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FEB 22 2010

SURFACE
TRANSPORTATION BOARD February 19, 2010

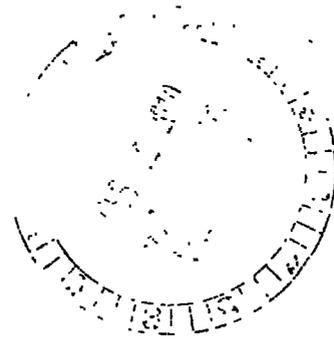
VIA FEDERAL EXPRESS

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, S.W.
Washington, D.C. 20024

FILED

FEB 22 2010

SURFACE
TRANSPORTATION BOARD



Re: **Finance Docket No. 35355**
Albany & Eastern Railroad Company – Acquisition and Operation
Exemption – Union Pacific Railroad Company and Willamette &
Pacific Railroad, Inc.

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of a **Verified Notice of Exemption of Albany & Eastern Railroad Company Pursuant to 49 C.F.R. § 1150.41**, dated February 19, 2010. A check in the amount of \$1,800.00, representing the appropriate fee for this filing, and a disk containing the text of the Notice and the *Federal Register* caption summary in MS Word 2003 format are enclosed.

One extra copy of this transmittal letter and of the Notice is also enclosed. I would request that you date-stamp those copies to show receipt of this filing and return them to me in the provided envelope.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,


Myles L. Tobin
Attorney for Albany & Eastern Railroad Company

ENTERED
Office of Proceedings
FEB 22 2010
Part of
Public Record

MLT: jc

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD

226486

FINANCE DOCKET NO. 35355

ALBANY & EASTERN RAILROAD COMPANY
-- ACQUISITION AND OPERATION EXEMPTION --
UNION PACIFIC RAILROAD COMPANY AND
WILLAMETTE & PACIFIC RAILROAD, INC.

FEB 22 2010

FILED

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FEE RECEIVED
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SURFACE
TRANSPORTATION BOARD

VERIFIED NOTICE OF EXEMPTION SURFACE TRANSPORTATION BOARD
OF
ALBANY & EASTERN RAILROAD COMPANY
PURSUANT TO 49 C.F.R. § 1150.41

ENTERED
Office of Proceedings

FEB 22 2010

Part of
Public Record

Myles L. Tobin
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606
(312) 252-1500

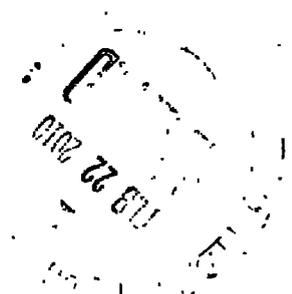
**ATTORNEY FOR ALBANY & EASTERN
RAILROAD COMPANY**

Dated: February 19, 2010

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35355

ALBANY & EASTERN RAILROAD COMPANY
-- ACQUISITION AND OPERATION EXEMPTION --
UNION PACIFIC RAILROAD COMPANY AND
WILLAMETTE & PACIFIC RAILROAD, INC.



**VERIFIED NOTICE OF EXEMPTION
OF
ALBANY & EASTERN RAILROAD COMPANY
PURSUANT TO 49 C.F.R. § 1150.41**

Albany & Eastern Railroad Company ("AERC"), a Class III railroad, hereby files this Notice of Exemption under 49 C.F.R. § 1150.41, et seq., for acquisition of the exclusive freight operating easement ("Freight Easement") on and operations over a rail line between Milepost 682.25 near Greenberry, Oregon, and Milepost 687.6 near Corvallis, Oregon, a total distance of 5.35 miles (the "Greenberry-Corvallis Line"). AERC will (i) acquire the Freight Easement from Union Pacific Railroad Company ("UP"), the current owner of the Greenberry-Corvallis Line, and (ii) take assignment from Willamette & Pacific Railroad, Inc. ("WPRR"), the current freight operator on the line, of any and all of WPRR's remaining operating rights and obligations with respect to the Greenberry-Corvallis Line. In each case, UP and WPRR will retain limited overhead trackage rights on the line.

Based on projected revenues for the Greenberry-Corvallis Line, AERC expects to remain within the revenue thresholds for Class III rail carriers.

In accordance with the requirements of 49 C.F.R. § 1150.43, AERC submits the following information:

Name and Address of Applicant: 49 C.F.R. § 1150.43(a)

The full name and address of the rail carrier applicant herein is as follows:

Albany & Eastern Railroad Company
110 Industrial Way
Lebanon, Oregon 97355

Applicant's Representative: 49 C.F.R. § 1150.43(b)

AERC's representative to whom correspondence regarding this transaction should be sent is as follows:

Myles L. Tobin
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606
(312) 252-1500

Statement Concerning Agreement: 49 C.F.R. § 1150.43(c)

AERC, UP and WPRR are finalizing the terms of their agreements, and expect to enter into the agreements and close the transactions on or shortly after the effective date of this Notice of Exemption.

Operation of the Property: 49 C.F.R. § 1150.43(d)

AERC will conduct all rail freight operations on the Greenberry-Corvallis Line. WPRR and UP are retaining overhead trackage rights on the line.

Summary of the Transaction: 49 C.F.R. § 1150.43(e)

AERC is a Class III rail common carrier which owns or operates approximately 78 route miles of rail line in Marion and Linn Counties, Oregon.

Currently, UP owns the Greenberry-Corvallis Line and leases that line to WPRR. In a separate transaction identified in Finance Docket No. 35353, UP will be selling the

Greenberry-Corvallis Line to VFRC, LLC, with UP retaining a Freight Easement for common carrier operations on the Greenberry-Corvallis Line.

In the transaction which is the subject of this Notice of Exemption, UP will transfer its Freight Easement to AERC while, at the same time, retaining limited overhead trackage rights. Also in this transaction, WPRR, the current lessee of the Greenberry-Corvallis Line, will partially terminate its lease with UP, insofar as that lease relates to the Greenberry-Corvallis Line, and will assign to AERC its operating rights in the line. WPRR will also, as a part of that assignment, retain limited overhead trackage rights on the Greenberry-Corvallis Line.

In order to physically interchange cars with WPRR, AERC and WPRR will enter into an Interchange Agreement which provides to AERC, inter alia, incidental operating rights over certain additional trackage owned by UP and leased by WPRR.

AERC will execute an operating agreement with VFRC, LLC pursuant to which AERC will provide all rail freight service between industries on the Greenberry-Corvallis Line and connecting carrier WPRR near Corvallis, Oregon.¹ While VFRC, LLC will be the owner of the line, VFRC, LLC will not operate any rail freight service on the line.

The complete name and address of the carrier acquiring the Freight Easement and WPRR's operating rights on the Greenberry-Corvallis Line is as follows:

¹ AERC notes that there are no solid waste rail transfer facilities located on the Greenberry-Corvallis Line. See, Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, Division K, § 193, 121 Stat. 1844, 2408 (2007); Consolidated Appropriations Act, 2008 – Solid Waste Rail Transfer Facilities, Ex Parte No. 675 (STB served January 16, 2008).

Albany & Eastern Railroad Company
110 Industrial Way
Lebanon, Oregon 97355

AERC intends to consummate its acquisition of the Freight Easement and WPRR operating rights for the Greenberry-Corvallis Line on or shortly after the effective date of this Notice of Exemption.

The Greenberry-Corvallis Line is located between Milepost 682.25 near Greenberry, Oregon, and Milepost 687.6 near Corvallis, Oregon.

The total mileage to be acquired and operated is approximately 5.35 miles, all in Benton County, Oregon.

Map: 49 C.F.R. § 1150.43(f)

A map showing the Greenberry-Corvallis Line and the surrounding area is attached as Exhibit A to this notice.

Certificate of Compliance: 49 C.F.R. § 1150.43(g)

A Certificate of Compliance with the provisions of 49 C.F.R. § 1150.43(g) is attached as Exhibit B to this notice.

Interchange Commitments: 49 C.F.R. § 1150.43(h)

The proposed acquisition and operation of the Greenberry-Corvallis Line by AERC does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier.

Advance Notice: 49 C.F.R. § 1150.42(e)

The projected annual operating revenue of AERC does not exceed \$5 million, and accordingly the advance notice requirements of 49 C.F.R. § 1150.42(e) are not applicable to this transaction. See Exhibit B hereto.

Environmental and Historic Preservation Data: 49 C.F.R. § 1105

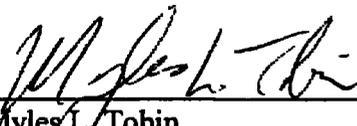
Under 49 C.F.R. § 1105.6(c)(2), AERC's acquisition of a Freight Easement and operation of the Greenberry-Corvallis Line is exempt from environmental reporting requirements. The proposed acquisition will not result in significant changes in carrier operations, i.e., changes that exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5).

Under 49 C.F.R. § 1105.8(b)(1), AERC's acquisition of a Freight Easement and operation of the Greenberry-Corvallis Line also is exempt from historic preservation reporting requirements. AERC's acquisition of the Freight Easement and operation of the line is for the purpose of continued rail operations. Further, Surface Transportation Board approval is required to abandon any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older.

Caption Summary: 49 C.F.R. § 1150.44

A caption summary in appropriate form is attached as Exhibit C to this notice.

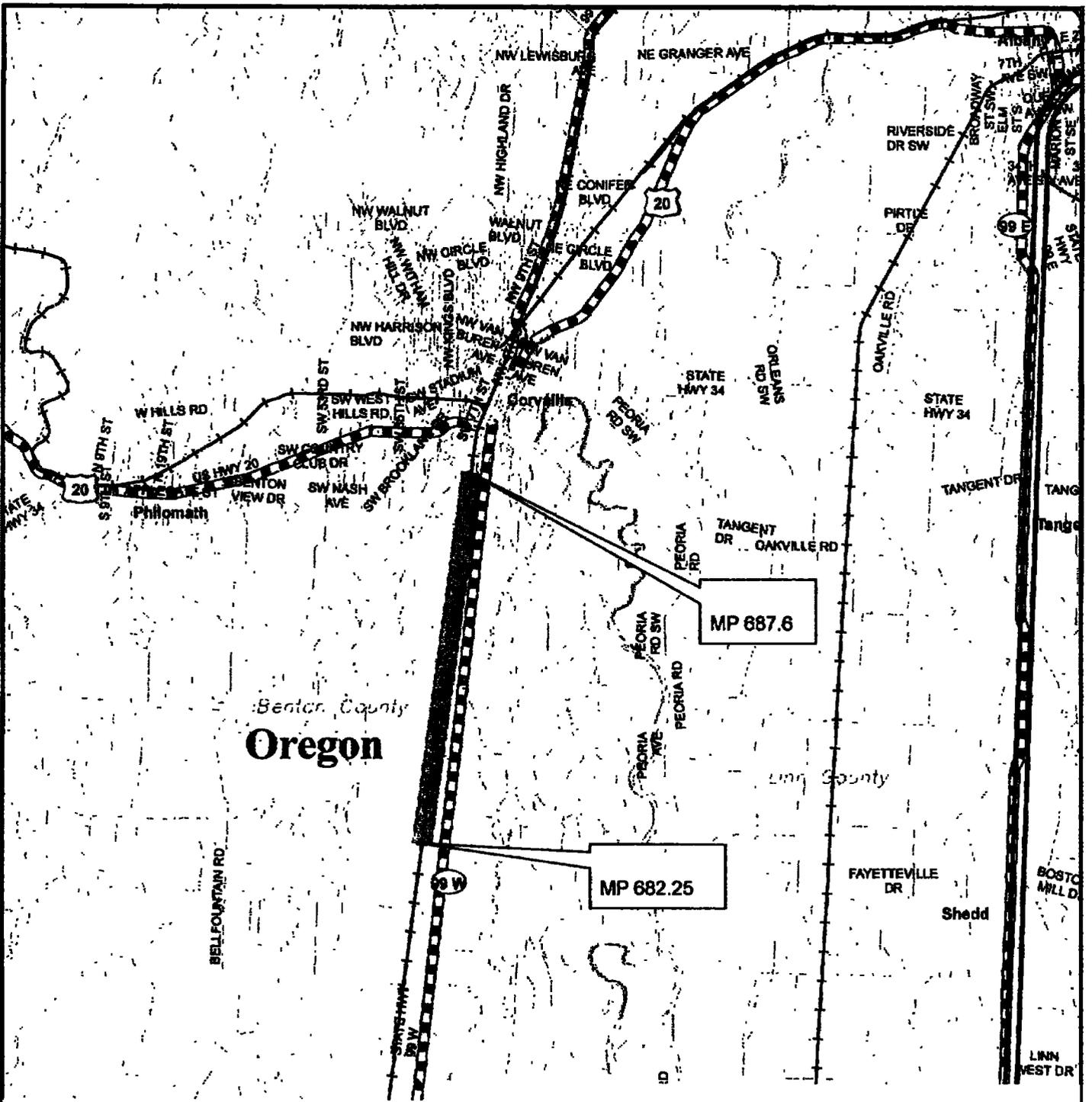
Respectfully submitted,

By: 
Myles L. Tobin
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606
(312) 252-1500

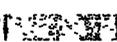
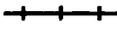
**ATTORNEY FOR ALBANY & EASTERN
RAILROAD COMPANY**

Dated: February 19, 2010

EXHIBIT A



Legend

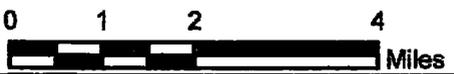
-  AERC FREIGHT EASEMENT
-  UPRR LINES
-  OTHER RAILROADS
-  PRINCIPAL HIGHWAYS
-  OTHER ROADS

BAILEY BRANCH

SCALE 1" = 1 MILE
 1" = 1 MILE
 1" = 1 MILE

AERC ACQUISITION OF
 FREIGHT OPERATING EASEMENT

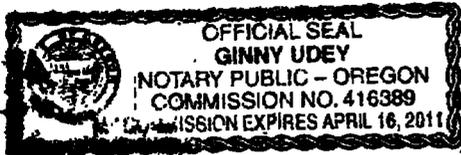
Milepost 682.25 to Milepost 687.6

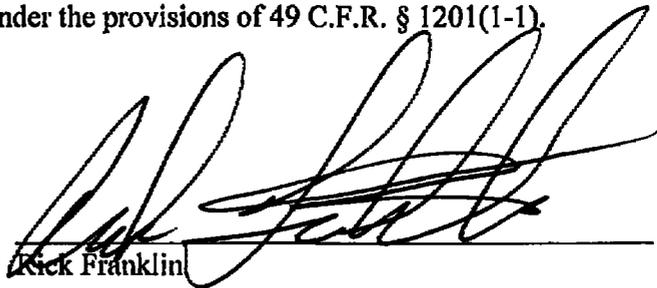


CERTIFICATION

State of Oregon)
) SS:
County of Linn)

Rick Franklin, being duly sworn, does hereby certify that the projected annual rail revenue of Albany & Eastern Railroad Company exceeds neither \$5 million nor that which would make it a Class II or Class I carrier under the provisions of 49 C.F.R. § 1201(1-1).




Rick Franklin

SUBSCRIBED AND SWORN TO
before me this 18 day
of February, 2010.


Notary Public

My Commission expires: 4/16/11

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

FINANCE DOCKET NO. 35355

**ALBANY & EASTERN RAILROAD COMPANY
-- ACQUISITION AND OPERATION EXEMPTION --
UNION PACIFIC RAILROAD COMPANY AND
WILLAMETTE & PACIFIC RAILROAD, INC.**

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AERC expects to consummate its acquisition of the UP Freight Easement and WPRR operating rights, and commence operation of the line on or shortly after the effective date of this Notice of Exemption.

Comments must be filed with the Board and served on:

Myles L. Tobin
Fletcher & Sippel LLC
29 North Wacker Drive
Suite 920
Chicago, Illinois 60606
(312) 252-1500

This Notice is filed under 49 C.F.R. § 1150.41. If the Notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. § 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Dated: _____, 2010

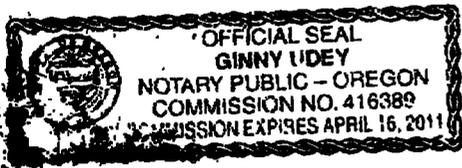
By the Board

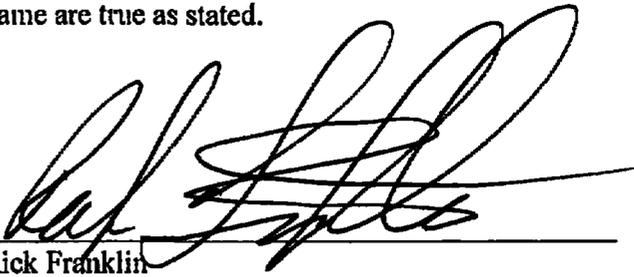
Ms. Cynthia T. Brown
Chief, Section of Administration

VERIFICATION

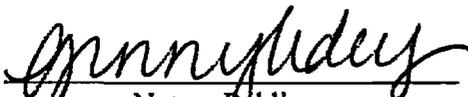
State of Oregon)
)
County of Linn) SS:

Rick Franklin, being duly sworn, deposes and says that he is President of the Albany & Eastern Railroad Company, that he has read the foregoing Notice of Exemption and knows the facts asserted therein, and that the same are true as stated.




Rick Franklin

SUBSCRIBED AND SWORN TO
before me this 18 day
of February, 2010.


Notary Public

My Commission expires: 4/16/11