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# SAVE BURNEY FALLS

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November 23, 2009

Ms. Cynthia Brown  
Surface Transportation Board  
395 E. Street, S. W.  
Washington, DC 20423-0001

Re: McCloud Railway Company – Abandonment and Discontinuance of Service Exemption – Entire Rail Line in Siskiyou, Shasta, and Modoc Counties, CA. **STB Docket No. AB-914-0-X**

Dear Ms. Brown:

Please use this request for reconsideration in the above-captioned proceeding. This request, along with the enclosed ten copies, is a second amendment to our original petition dated November 17, 2005. Surface Transportation Board's decision, served on May 15, 2007, did not preclude the parties from reaching their own private agreements involving this right-of-way. Since this decision, McCloud Railway Company and **SAVE BURNEY FALLS** have been in discussions to railbank the entire 80 miles of rail line.

**SAVE BURNEY FALLS** is a California non-profit 501 (c) (3), organized in 1997, to advocate long-range community planning and promote careful growth in the Burney Falls area. **SAVE BURNEY FALLS** is interested in conservation and recreation and is hereinafter referred to as "SBF". SBF is the project leader for a core group of individuals organized to develop a recreational trail on the entire 80 miles of rail line. This core group includes representatives from SBF, Shasta Land Trust, McCloud Local First Network, Volcanic Legacy Scenic Byway, as well as two experienced rail-to-trail planners.

It is our understanding that McCloud Railway Company has not finalized their conditions of abandonment and effective November 9, 2009, this proceeding was reopened and the previously imposed historic preservation condition was removed. While not taking a position on the merits of this abandonment, SBF requests issuance of a Public Use Condition and an Interim Trail Use Condition, rather than an outright abandonment authorization for the entire 80 miles of rail line as included in the STB Docket No. **AB-914-0-X**.

**A. Request for Public Use Condition:**

**SBF asks the STB to find this property suitable for other public use, specifically trail use, and to place the following conditions on the abandonment:**

- 1. An order prohibiting McCloud Railway Company from disposing the corridor, other than the tracks, ties and signal equipment, except for public use on reasonable terms. The justification for this condition is: the corridor would make an excellent recreational trail linking the communities of Burney, CA to McCloud, CA. A recreational trail will connect to a major public park -- McArthur-Burney Falls Memorial State Park, and to a major national trail -- Pacific Crest Trail. The largest adjacent property owner is the U.S.F.S., Shasta-Trinity National Forest, and Lassen National Forest. This trail will allow access to scenic mountains, lakes, streams, forests, wildlife habitat, open space, and historical sites. Conversion of the property to trail use is in accordance with State, County, and local general plans. The time period sought is 180 days from the effective date of the abandonment authorization. SBF needs this time in order to complete a feasibility study, assemble and review title information, organize and complete a trail plan, and commence negotiations with McCloud Railway Company.**
- 2. An order barring removal or destruction of potential trail-related structures, such as depot, bridges, trestles, culverts, and tunnels. The justification for this condition is: these structures have considerable value for historical and recreational objectives. The time period requested is 180 days from the effective date of the abandonment authorization for the same reason as indicated above.**

**B. Request for Interim Trail Use:**

**The railroad right-of-way in this proceeding is suitable for railbanking. In addition to the public-use conditions sought above, SBF also makes the following request:**

**STATEMENT OF WILLINGNESS TO ASSUME FINANCIAL RESPONSIBILITY**

**In order to establish interim trail use and railbanking under section 8(d) of the National Trails System Act, 16 U.S.C. ~ 1247(d), and 49 CFR ~ 1152.29, SBF is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by and operated by McCloud Railway Company.**

**The property, known as McCloud Railway Company, includes the entire 80 miles of rail line and extends from: (1) a rail line between milepost 3.3 east of McCloud and the end of the track at milepost B-61 at or near Burney; (2) a rail line between milepost B-19 at or near Bartle and milepost B-31.4 at or near Hambone; (3) a rail line between milepost B-58 at or near Berry and milepost S-7 at or near Sierra; and (4) a rail line between milepost B-31.6 at or near Bear Flat and milepost P-3.93 at or near Pondosa.**

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Maps depicting the right-of-way are attached.

**SBF** acknowledges that use of the right-of-way is subject to the user's continuance to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service.

By my signature below, I certify service upon McCloud Railway Company, Mr. Jeff Forbis, 801 Industrial Way, P. O. Box 1500, McCloud, CA 96057, by U. S. Mail, postage pre-paid, first class, this 23rd day of November, 2009.

Respectfully submitted,



*Joseph R. Studenicka*

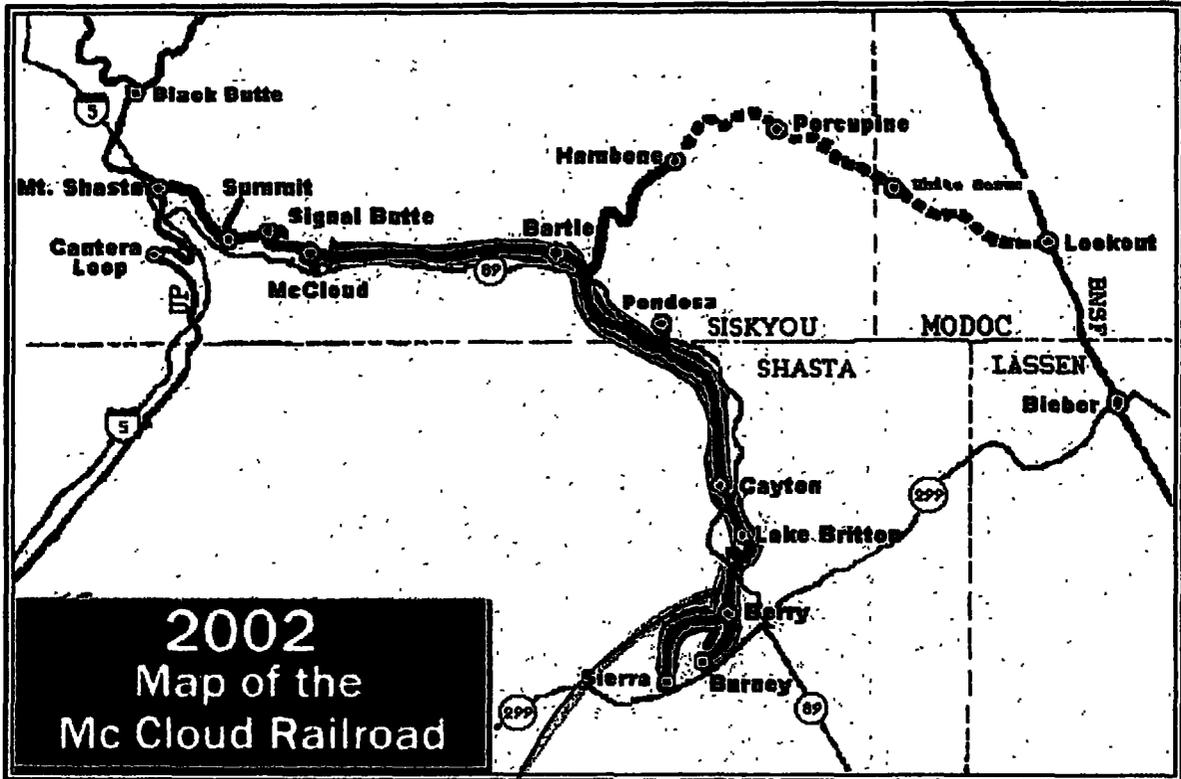
Joseph R. Studenicka

On behalf of: **SAVE BURNEY FALLS**

cc: Jeffery J. Swanson, Attorney for **SAVE BURNEY FALLS**  
2515 Park Marina Drive, Suite 102, Redding, CA 96001

cc: Thomas F. McFarland, Attorney for McCloud Railway Company  
208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1112

cc: Mathew Bornstein, Attorney for Surface Transportation Board  
395 E. Street, S. W., Room 1034, Washington, D. C. 20423



*Proposed trail*

RED = Burney to McCloud  
GREEN = Pacific Crest Trail

