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OEA

SERVICE DATE – FEBRUARY 21, 2023

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

FINAL ENVIRONMENTAL ASSESSMENT

Docket No. AB 541 (Sub-No. 3X)

**Portland & Western Railroad, Inc. – Abandonment Exemption –
In Washington County, Or.**

ABANDONMENT TYPE

The time for comments on the Draft Environmental Assessment (Draft EA) has expired in this:

(X) Notice of Exemption () Petition for Exemption () Regulated Abandonment

() **NO NEW COMMENTS WERE RECEIVED**

(X) **NEW COMMENTS WERE RECEIVED**

In this proceeding, Portland & Western Railroad, Inc. (PNWR) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking an exemption from the prior approval requirements of 49 U.S.C. § 10903 for the abandonment of a line of railroad in Washington County, Oregon. The rail line proposed for abandonment extends approximately 5.6 miles from milepost 10.28 in Forest Grove, Or. to milepost 4.68 in Hillsboro, Or. (the Line). The Office of Environmental Analysis (OEA) served a Draft EA for this proceeding on January 31, 2023 for public review and comment. In the Draft EA, OEA recommended three environmental conditions and concluded that the proposed action would not significantly impact the quality of the human environment.

Comments on the Draft EA

On January 31, 2023, PNWR filed a letter enclosing an email from the Oregon State Historic Preservation Office (State Historic Preservation Office or SHPO). The email from the SHPO stated that if it did not respond within 30 calendar days, the project may proceed. According to PNWR, no further response was received from the SHPO.

In the Draft EA, OEA recommended a Section 106 condition requiring PNWR to retain its interest in and take no steps to alter the historic integrity of historic properties within the project right-of-way (the Area of Potential Effect) that are eligible for listing in or listed in the National Register of Historic Places (the National Register) until completion of the Section 106 process of the National Historic Preservation Act (NHPA), 54 U.S.C. § 306108. Background research and consultation with the SHPO did not identify any historic properties within the area of potential effects for the proposed abandonment. Pursuant to the Section 106 regulations of NHPA at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public,

OEA has determined that the proposed abandonment would not adversely affect historic properties listed in or eligible for listing in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's historic report, all relevant correspondence, the Draft EA, and this Final EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <https://stb.gov/>. Accordingly, OEA is no longer recommending that the Section 106 condition be imposed on any decision granting abandonment authority.

By telephone on February 16, 2023, the Oregon Department of Environmental Quality (ODEQ) responded that no permitting would be required. Therefore, OEA is no longer recommending a condition requiring that PNWR consult with ODEQ. OEA notes that this recommended consultation condition was inadvertently left out of the enumerated conditions in the Conclusions section of the Draft EA but was listed in the text on page 4.

Conclusions

The Draft EA comment period has ended. Accordingly, OEA recommends that the following condition previously recommended in the Draft EA should be imposed upon any decision granting abandonment authority:¹

Portland & Western Railroad, Inc. (PNWR) shall consult with the U.S. Army Corps of Engineers (the Corps) prior to beginning any abandonment-related salvage activities that could result in the discharge of fill material into waters of the U.S., including wetlands, ditches, swales, creeks or rivers. PNWR shall follow the Corps' reasonable requirements for obtaining a Corps permit under Section 404 of the Clean Water Act, if the Corps determines that such a permit would be necessary.

If the above condition is imposed, OEA believes that the proposed action will not significantly affect the quality of the human environment.

By the Board, Danielle Gosselin, Director, Office of Environmental Analysis.

¹ If an interim trail use agreement under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 is reached for the Line (or a portion thereof), compliance with this condition is not required with respect to any portion of the Line covered by the interim trail use agreement for the duration of the agreement.