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December 7, 2001

Public Avail. Date: 1/15/02 0128200213

Act Section Rule
1934 14(a) 14a-8

Office of the Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
Judiciary Plaza
450 Fifth Street, N.W.
Washington, D.C. 20549

Re: Shareholder Proposal of Gerald S. Benson, Madeline Davis, Arthur E. Kolle,
Donovan D. Laabs, Jacob B. Lillestol, Duane C. Olson and Ken Oxta

Ladies and Gentlemen:

Otter Tail Corporation, a Minnesota corporation (the "Company"), has received a shareholder proposal dated December 1, 2001 (the "Proposal") from Gerald S. Benson, Madeline Davis, Arthur E. Kolle, Donovan D. Laabs, Jacob B. Lillestol, Duane C. Olson and Ken Oxta (the "Proponents") for inclusion in the Company's proxy statement for its 2002 annual meeting of shareholders (the "2002 Annual Meeting"). The Company believes it properly may omit the Proposal from its proxy materials for the 2002 Annual Meeting for the reasons discussed below. The Company respectfully requests confirmation that the staff (the "Staff") of the Securities and Exchange Commission (the "Commission") will not recommend enforcement action if the Company excludes the Proposal from its proxy materials in reliance upon Rule 14a-8(i)(4) and/or Rule 14a-8(i)(7) under the Securities Exchange Act of 1934, as amended (the "Exchange Act").

Pursuant to Rule 14a-8(j) promulgated under the Exchange Act, enclosed on the Company's behalf are six copies of each of (i) the Proposal and (ii) this letter, which sets forth the grounds on which the Company proposes to omit the Proposal from its proxy materials. Also enclosed are an additional copy of this letter, which we request to have file stamped and returned in the enclosed postage-prepaid envelope, and copies of correspondence related to the Proposal. As required by Rule 14a-8(j), a copy of this letter also is being sent to each of the Proponents as

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Securities and Exchange Commission
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notice of the Company's intention to omit the Proposal from the Company's definitive proxy materials.

A. The Proposal

The Proposal requests that the Company's Board of Directors amend the Otter Tail Corporation Pension Plan (the "Plan") such that:

1. Neither the Company nor any successor company may "use pension fund assets unless raises have been granted to current retirees for a period of 3 years."
2. Retirees will receive "at least 25% of the base amount granted to active employees."
3. If the Company uses pension assets "other than to increase retiree benefits, every retiree will be informed by mail prior to this event."

B. Background

The Plan is a defined benefit pension plan with benefits based on the retiree's average salary during specified years prior to retirement and years of credited service to the Company. The Plan is funded solely by the Company, and funds in the Plan are held in trust. In accordance with Section 404(a) of the Employee Retirement Income Security Act of 1974, as amended, and Section 401(a)(2) of the Internal Revenue Code of 1986, as amended, Plan funds may not be used by the Company for any purpose other than to pay pension benefits to Company retirees and to pay the reasonable expenses of administering the Plan.

Each of the Proponents is a shareholder of the Company who also is a retiree receiving pension benefits under the Plan or the spouse of a retiree receiving such benefits.

C. Reasons for Omission

The Company believes that the Proposal properly may be omitted from the Company's proxy materials for the 2002 Annual Meeting because the Proposal (i) relates to the conduct of the ordinary business operations of the Company (Rule 14a-8(i)(7)) and (ii) would provide a personal benefit to the Proponents and certain other Company retirees that is not shared with other shareholders at large (Rule 14a-8(i)(4)).

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1. *The Proposal relates to the conduct of the ordinary business operations of the Company.*

Rule 14a-8(i)(7) provides that a shareholder proposal may be omitted if the proposal deals with a matter relating to the company's ordinary business operations. The decision how to compensate a company's workforce requires a business judgment regarding allocation of corporate resources and is fundamental to management's ability to run the company on a day-to-day basis. The Commission has made plain that the scope of compensation issues that must be submitted to shareholder vote relate only to senior executive compensation, and not to compensation of employees generally, and this principal is equally true for decisions relating to the benefits provided to a company's retirees. *See Austin v. Consolidated Edison Co.*, 788 F. Supp. 192, 195 (S.D.N.Y. 1992) (holding that a shareholder proposal concerning the terms of defendant corporation's pension plan dealt with the corporation's ordinary business operations and could be excluded from its proxy materials). The Staff has consistently determined that shareholder proposals concerning pension benefits may be omitted under Rule 14a-8(i)(7) as matters relating to the conduct of ordinary business. *See, e.g.*, the no-action letters issued by the Staff to United Technologies Corporation (February 20, 2001); DTE Energy Company (January 22, 2001); International Business Machines Corporation (January 2, 2001); International Business Machines Corporation (December 30, 1999); Avery Dennison Corporation (November 29, 1999); Lucent Technologies Inc. (October 4, 1999); and General Electric Company (January 28, 1997). By calling for amendments that would require the Company to increase the pension benefits paid to Company retirees, the Proposal encroaches on an ordinary business operation of the Company and therefore is excludable under Rule 14a-8(i)(7).

2. *The Proposal would provide a personal benefit to the Proponents and certain other Company retirees that is not shared with other shareholders at large.*

Rule 14a-8(i)(4) provides that a shareholder proposal may be omitted if the proposal relates to the redress of a personal claim against a company and is designed to result in a benefit to the proponents of the proposal or to further a personal interest, which is not shared with other shareholders at large. The Staff consistently has taken the position that Rule 14a-8 is intended to provide a means for shareholders to communicate on matters of interest to them as shareholders, and not to further personal interests. *See Release No. 34-19135* (October 14, 1982). As previously noted, the Proponents all are retirees of the Company or spouses of retirees of the Company who currently are receiving pension benefits under the Plan. They desire the Company to increase the amount of pension benefits payable to themselves and other of the Company's retirees who participate in the Plan. If the Proposal were implemented, the Proponents and other Company retirees would receive a direct financial benefit in the form of increased pension payments. This benefit would accrue to the Proponents and other Company

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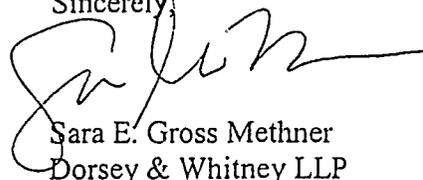
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retirees as a result of their status as retirees, not as a result of their status as shareholders, and the benefit would not accrue to shareholders at large. In fact, an increase in benefits to retirees may be contrary to the interest of the Company's shareholders at large, because an increase in pension benefits would result in additional long-term costs to the Company. The Staff previously has determined that proposals to increase pension benefits may be omitted under Rule 14a-8(i)(4) as designed to result in a benefit to the proponents or to further a personal interest, which benefit or interest is not shared with the other shareholders at large. *See, e.g.*, the no-action letters issued by the Staff to General Electric Company (January 25, 1994); and International Business Machines Corporation (January 25, 1994). By calling for amendments that would require the Company to increase the pension benefits paid to Company retirees, the Proponents seek to obtain a personal benefit that will not be shared by shareholders at large, and their proposal therefore is excludable under Rule 14a-8(i)(7).

Based on the foregoing, the Company believes that it may omit the Proposal from its proxy materials for its 2002 Annual Meeting, and the Company respectfully requests that the Staff not recommend any enforcement action if the Proposal is omitted from such proxy materials. If the Staff has any questions or comments regarding this filing, please contact the undersigned at (612) 340-8883 or Gary L. Tygesson of this firm at (612) 340-8753.

Thank you for your consideration.

Sincerely,



Sara E. Gross Methner
Dorsey & Whitney LLP

Enclosures

cc: George Koeck, Esq. (w/ encl.)
Gerald S. Benson (w/out encl.)
Madeline Davis (w/out encl.)
Arthur E. Kolle (w/out encl.)
Donovan D. Laabs (w/out encl.)
Jacob B. Lillestol (w/out encl.)
Duane C. Olson (w/out encl.)
Ken Oextra (w/out encl.)

Shareholder Proposal:

Background

Whereas: Over 50 years ago Otter Tail Power Company (utility) management initiated a Pension Program based on no increased annual benefits once retired.

Investment returns have been such that the pension assets usually far exceed (by 25% or more) what the vested and non vested assumed benefits would eventually be.

The Pension Plan is intended solely for retiree benefits only, any excess assets should be paid to us in increased benefits.

In the past 10 years especially, company executives, active employees, stockholders, and directors have all prospered significantly. Only (utility) retirees haven't; with an asset base in our pension plan that would have allowed for regular increases. We have received one 2+% increase in 1998.

We propose the following changes to the "OTTER TAIL POWER COMPANY PENSION PLAN, EIN 41-0462685, Plan No. 006":

RESOLVED: Request the Board of Directors this year:

Permanently amend the (utility) Pension Plan so that:

1. The company, nor any successor company, cannot use pension fund assets unless raises have been granted to current retirees for a period of 3 years..
2. Plan will be changed so retirees will receive at least 25% of the base amount granted active employees.
3. If use of pension assets other than to increase retiree benefits, every retiree will be informed by mail prior to this event.

Shareholders' Supporting Statements

When the Pension Plan was initiated, life expectancy was around 64 years. Today it is about 75 years.

The purchasing power of a dollar 10 years ago = \$.72 today.

Shareholders have received annual increases in dividends for over 60 years.

Active employees have received cost-of-living or more increases annually for many years.

Director fees (based on 8 meetings per year) have risen from \$7,800 in 1993 to \$25,600 in 2000, 15% compounded.

An Executive /officer Supplemental retirement plan was initiated over 10 years ago. Their compensation increases have been 2 to 3 times more than the employee group.

In 1999 an employee stock option plan was initiated. Stock can be purchased at 85% of current market value. For example, the 1999 Grant Date value to CEO John MacFarlane was \$145,080.

Year 2000 Grant Date value was worth \$473,750 in addition to a salary/bonus of \$515,400. His 1991 salary was \$193,000, annually compounding of about 20%, excluding option values.

Several officers have exercised their reduced cost basis options and same day sold at the market price. One executive officer sold 13,500 shares in August 2001 for an immediate gain of \$140,000.

The December 31, 2000 Pension Asset value was \$153,000,000. The stated vested obligation was \$116,400,00, an over-funding of \$36,600,000. These assets are for the use of the (utility) retirees.

SUMMARY: Can the company afford these increases? Consider the accumulated gains given the above groups and fund assets the answer is "Yes".

Retirees and spouses are at the end of their working life.

We will supply additional pertinent information at the meeting.

Office of the Chief Counsel
Division of Corporate Finance
Securities and Exchange Commission
Judiciary Plaza 450 Fifth Street, N. W.
Washington, D. C. 20549

December 11, 2001

VIA FEDEX

Subject: **Otter Tail Corporation Shareholder Proposal and
Letter from Dorsey & Whitney letter dated December 7, 2001**

Ladies and Gentlemen:

A few days ago you received a letter with attachments from Sara E. Gross Methner of the above firm concerning the merits of our stockholder proposal. This letter is to submit our unbiased point of view on this matter.

Years ago the SEC initiated shareholder proposal legislation so the "Little Guy/Gal" had some venue that would act on her behalf for injustices and equity. We now are a part of that legislation. On behalf of those of us presenting this proposal I will submit the following:

1. For starters, the Dorsey & Whitney firm has represented Otter Tail for over 50 years in their corporate finance matters.
 - A. Thomas Brown, a retired senior partner in that firm, was their lawyer assigned to the Otter Tail account.
 - B. For several years he has been a member of the Otter Tail Board of Directors.
 - C. The obvious conclusion is that this firm cannot have an unbiased opinion and her letter should be dismissed for that reason.

You should disregard her letter completely as she is not acting as a Disinterested Party.

2. In one of her paragraphs she asks that you send her a response in an envelope she has supplied. We would trust that you would be asking for our input before you come to a decision as her viewpoint isn't the only one.
3. She talks around many issues, one of them being this is a defined benefit program and is not easily changed. She didn't discuss the fact that the company can use amounts over 25% of obligated assets for any purpose they chose. This legislation was enacted years after the initial legislation as unscrupulous corporate officers were using, compromising and raping these assets with total disregard for the beneficiaries. These actions were legislated as a protective matter for retirees.

As an actual fact, due to poor management, a few years ago the Company had excess utility employees. They offered increased benefit programs to about 5% of the utility workforce and obligated over \$6 million from our pension plan assets in a buy-out offer. A stroke of a pen they adjusted the program.

She also uses the shallow argument that we as stockholders/retirees cannot benefit for a proposal that affects only us as retirees. She presented rules that are exceptions as cited by a few cases. At DuPont's April 25, 2001 shareholder meeting The International Brotherhood of duPont Workers presented a proposal that would be for their exclusive benefit. At the same meeting The International Brotherhood of Teamsters General Fund offered a proposal that would affect only them in a positive way. Both are included and a part of that annual meeting

At their May 16, 1996 annual meeting **Kmart Corporation** had several union proposals regarding various issues. Proposal #8 specifically was regarding pension plan issues that would affect them as stockholders/recipients.

We could go on but there is ample evidence of the same type proposals being part of stockholder meetings and her arguments refer to exceptions at best.

She makes reference to certain issues being management's prerogative and above and beyond what stockholders should have a say in. Everything from salaries to stock options to operating rules are management/stockholder issues and fair game for stockholder proposals.

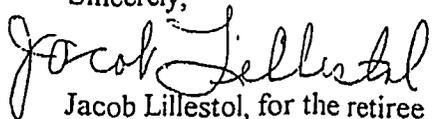
The SEC was established to act in a fair manner and without prejudice. Virtually all of the rules made have been reactive for the protection of stockholder issues because of management's that have acted in a selfish manner and their not being forthright in information to investors. We don't have the deep financial resources available that Otter Tail does. We are certain many members of the Dorsey firm are on a first name basis with members of your staff. Sara Methner or one of her staff has probably talked to members of the SEC before writing this letter. We certainly don't share this luxury.

We are not asking for the world. When reviewing our proposal we are asking for justice. It is hard for us to imagine that the directors/officers can award themselves enormous benefits and not consider something for the retirees/spouses when the asset base would allow it. The majority of our widows are living below the poverty level as measured by Department of Labor statistics.

We don't have the money or ability to express ourselves with expensive lawyers. As you can see we are sending copies of all data to Congressman Peterson and our Senators Wellstone and Dayton. They are aware of this in general terms We want their critique of your decision and the timeliness of it

Review the spirit of the laws that have been passed to enable small stockholders to express themselves. We want a copy of the response Ms.Methner asked for in her letter. We also want a response to us that makes reference to our items within the time limits of their Proxy Statement indicating the logic used in that decision.

Sincerely,



Jacob Lillestol, for the retiree committee

- c: Congressman Peterson (w/encl.)
- Senator Wellstone (w/encl.)
- Senator Dayton (w/encl.)
- Sara Gross Methner (w/o encl.)
- George Koeck (w/o encl.)
- Committee members (w/o encl.)

January 15, 2002

**Response of the Office of Chief Counsel
Division of Corporation Finance**

Re: Otter Tail Corporation
Incoming letter dated December 7, 2001

The proposal requests that certain actions be taken to amend Otter Tail's pension plan to increase retirement benefits.

There appears to be some basis for your view that Otter Tail may exclude the proposal under rule 14a-8(i)(7), as relating to Otter Tail's ordinary business operations (i.e., employee benefits). Accordingly, we will not recommend enforcement action to the Commission if Otter Tail omits the proposal from its proxy materials in reliance on rule 14a-8(i)(7). In reaching this position, we have not found it necessary to address the alternative basis of omission upon which Otter Tail relies.

Sincerely,



Jennifer Gurzenski
Attorney-Advisor