



# Oregon

Theodore R. Kulongoski, Governor

El-9657<sub>CD</sub>

## Department of State Lands

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COPY

August 25, 2008

State Land Board

Theodore R. Kulongoski

Governor

Christa Dean  
Surface Transportation Board  
Case Control Unit  
395 E Street SW  
Washington DC 20423

Bill Bradbury  
Secretary of State

Randall Edwards  
State Treasurer

Subject: STB Docket No. AB-515 (Sub-No. 2)

Dear Ms. Dean:

The Oregon Department of State Lands (DSL) is in receipt of the Environmental Assessment (STB Docket No. AB-515 (Sub-No. 2) for Central Oregon and Pacific Railroad Inc. Abandonment and Discontinuation of Service - in Coos, Douglas and Lane Counties, OR, dated August 15, 2008.

DSL manages the state's ownership of the beds and banks of tidal and other navigable waters in Oregon. The subject rail line includes at least 30 crossings on DSL property including, but not limited to, the Coquille River, Isthmus Slough, Davis Slough, Shinglehouse Slough, Coalbank Slough, lower Coos Bay, North Tenmile Lake, Scholfield Creek, the Umpqua River, Tahkenitch Lake, Siltcoos Lake and the Siuslaw River. The Environmental Assessment (page 6) indicates that CORP does not plan to remove any bridges as part of the proposed project. The Assessment goes on to state (page 10) that it would not be appropriate or consistent with Board precedent for SEA to recommend a condition regarding rail removal or responsibility for maintenance.

DSL is very concerned about the abandonment of structures on state property with no designated responsible party and the liability imposed upon the State by such a situation. Such abandonment may be considered a trespass pursuant to Oregon Revised Statute 273.185 and 274.992.

DSL would also like to reiterate its concern that abandoned culverts and bridges, left unmaintained, will eventually fill with debris or collapse thereby blocking fish passage. Many of the streams crossed by the CORP line are designated by the state of Oregon as Essential Salmonid Habitat, thereby receiving the highest level of state protection. Failure of these structures could block important fish migrations including federal Endangered Species Act (ESA)-listed fish species.



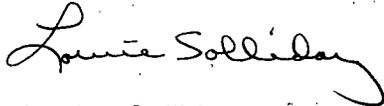
Christa Dean  
August 25, 2008  
Page 2

This likely adverse effect to ESA-listed species does not appear to be addressed in the Environmental Assessment.

For these reasons, DSL strongly encourages the SEA to require the removal of rail appurtenances from all DSL properties and fish-bearing waterways if the abandonment is approved. The SEA's recommendation that CORP contact DSL to discuss our concerns is simply insufficient to ensure protection of the State's interest in this matter.

Thank you for the opportunity to comment on the Environmental Assessment. Please contact Kirk Jarvie at DSL, 503-986-5320, if you have questions or comments on this transmittal.

Sincerely,



Louise Solliday  
Director

cc: Chris Warner, Oregon Dept. of Transportation