



**78th Oregon Legislative Assembly – 2015 Regular Session
Senate Committee on Business and Transportation
Tuesday April 22, 2015 - Oregon State Capitol, Salem, Oregon**

Written Testimony submitted in support of House Bill (HB) 2279

The Coos Bay rail line corridor, owned by the Oregon International Port of Coos Bay (Port), a port district organized under Oregon Revised Statutes (ORS) 777, begins in west Eugene, Lane County, a few yards west of the rail line at-grade crossing of Danebo Ave. and continues on through western Lane County, western Douglas County and Coos County to end-of-track near Coquille, Coos County.

The Port is able to enter into a variety of agreements for non-railroad use of the rail line corridor by securing road crossing and utility crossing agreements with interested users; both public sector and private sector. Crossing agreements are most often executed with private-property owners wanting to access a parcel of land by applying for and paying for a crossing agreement and then paying for the development and upkeep of the crossing.

Public at-grade crossings of the rail corridor are secured and maintained by public entities such as the state, counties, cities and other public agencies. There is no charge for public at-grade road crossings. A variety of utility providers also maintain crossing agreements for water and sewer lines, overhead power lines and similar infrastructure. The Port contracts out crossing agreement management to a firm in Florida – IMG Rail Services – to maintain all current crossing agreements and implement new ones when needed. IMG performs similar services for railroads across the U.S.; both large and small.

However one of the firms which previously had a lateral corridor use agreement, Frontier Communications, is refusing any attempt on the part of IMG to bring their use agreement up to a fair market rate. Discussions have been ongoing for more than a year, but little progress has been made. Frontier claims that they should be able to use the rail corridor “free of charge” for communications infrastructure, as they believe the Port is an “instrumentality or agency” of the State of Oregon. Moreover, Frontier believes this entitles the firm to maintain its communications service lines, fixtures and facilities free of charge going forward.

It is the Port’s position that the rail line corridor is owned by the port district, but that the Oregon International Port of Coos Bay district is not an “instrumentality or agency” of the State of Oregon, other than the defined actions related to the appointment and confirmation of port commissioners. There are specific references to the Port of Coos Bay in ORS 777.915-.990. The Port seeks clarification of ORS 368.001 to exclude appropriate property owned by the Port and other non-state public entities.

Passage of **HB 2279** will help alleviate this issue by applying the definition of “state government” to clarify its meaning relating to utility provider access to lands that belong to the state.

- Information submitted by Oregon International Port of Coos Bay staff
- Questions? Please contact Matt Markee at 503-378-0412