily 4-hour work windows. The estimated cost for the latter job is $2000 per tunnel foot. A similar bid for Tunnel 15 would place the contractor cost at about $800,000

Tunnel 13 MP 681 2487 feet
A 200-foot-long section, and several 20-foot-long sections, of very wet, deteriorated timber sets occur near the middle of the tunnel, and fortunately the ground in back of the supports is blocky to massive bedrock. The latter condition allows for the staged removal of the timber sets and re-lining with shotcrete and rock bolts This work can be performed efficiently in 6-hour windows at a cost of about $1000 per tunnel foot

A 150-foot section of close-spaced steel sets at the south end of the tunnel are lagged with severely deteriorated wood planks that allow rock blocks to punch through and fall on the track. Voids in back of the planks are observed to be several feet high. The steel sets should be lagged with steel channel (C6-8.2 or C3-4.1) as an immediate re-support, and eventually the voids backfilled with lean concrete or expansive grout. The estimated cost for placing the steel channel is $125,000, and $100,000 for the later grouting of the voids.

Tunnel 20 MP 750 870 feet
The gunited 200 feet at the south end of the tunnel should have an additional 2 to 3-inch layer of fiber reinforced shotcrete placed above the springline because seepage forces are scaling the 1-inch gunite layer and the underlying1 to 3-inch rock layer. This condition does not lead to tunnel closure but does represent a safety hazard to maintenance and to a lesser extent on-board train crews working in the tunnel. The cost of this repair is about $100,000, assuming a $700 per cubic yard shotcrete cost and an allowance for mob/demob, with the latter amortized over similar work in Tunnels 18 and 19 (see below).

Tunnel 19 MP 745 4184 feet
Tunnel 18 MP 734 1552 feet
In both tunnels the last 50 feet at the south end requires 3 inch layer of fiber reinforced shotcrete, in Tunnel 18 after removing the timber sets Furthermore, isolated short areas of Tunnel 19 require an additional 2 inches of shotcrete over the unreinforced gunite, specifically in areas where the latter has peeled off due to moisture, not structural, forces The estimated 200 total feet require about 100 cubic yards of shotcrete, for an estimated cost of $100,000 including the partial mob/demob cost noted above.

Please call Gerry Millar (425 486 6561) to discuss these issues

Milbor-Pita & Associates

Gerry Millar
Manager of Rail & Tunnel Services

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PAGE 23 OF 23

CENTRAL OREGON & PACIFIC RAILROAD, INC

333 S E Mosher Avenue • P O Box 1083 • Roseburg, OR • 97470 • Phone 541 957 5966 • Fax 541 957 0686

November 28, 2007

Paul Wilson
Chief Inspector
Federal Railroad Administration
PO Box 2375
Battle Ground, WA 98604

Dear Paul

Concerning the compliance agreement between the FRA and CORP, I believe the agreement has run its intended course and should be terminated We are on the right track with our maintenance program and workforce The procedures for documenting our Sections daily production with regards to joint maintenance, tie replacement, gaging, etc has been a useful tool to help identify chronic problem areas on the Railroad This allows us to focus resources to make longer term fixes at these locations Track Inspectors performing walking inspections of 90# rail has resulted in a dramatic reduction in the number of loose and center cracked bars, as evidenced by the low defects of this type detected during the most recent FRA Focused Audit Our rail relay programs over the last several years have resulted in cutting our Rail Defect Ratio by 1/3 from 1 07 def/mile in 2004 to 0 36 def/mile in 2007 Our reportable track caused derailments have also shown a steady decrease since 2004 ('04-7, '05-3, '06-2, '07-0) The addition of an experienced and respected Roadmaster and his focus and direction will continue to show positive results In November we sent one of our newer track inspectors and one foreman to NARS in Overland Park for training All of our Track inspectors and one foreman have been to Overland Park (NARS) training We are going to continue to utilize these processes along with continual employee training well after the compliance agreement is terminated

A tie gang is currently working in the Cow Creek Canyon area and I expect them to make it up to MP 520 by the end of the year The plan for 2008 is to replace 17,640 ties in the Canyon, and beyond, between MP 520 and MP 547

Along with the above, the CORP's 2008 Capital Plan to continue the reduction in track caused derailments is

- Relay 31,923 linear ft of rail between MP 580 and MP 644 on the Roseburg Sub About 60% of this will be curve relay

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- Relay a total of 24,140 ties 17,640 of those in Cow Creek Canyon, 4,500 on the Roseburg Sub (Rice Hill) The balance will be installed at various locations
- Surface a total of 79 4 miles with a production surfacing crew 71 9 miles behind the tie gang and 7 5 miles between MP 594 and MP 601 5 on the Roseburg Sub In addition we will continue spot surfacing with the CORP surfacing gang throughout the year
- Replace and upgrade four complete turnouts in Dillard Yard (including switch ties)
- Make various repairs at 13 bridges based on the most recent Bridge Inspection Report

At this point the CORP Capital plan for 2008 does not include most of the Coos Bay Sub (approx 117 mi beyond Vaughn) or the Siskiyou Sub between Belleview and Montague (approx 50 mi) As you know the Coos Bay Sub is currently out of service due to structural issues in several of the tunnels We are in the process of formulating a plan to secure funding to make necessary repairs to restore service Our repair plans include tie, surfacing, tunnel, bridge, and drainage work on the Coos Bay Line At some point early next year we are going to modify our service plan for the South end of the Siskiyou Sub to allow us to cease running between Montague and Belleview We are studying various options to accomplish this so our customers on this portion of the Railroad are not negatively impacted If we are unsuccessful in working out a new service plan with the UP, we will have to make an adjustment to the 2008 Capital Plan

In summary, the Compliance Agreement has resulted in the CORP changing its maintenance procedures to effect significant improvements in the track structure These procedures and the general attitude towards track maintenance will continue well beyond the life of the Agreement They are a part of the new culture being fostered on the CORP

Thank you for the opportunity to contribute our thoughts and plans

Sincerely,

Kevin Spradlin, GM
Central Oregon and Pacific Railroad

CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2008, I have caused the COOS-SISKIYOU SHIPPERS COALITION REPLY TO THE RESPONSE OF RAILAMERICA, INC AND CENTRAL OREGON & PACIFIC RAILROAD, INC TO ORDER TO SHOW CAUSE with the Surface Transportation Board, 395 E Street, SW, Washington, DC 20423-0001 and to be served by electronic mail where indicated below, and depositing the same in the U S Post Office, Roseburg, Oregon 97470, with first class postage prepaid thereon, and addressed to

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