

# FLETCHER & SIPPEL LLC

ATTORNEYS AT LAW

29 North Wacker Drive  
Suite 800  
Chicago, Illinois 60606-3208

**ROBERT A. WIMBISH**  
(312) 252-1504  
rwimbish@fletcher-sippel.com

301103  
ENTERED  
Office of Proceedings  
September 21, 2020  
Part of  
Public Record

Phone: (312) 252-1500  
Fax: (312) 252-2400  
www.fletcher-sippel.com

September 21, 2020

## VIA ELECTRONIC FILING

Ms. Cynthia T. Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W., Room 1034  
Washington, DC 20423-0001

Re: **Docket No. FD 36442**  
**Oregon Independence Railroad, LLC —**  
**Operation Exemption — In Polk County, OR**

Dear Ms. Brown:

Attached for filing in the above-captioned proceeding is the **Verified Notice of Exemption of Oregon Independence Railroad, LLC Pursuant to 49 C.F.R. § 1150.32**, dated September 21, 2020. The sum of \$2,200, representing the appropriate fee for this filing, has been tendered electronically via Pay.gov.

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

Respectfully submitted,

/s/ *R. A. Wimbish*

Robert A. Wimbish  
Attorney for Oregon Independence Railroad, LLC

RAW:ah

Attachment

FEE RECEIVED  
September 21, 2020  
SURFACE  
TRANSPORTATION BOARD

FILED  
September 21, 2020  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

DOCKET NO. FD 36442

OREGON INDEPENDENCE RAILROAD, LLC  
— OPERATION EXEMPTION —  
IN POLK COUNTY, OR

---

**VERIFIED NOTICE OF EXEMPTION OF  
OREGON INDEPENDENCE RAILROAD, LLC  
PURSUANT TO 49 C.F.R. § 1150.32**

Robert A. Wimbish  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 800  
Chicago, Illinois 60606-3208  
(312) 252-1500

**ATTORNEY FOR OREGON  
INDEPENDENCE RAILROAD, LLC**

Dated: September 21, 2020

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

DOCKET NO. FD 36442

OREGON INDEPENDENCE RAILROAD, LLC  
— OPERATION EXEMPTION —  
IN POLK COUNTY, OR

---

**VERIFIED NOTICE OF EXEMPTION OF  
OREGON INDEPENDENCE RAILROAD, LLC  
PURSUANT TO 49 C.F.R. § 1150.32**

Oregon Independence Railroad, LLC (“OIRR”), a non-carrier, hereby files this notice of exemption under 49 C.F.R. Part 1150.31, *et seq.* to restore common carrier rail service over a track segment (the “Track”) located in Polk County, Oregon, that it recently acquired as private track. The Track extends from a point of connection with tracks of the Portland & Western Railroad, Inc. (“P&W”) at milepost 0.1833 at Independence, Oregon, to milepost 0.61 (the center-line of the Polk Street grade crossing) also in Independence, a distance of approximately 0.4267 miles. Based on projected revenues, OIRR expects to become a Class III rail carrier.

In accordance with the requirements of 49 C.F.R. § 1150.33, OIRR submits the following information:

**Name and Address of Applicant: 49 C.F.R. § 1150.33(a)**

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

Oregon Independence Railroad, LLC  
2007 State Street  
Salem, Oregon 97301

**Applicant's Representative: 49 C.F.R. § 1150.33(b)**

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

Robert A. Wimbish  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 800  
Chicago, Illinois 60606-3208  
(312) 252-1504

**Statement Concerning Agreement: 49 C.F.R. § 1150.33(c)**

The subject Track was owned by a non-carrier third party, as discussed in the Summary of the Transaction section of this notice of exemption, below. Because OIRR already has acquired title to the assets that comprise the Track as private (non-jurisdictional) rail assets, there is no pertinent agreement. OIRR seeks Board authorization to resume common carrier operations over the subject Track following its acquisition of the same.

**Operation of the Property: 49 C.F.R. § 1150.33(d)**

OIRR will offer service on the Track upon the effective date of this exemption. As the service will constitute the entirety of OIRR's railroad operations, approval of the acquisition by notice of exemption is subject to Board jurisdiction in accordance with *Effingham Railroad Company — Petition for Declaratory Order — Construction at Effingham, Ill.*, Docket No. FD 41986, 2 STB 606, 607 (1997) and *Effingham Railroad Company — Operation Exemption — Line Owned by Agracel*, Docket No. FD 33468 (STB served Sep. 24, 1997), 1 *aff'd United Transp. Union v. United States*, 183 F.3d 606, 614 (7<sup>th</sup> Cir. 1999).

**Summary of the Transaction: 49 C.F.R. § 1150.33(e)**

The Track extends from a point of connection with tracks of P&W at milepost 0.1833 at Independence, Polk County, Oregon, to milepost 0.61 (the center-line of the Polk Street grade crossing) also in Independence, a distance of approximately 0.4267 miles. The Track was once part of a larger network of lines in western Oregon that historically had supported the region's lumber industry. Surface Transportation Board records indicate that, in 1996, Willamette Valley Railroad Company ("WVRC") obtained authority to abandon its entire railroad system, including the subject Track. *See Willamette Valley Railroad Company – Abandonment Exemption – In Polk County, OR, AB-403X* (STB served Apr. 5, 1996).<sup>1</sup>

Although WVRC abandoned its system pursuant to Board authorization, it retained the Track in place. Thereafter, OIRR understands that the Track and surrounding property underwent various ownership changes, with Valley & Siletz Railroad, LLC ("VSRL") – a non-carrier entity that is unaffiliated with the one-time rail carrier entity of a similar name, the Valley & Siletz Railroad Company (which abandoned the last of its own railroad system in 1985, and which ceased to exist shortly thereafter)<sup>2</sup> – emerging as the most recent owner. OIRR acquired control of VSRL as of September 11, 2020, and VSRL transferred its assets, including the Track, to OIRR on September 18, 2020. Because the asset transfer between VSRL and OIRR did not involve a Board-regulated railroad line (but, rather, private track that, by virtue of the operating authority that OIRR seeks through this exemption, will become a line of railroad), that Track sale was outside of the scope of the Board's jurisdiction.

---

<sup>1</sup> *See also Willamette Valley Railroad Co. and Willamina & Grand Ronde Railroad Co.; Acquisition and Operation Exemption, FD 30575* (ICC served Dec. 27, 1984).

<sup>2</sup> *The Valley and Siletz Railroad Company; Abandonment in Polk County, OR; Exemption, Docket No. AB-176 (Sub-3X), 50 FR 12659-01* (1985).

OIRR understands that the trackage originally located between mileposts 0.0 and 0.1833 that WVRC had abandoned in 1996 has been reconfigured since, such that the Track's connection to the balance of the interstate rail network is at milepost 0.1833 where the Track ends and P&W's track commences. OIRR also understands that the Track has been used over the years since its abandonment as private track supporting non-common carrier railroad activities.

Upon the effective date of the subject class exemption, OIRR intends to commence common carrier service over the Track, and the Track once again would fall within the scope of the Board's jurisdiction as a line of railroad, as it had been until 1996.<sup>3</sup>

**Map: 49 C.F.R. § 1150.33(f)**

A map showing the Track and indicating the area served is attached as Exhibit A to this notice.

**Certificate of Compliance: 49 C.F.R. § 1150.33(g)**

A Certificate of Compliance with the provisions of 49 C.F.R. § 1150.33(g) is attached as Exhibit B to this notice.

**Interchange Commitments: 49 C.F.R. § 1150.33(h)**

OIRR will not be subject to any limitations on its ability to interchange of traffic on the Track with a third-party connecting carrier. As matters currently stand, OIRR's only interline connection is P&W.

---

<sup>3</sup> See, e.g., *Wheeling & Lake Erie Railway Company – Operation Exemption – Valley Line in Harrison and Jefferson Counties, Ohio*, FD 36010 (STB served Sep. 8, 2016) (“*Wheeling*”); *Arkansas Midland Railroad Company, Inc. – Operation Exemption – In Jacksonville, AR*, FD 35152 (STB served Sep. 12, 2008).

**Advance Notice: 49 C.F.R. § 1150.32(e)**

To the extent it may be relevant here, the projected annual revenue of OIRR is not expected to exceed \$5 million, and accordingly the advance notice requirements of 49 C.F.R. § 1150.32(e) are not applicable to this transaction.<sup>4</sup> See Exhibit B hereto.

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

Under 49 C.F.R. § 1105.6(c)(2), the proposed purchase of the Track is exempt from environmental reporting requirements. OIRR's purchase and operation of the Track 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), the proposed purchase of the Track by OIRR also is exempt from historic preservation reporting requirements. OIRR's purchase of the Track is for the purpose of restoring common carrier rail operations.

**Caption Summary: 49 C.F.R. § 1150.34**

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

---

<sup>4</sup> *See, e.g., Wheeling; R.J. Corman Railroad Company/Memphis Line – Operation Exemption – Line in Montgomery and Stewart Counties, TN, (STB served Jan. 18, 2000).*

Respectfully submitted,

/s/ *R. A. Wimbish*

By: \_\_\_\_\_

Robert A. Wimbish  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 800  
Chicago, Illinois 60606-3208  
(312) 252-1500

**ATTORNEY FOR OREGON  
INDEPENDENCE RAILROAD, LLC**

Dated: September 21, 2020



**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB DOCKET NO. FD 36442**

---

**OREGON INDEPENDENCE RAILROAD, LLC  
— OPERATION EXEMPTION —  
IN POLK COUNTY, OR**

---

**EXHIBIT A**

**MAP**



Oregon Independence Railway

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB DOCKET NO. FD 36442**

---

**OREGON INDEPENDENCE RAILROAD, LLC  
— OPERATION EXEMPTION —  
IN POLK COUNTY, OR**

---

**EXHIBIT B**

**CERTIFICATION**

**CERTIFICATION**

I, Kevin L. Mannix, being duly sworn, hereby certifies that the projected annual rail revenue of Oregon Independence Railroad, LLC is not projected to exceed \$5 million, and will not result in the creation of a Class II or Class I rail carrier under the provisions of 49 C.F.R. § 1201 (1-1).



---

Kevin L. Mannix  
Managing Member  
Oregon Independence Railroad, LLC

Dated: September 21, 2020

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

---

**STB DOCKET NO. FD 36442**

---

**OREGON INDEPENDENCE RAILROAD, LLC  
— OPERATION EXEMPTION —  
IN POLK COUNTY, OR**

---

**EXHIBIT C**

**FEDERAL REGISTER NOTICE**

SURFACE TRANSPORTATION BOARD

**NOTICE OF EXEMPTION**

---

DOCKET NO. FD 36442

OREGON INDEPENDENCE RAILROAD, LLC  
— OPERATION EXEMPTION —  
IN POLK COUNTY, OR

---

Oregon Independence Railroad, LLC (“OIRR”), a non-carrier, has filed a Verified Notice of Exemption under 49 C.F.R. § 1150.31, et seq. to restore common carrier operations over certain currently-private track (the “Track”) in Polk County, Oregon, extending from a point of connection with tracks of the Portland & Western Railroad, Inc., at milepost 0.1833 at Independence, Polk County, Oregon, to approximately milepost 0.61 (the center-line of Polk Street grade crossing) also in Independence, a distance of approximately 0.4267 miles.

OIRR expects to commence common carrier operations over the Track on or after October 21, 2020.

Comments must be filed with the Board and served on:

Robert A. Wimbish  
Fletcher & Sippel LLC  
29 North Wacker Drive  
Suite 800  
Chicago, Illinois 60606-3208  
(312) 252-1500

This Notice is filed under 49 C.F.R. § 1150.31. If this 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: October \_\_, 2020

By the Board

**VERIFICATION**

Kevin L. Mannix, hereby verify under penalty of perjury that I am the Managing Member of Oregon Independence Railroad, LLC, that I have read the foregoing Notice of Exemption, know the facts asserted therein, and that the same are true as stated to the best of my knowledge, information, and belief.



Kevin L. Mannix

Dated: September 21, 2020