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THOMAS F. MCFARLAND

February 3, 2010

By e-filing

Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20024

ENTERED  
Office of Proceedings  
FEB - 3 2010  
Part of  
Public Record

Re: Finance Docket No. 35175, *Roseburg Forest Products Co.; Timber Products Company, L.P.; Suburban Propane, L.P.; Cowley D&L, Inc.; Sousa Ag Service and Yreka Western Railroad Company -- Alternative Rail Service -- Central Oregon & Pacific Railroad, Inc.*

~~Ex Parte No. 346 (Sub-No. 25), Rail General Exemption Authority -- Lumber or Wood Products~~

Dear Section of Administration Chief:

Hereby transmitted is a Reply To Petition For Leave To Withdraw for filing with the Board in the above referenced matters.

Very truly yours,

*Tom McFarland*

Thomas F. McFarland  
*Attorney for Shipper Petitioners*

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BEFORE THE  
SURFACE TRANSPORTATION BOARD

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ROSEBURG FOREST PRODUCTS CO.; )  
TIMBER PRODUCTS COMPANY, L.P.; )  
SUBURBAN PROPANE, L.P.; COWLEY ) FINANCE DOCKET  
D&L, INC.; SOUSA AG SERVICE and ) NO. 35175  
YREKA WESTERN RAILROAD )  
COMPANY-- ALTERNATIVE RAIL )  
SERVICE -- CENTRAL OREGON & )  
PACIFIC RAILROAD, INC. )  
) ~~EX PARTE NO. 346~~  
) ~~(SUB NO. 25)~~  
RAIL GENERAL EXEMPTION )  
AUTHORITY -- LUMBER OR WOOD )  
PRODUCTS )

ENTERED  
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FEB - 3 2010  
Part of  
Public Record

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REPLY TO PETITION FOR LEAVE TO WITHDRAW

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**ROSEBURG FOREST PRODUCTS CO.**  
P.O. Box 1088  
Roseburg, OR 97470

**TIMBER PRODUCTS COMPANY, L.P.**  
P.O. Box 766  
Yreka, CA 96097

**SUBURBAN PROPANE, L.P.**  
212 State Street  
Yreka, CA 90697

**COWLEY D&L, INC.**  
701 Highway A-12  
Grenada, CA 96038

**SOUSA AG SERVICE**  
861 South 11<sup>th</sup> Street  
Montague, CA 96064-9298

Shipper Petitioners

THOMAS F. McFARLAND  
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Attorney for Shipper Petitioners

DATE FILED: February 3, 2010

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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SERVICE -- CENTRAL OREGON &	)	
PACIFIC RAILROAD, INC.	)	
	)	<del>EX PARTE NO. 346</del>
RAIL GENERAL EXEMPTION	)	<del>(SUB NO. 25)</del>
AUTHORITY -- LUMBER OR WOOD	)	
PRODUCTS	)	

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**REPLY TO PETITION FOR LEAVE TO WITHDRAW**

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Pursuant to 49 C.F.R. § 1104.13(a), Petitioners listed on the cover page hereby reply to a Petition for Leave to Withdraw from Proceeding (Withdrawal Request), filed by Yreka Western Railroad Company (YWR) on January 14, 2010. Inasmuch as YWR is the only rail carrier among the six Petitioners and all the other Petitioners are shipper, the parties filing this Reply will be referred to as Shipper Petitioners.

**SCOPE OF REPLY**

Shipper Petitioners do not oppose YWR's Petition. Rather than having been "excommunicated" from the Petition, as alleged by YWR (Withdrawal Request at 4), YWR actually dropped out of the Petition to support an alternative effort of Siskiyou Regional Rail Authority (SRRA) to acquire the Siskiyou rail lines (*id.* at 2-3). Whatever may have been the impetus for YWR's *de facto* withdrawal from the Petition, such withdrawal should now be formalized by the Board.

In addition to making their position known on YWR's Petition, Shipper Petitioners will briefly update factual assertions by YWR in limited respects. First, the SRRA application for "connect Oregon III" funding to be used for purchase and operation of the 80-mile Black Butte, CA-Belleview, OR rail line (Black Butte Line) owned by Union Pacific Railroad Company (UP), which is part of the Siskiyou rail lines, has been denied by the Oregon Department of Transportation (ODOT). (Withdrawal Request at 3). Attached to this Reply as Appendix 1 is a copy of a letter dated January 19, 2010 from Ms. Jerri L. Bohard, Administrator of ODOT's Transportation Development Division, to Mr. John Hammond, Board President of SRRA, notifying SRRA that the purchase of the Black Butte Line is not eligible for Connect Oregon III funding. On information and belief, SRRA will not be able to purchase and operate the Black Butte Line without that funding.

Secondly, Oregon State Senator Alan C. Bates, who was listed as a supporter of SRRA at page 3 of the Withdrawal Request, has unequivocally withdrawn that support. Attached to this Reply as Appendix 2 is a copy of Senator Bates's letter of January 25, 2010 to Mr. John Hammond, President of SRRA, that makes that point clear.

Thirdly, key members of the Oregon Federal Congressional delegation support the effort of the Shipper Petitioners to acquire the Siskiyou in specific preference to the effort of SRRA. That is evident from a report of town hall meetings in Roseburg, OR on January 18, 2010 attended by United States Senators Ron Wyden and Jeff Merkley, and later concurred in by United States Congressman Peter DeFazio. A copy of that report is attached to this Reply as Appendix 3.

WHEREFORE, the Board should take note that Shipper Petitioners do not oppose YWR's Petition for Leave to Withdraw from the proceeding, and the Board should accept the foregoing updated information into the record.

Respectfully submitted,

**ROSEBURG FOREST PRODUCTS CO.**  
P.O. Box 1088  
Roseburg, OR 97470

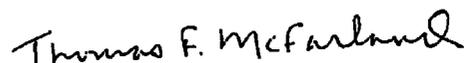
**TIMBER PRODUCTS COMPANY, L.P.**  
P.O. Box 766  
Yreka, CA 96097

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Shipper Petitioners



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Attorney for Shipper Petitioners

DATE FILED: February 3, 2010

# APPENDIX 1



# Oregon

Theodore R. Kulongoski, Governor

Department of Transportation  
Transportation Development Division  
Mill Creek Office Building  
555 13th Street NE, Suite 2  
Salem, OR 97301-4178

January 19, 2010

FILE CODE:

John Hammond, Board President  
Siskiyou Region Railroad Authority  
100 South 11<sup>th</sup> Street  
Montague, California 96064

Reference: *ConnectOregon III* Application R30173

Dear Mr. Hammond:

This letter is notification that the Black Butte Branch Line Acquisition project is not eligible for *ConnectOregon III* funds. The *ConnectOregon III* program is subject to specific criteria identified in statute and administrative rule. A review by the Oregon Department of Transportation (ODOT) has identified characteristics of your proposed project that render the project ineligible for *ConnectOregon* funds.

The administrative review carefully considered your application and found that the project is not eligible based on feasibility criteria. Eligibility criteria under *ConnectOregon* program rules require that the Project is feasible, including the estimated cost of the Project, the expected results from the Project for each of the considerations as prescribed in OAR 731-035-0060, the Project schedule, and all applicable and required permits may be obtained within the Project schedule. Your application does not demonstrate an operational budget or secured funding for ongoing operation, maintenance and capital needs as you acknowledged in the application under Part B, Questions 9 and 10. No commitment from or agreements with the shippers are included in the application to substantiate increased use of the line as revenue for ongoing operation and maintenance costs.

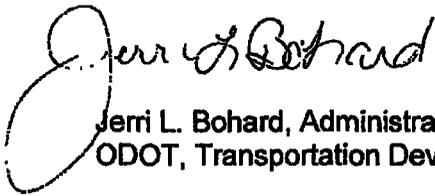
In addition, your application states 3,700 jobs will be created or retained as a direct result of this project but is not substantiated. Our request for documentation to address this claim was unanswered. For that reason, the project would further be subject to OAR 731-035-0050(7) that allows the department to deem a project ineligible if the applicant fails to provide requested information in writing by the date required by the department.

Accordingly, your application is ineligible and this project will not continue on to the Modal, Regional and Final Review process. Please note that as a

**ConnectOregon III applicant, you have 30 days to file a protest with the ODOT Director. Protests should be submitted in writing to:**

**Director Matthew L. Garrett  
Oregon Department of Transportation  
355 Capitol St. NE, Room 135  
Salem, OR 97301-3871**

**We regret that we could not move your project forward through the ConnectOregon III review process. However, we look forward to working with you again on other projects should future funding opportunities arise.**



**Jerri L. Bohard, Administrator  
ODOT, Transportation Development Division**

## APPENDIX 2

**DR. ALAN BATES**  
State Senator  
DISTRICT 3  
SOUTHERN OREGON



900 Court Street NE  
Salem, Oregon 97301  
Phone: (503) 986-1703  
Fax: (503) 986-1140  
Email:  
sen.alanbates@state.or.us

**OREGON STATE SENATE**

25 January 2010

John Hammond, President  
Siskiyou Regional Railroad Authority  
100 South 11th Street  
Montague, CA 96064

RE: Siskiyou Rail L line

Dear John:

My staff attended a meeting at Timber Products in Medford on Friday, January 15. I am more than displeased with the information that came out of that meeting, and the fact that no representative of the SRRA had the courtesy to attend.

It is my understanding that the shippers knew nothing about the Connect III grant application. I find it unfathomable that public ownership of the rail line by the SRRA didn't have buy-in from what would be its main source of revenue, and that there was no consideration of the economic ramifications of the region without their ability to move freight on the line.

When I was approached by the City of Ashland to support the grant application, my intention was to get the line up and running again. The SRRA's failure to coordinate with all stakeholders, despite repeated requests to do so, has effectively sabotaged those efforts.

The purpose of this letter is to inform you that I will not support any further action by the SRRA to obtain the line, until and unless the negotiations between the shippers and CORP fail or the STB rules in CORP's favor.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alan C. Bates".

Alan C. Bates, D.O.

cc: Bob Ragon  
David Chapman

## APPENDIX 3

**Siskiyou Rail Line Service  
Delegation Pushes for Shippers' Proposal  
January 18, 2010 - News Review**

Members of Oregon's congressional delegation continue to support a shippers' proposal to restore rail service along the Siskiyou Line despite a competing plan from a public California agency.

Sens. Ron Wyden and Jeff Merkley and Rep. Peter DeFazio said they will continue to encourage the federal Surface Transportation Board to grant a request by Roseburg Forest Products and Timber Products Co. of Yreka, Calif., to have West Texas and Lubbock Railway operate the 218-mile Siskiyou Summit line between Dillard and Black Butte, Calif.

"We're supporting the shippers in their application," DeFazio said. "These other people have not filed any of the necessary paperwork to have standing before the board, so the board, at this point, would not entertain, would not even read their letter."

The shipper's request came after Roseburg-based Central Oregon & Pacific Railroad – which leases the line from Union Pacific – curtailed southbound service between Ashland and Weed and cut northbound service from five days a week to two.

The Siskiyou Regional Railroad Authority last month filed a letter asking the STB to defer ruling on the shippers' request. The authority, formed by the cities of Weed and Montague, is working to buy an 80-mile section of the line from the Union Pacific Railroad, including about 14 miles of track on the Oregon side of the border to Ashland.

Earlier this month, John Hammond, president of Siskiyou Regional Railroad Authority, said his group's proposal would benefit the shippers and would also allow for the establishment of passenger service and tourist excursion trains over the Siskiyou Mountains.

The group has been negotiating with an unnamed short line operator to provide freight service on the line.

"Obviously, we want to work with anyone interested in having service restored on this line, but fragmenting it would not be helpful," DeFazio said.

The Siskiyou Regional Railroad Authority has applied for a \$13.4 million grant from the ConnectOregon III program operated by the Oregon Department of Transportation for infrastructure improvements. The grant, which would require \$3.3 million in matching funds, would be used to buy the line and provide for six months of operational costs.

DeFazio said he was skeptical of the group's chances of winning a grant.

“ConnectOregon is not going to give a grant of money to these cities in California to establish a new fragment of a line when we need a complete line from California to Oregon,” he said.

Wyden agreed.

“Why in the world would Oregonians want to put tax dollars into something like this for 14 miles of track? It kind of defies common sense,” Wyden said. “Our shippers have been trying to come up with a proposal that we thought both long-term and short-term made sense. I continue to feel that way and we’re going to push for it.”

Merkley said he was concerned the California group's efforts could end up stalling the process.

“The reaction I’ve received so far is a lot of concern that the group from California will delay the ruling and make it much harder to get freight service restored. I think we need to keep pushing to get through this and get this line running again,” Merkley said.

• You can reach reporter John Sowell at 957-4209 or by e-mail at [jsowell@nrtoday.com](mailto:jsowell@nrtoday.com).

**CERTIFICATE OF SERVICE**

I hereby certify that on February 3, 2010, I served the foregoing document, Reply To  
Petition For Leave To Withdraw, on the following:

By e-mail:

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By first-class U.S. mail, postage prepaid:

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Hon. Ron Wyden  
United States Senate  
230 Dirksen House Office Building  
Washington, DC 20515-3704

Hon. Peter A. DeFazio  
U.S. House of Representatives  
Washington, DC 20515-3704

*Thomas F. McFarland*

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