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Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 541 (Sub. No. 4X)

PORTLAND & WESTERN RAILROAD, INC.
- ABANDONMENT EXEMPTION - IN WASHINGTON COUNTY, OR

ENVIRONMENTAL/HISTORIC REPORT

(color copies included)

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Washington, DC 20004
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Counsel for
Portland & Western Railroad, Inc.

Dated: March 18, 2024

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 541 (Sub. No. 4X)

PORTLAND & WESTERN RAILROAD, INC.
- ABANDONMENT EXEMPTION - IN WASHINGTON COUNTY, OR

ENVIRONMENTAL/HISTORIC REPORT

Portland & Western Railroad, Inc. (“PNWR”) owns the rail, track materials and other personal property comprising the rail line between Milepost 27.84 and Milepost 27.79 in Banks, OR, and an exclusive easement over the underlying property (together, the “Subject Line”). The underlying property is owned by the Oregon Department of Transportation (“ODOT”). PNWR will be seeking exemption authority for the abandonment of the Subject Line. No stations exist on the Subject Line. The Subject Line traverses through United States Postal Service ZIP Code 97106, entirely in Washington County, OR. Maps of the Subject Line are attached as Exhibit A.

PNWR plans to seek Surface Transportation Board (“STB”) authorization for its abandonment through a notice of exempt abandonment pursuant to the provisions of 49 CFR §1152.50 on or after April 15, 2024. This report is being filed in connection therewith, and in accordance with the requirements of 49 CFR 1105.7 and 1105.8. To prepare this report, Applicant consulted with various state and federal agencies as required by the Board’s regulations. *See* the letters attached as Exhibit B. Based on the written responses received by Applicant to-date attached as Exhibit C, Applicant states as follows:

ENVIRONMENTAL REPORT

(49 CFR 1105.7)

1. PROPOSED ACTION AND ALTERNATIVES

Applicant originally acquired the Subject Line from the Burlington Northern and Santa Fe Railway Company through a series of transactions: trackage rights exemption (1995), lease and operation exemption (1996), and an operation and acquisition exemption (1997).¹ The Subject Line is stub-ended and there has not been any local service for over two years. PNWR will not be salvaging any rail ties or other track materials on the Subject Line because no such materials currently exist.

2. EFFECTS ON THE TRANSPORTATION SYSTEM

Because there has been no local or overhead service on the Subject Line for over two years, no traffic will be diverted, and Applicant believes that the abandonment would have no effect on the transportation system. Applicant sent a consultation letter regarding the proposed abandonment to ODOT. ODOT responded that it is supportive of the proposed abandonment. See the letters attached as part of Exhibit B and C.

3. LAND USE

(i) Applicant is unaware of any regional or local land use patterns with which the proposed abandonment would be inconsistent. Applicant consulted with the following agencies regarding the proposed abandonment that may be concerned with land use issues:

¹ *Portland & Western Railroad Inc., - Trackage Rights Exemption – The Burlington Northern Railroad Co.*, ICC Finance Docket No. 32765 (served Oct. 13, 1995); *Portland & Western Railroad Inc., - Lease and Operation Exemption – The Burlington Northern Railroad Co.*, ICC Finance Docket No. 32766 (served Jan. 5, 1996); *Portland & Western Railroad Inc., - Acquisition and Operation Exemption – The Burlington Northern and Santa Fe Railway Co.*, STB Finance Docket No. 33502 (served Nov. 24, 1997).

Oregon Department of Environmental Quality (“ODEQ”), the Natural Resources Conservation Service (“NRCS - Oregon”); Natural Resources Conservation Service (“NRCS – National”); U.S. Environmental Protection Agency Region 10 (“EPA”); NOAA National Geodetic Survey (“NGS”); U.S. Bureau of Land Management Oregon-Washington State Office (“BLM”); U.S. Army Corps of Engineers Portland District; Washington County Board of Commissioners; National Park Service, Pacific West Region (“NPS – Pacific West Region”); National Park Service (“NPS – National”); U.S. Fish and Wildlife Service Region 1 (“FWS”). Copies of these letters are attached as part of Exhibit B. To date, none of these agencies have provided a response.”

(ii) Applicant does not believe that the proposed abandonment will have any adverse effect on any prime agricultural land. Consultation notices were sent to the potentially concerned agencies listed in paragraph 3(i) above, and as indicated, none of these agencies have provided a response.

(iii) Applicant does not believe that the abandonment is inconsistent with any coastal zone plans because the project is not in Oregon’s coastal zone. *See* <https://www.oregon.gov/lcd/OCMP/Pages/Coastal-Zone.aspx>. A consultation notice was sent to the Oregon Department of Land Conservation and Development, Oregon Coastal and Ocean Program Management. Applicant received a response from this Department informing it that the project is not in Oregon’s coastal zone. A copy of the response is included as part of Exhibit C.

(iv) Applicant believes that the right of way may be suitable public purposes. Applicant understands that the City of Banks is interested in utilizing the property to support an

adjoining segment of rail line that is currently operated as a trail. Any such use would potentially require the approval of ODOT as the owner of the underlying land.

4. ENERGY

Since there has not been any local service on the Subject Line for more than two years,

- (i) the proposed abandonment will have no effect on the transportation of energy sources;
- (ii) the proposed abandonment will have no effect on recyclable commodities;
- (iii) the proposed abandonment will have no effect on overall energy efficiency; and
- (iv) the proposed abandonment will not divert any traffic from rail to motor carriage.

The effects of the proposed abandonment will not exceed the thresholds set forth in 49 CFR 1105.7(e)(4)(iv).

5. AIR

Since there has not been any local service on the Subject Line for over two years, the proposed abandonment will not result in any increases in rail or truck traffic or rail yard activity. The effects of the proposed abandonment will not exceed the thresholds set forth in 49 CFR 1105.7(e)(5).

6. NOISE

Applicant does not believe that the proposed abandonment will result in any increase in noise levels.

7. SAFETY

Applicant does not believe that the proposed abandonment will have any adverse effect on public health or safety.

8. BIOLOGICAL RESOURCES

(i) Applicant has consulted with the FWS, as well as to the following agencies that are potentially concerned with biological resources: ODEQ, NCRS – Oregon, NCRS – National, BLM, U.S. Army Corps of Engineers, NPS – Pacific West Region, NPS – National, FWS. Copies of these consultation letters are attached as part of Exhibit B. Applicant has not received any responses from these agencies.

(ii) Applicant does not believe that there are any wildlife sanctuaries or refuges, National or State parks or forests in the vicinity of the proposed abandonment. Consultation letters were sent to the agencies identified in the paragraph 8(i), and Applicant has not received any responses.

9. WATER

(i) The proposed abandonment and any salvage will be handled in a manner that is consistent with the applicable local, State and Federal water quality standards. Applicant consulted with the agencies identified in paragraph 8(i), and as noted in paragraph 8(i) has not received any responses.

(ii) Applicant sent a consultation letter regarding the proposed abandonment to the U.S. Army Corps of Engineers. A copy of this letter is attached as part of Exhibit B. At the time of PNWR's submission of the Initial E/H Report, ACE had not yet responded.

(iii) Applicant does not believe that any Clean Water Act permits will be required in connection with the proposed abandonment or any salvage. Consultation letters were sent to ODEQ and EPA. Neither agency has yet responded.

10. PROPOSED MITIGATION

Since no adverse environmental impacts are expected, no mitigation is proposed.

11. ADDITIONAL INFORMATION FOR RAIL CONSTRUCTION

Not applicable.

12. CONSULTATION

As shown by the copies of letters attached as Exhibit B, Applicant has consulted with the following agencies: ODEQ, NRCS – Oregon, NRCS – National, EPA NGS, Oregon Depart. Of Land Conservation and Development BLM, U.S. Army Corps of Engineers, the Washington County Board of Commissioners, NPS – Pacific West Region, NPS – National, FWS.

None of the above agencies provided a response.

13. CERTIFICATIONS

Applicant certifies that:

- (a) It consulted with the agencies listed in 49 CFR 1105.7, as described in paragraph 12 above.
- (b) On this date, it sent copies of this report to each of the agencies consulted as shown on the attached certificate of service.
- (c) Notice of the proposed abandonment was published in the *Oregonian* on March 13, 2024. A copy of the form of notice and the proof of publication are attached as Exhibit D.

- (d) Applicant will not file its verified notice of abandonment until at least twenty (20) days after the consulted agencies have been served with a copy of this report.

HISTORIC REPORT (49 CFR 1105.8)

1. U.S.G.S TOPOGRAPHIC MAP

A U.S.G.S. topographic map showing the location of the proposed abandonment are attached as Exhibit E.

2. DESCRIPTION OF RIGHT OF WAY

The Subject Line extends between Milepost 27.84 and Milepost 27.79 in Banks, OR, approximately 264 feet. It is located in the City of Banks, OR, a small, rural community situated just outside of the Portland Metropolitan Urban Growth Boundary. It sits twenty-four miles northwest of Portland, at the foot of the Coastal Mountain Range. It is situated amongst a commercial and residential area in the center of town and lies along the railroad line of the Port of Tillamook Bay Railroad. The right of way is generally 60 feet wide. PNWR owns an exclusive easement over the underlying property. ODOT owns the underlying property.

3. PHOTOGRAPHS OF HISTORIC STRUCTURE(S)

The Subject Line has no visible structures 50 years old or older on the right-of-way and therefore, no photographs are included herein.

4. DATES OF CONSTRUCTION OF HISTORIC STRUCTURE(S)

As noted in paragraph 3 above, no historic structures exist on the right-of-way.

5. HISTORY OF CARRIER OPERATIONS IN THE AREA

The Subject Line is a stub-ended segment of rail line abutting the Banks-Veronia State Trail, a former BNSF Railway, Inc. (“BNSF”) line of railroad currently under a NITU.² PNWR acquired the rail, ties, and other facilities that comprise the Subject Line, and a freight easement through a series of transactions with BNSF: trackage rights exemption (1995), lease and operation exemption (1996), and an operation and acquisition exemption (1997). *See* fn. 1. ODOT owns the underlying property. There has been no service provided over the Subject Line proposed for abandonment for over two years.

6. SUMMARY OF STRUCTURE DOCUMENTATION

There are no historic structures on the Subject Line, and accordingly, PNWR is not submitting any summary of documentation relating to the structures.

7. OPINION REGARDING CRITERIA FOR LISTING

Based on readily available information in PNWR’s possession, PNWR does not believe that 264 feet of rail line or right of way represent an historical resource or that any protective conditions are warranted.

However, Applicant has given notice of the proposed abandonment and is consulting with the State Historic Preservation Officer at the Oregon State Historic Preservation Office (“SHPO”). The SHPO responded to PNWR’s notice via letter dated March 13, 2024. Copies of these letters are included as part of Exhibit F.

² *The Burlington Northern and Santa Fe Railway Company- Abandonment Exemption in Washington County, OR, Decision and Notice of Interim Trail Use or Abandonment*, STB Docket No. AB-6 (Sub-No. 383X)(served Aug. 24, 1999).

8. **ENVIRONMENTAL CONDITIONS**

Applicant is unaware of any prior subsurface ground disturbance or fill, or environmental conditions which might affect the archeological recovery of resources or the surrounding terrain.

If any salvage work is to be done, it would take place within the right of way, and would be surface work only and would not disturb subsurface resources.



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Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

*Counsel for
Portland & Western Railroad, Inc.*

Dated: March 18, 2024

CERTIFICATE OF SERVICE

I hereby certify that on this 18 day March, 2024, I served a copy of the foregoing Environmental and Historic Report on the persons listed below by email or first class mail, postage prepaid:

Oregon State Clearinghouse Oregon Department of Transportation 355 Capital Street, NE, MS 11 Salem, OR 97301-3871	The Natural Resources Conservation Service USDA 1201 NE Lloyd Blvd, Suite 900 Portland, OR 97232
Oregon Department of Environmental Quality 700 NE Multnomah Street, Suite 600 Portland, OR 97232-4100 nwraqpermits@deq.oregon.gov	Natural Resources Conservation Service USDA Office of the Chief 1400 Independence Ave., SW Room 5105-A Washington, DC 20250
State Historical Preservation Office Oregon Heritage Oregon Parks and Recreation Department 725 Summer Street NE, Suite C Salem, OR 97301 Koren.Tippett@oprds.oregon.gov ORSHPO.Clearance@oregon.gov	U.S. Environmental Protection Agency Region 10 1200 Sixth Avenue, Suite 155 Seattle, WA 98101
Mr. Bob Melbo State Rail Planner Oregon Department of Transportation Rail and Public Transit Division 555 13th St NE Salem, OR 97301-4179 Robert.I.Melbo@odot.oregon.gov	Cary Goodman Rail Asset Program Coordinator Oregon Department of Transportation Public Transportation Division 555 13th St NE Salem, OR 97301-4179 cary.goodman@odot.oregon.gov
Oregon Coastal Zone Management Oregon Coastal and Ocean Program Management Department of Land Conservation and Development 800 Oregon Street, NE #18 Portland, OR 97223	U.S. Bureau of Land Management Oregon-Washington State Office 1220 S.W. 3rd Avenue Portland, OR 97204

dlcd.info@dlcd.oregon.gov Lisa.phipps@dlcd.oregon.gov	
U.S. Fish and Wildlife Service Region 1 Eastside Federal Complex 911 NE 11th Avenue Portland, OR 97232-4181	U.S. Army Corps of Engineers Portland District P.O. Box 2946 Portland, OR 97208-2946 Robert.H.Fraley@usace.army.mil
National Park Service 1849 C Street, NW Washington, DC 20240	National Park Service Regional Office Pacific West Region 333 Bush Street #500 San Francisco, CA 94104
Jolynn Becker City Manager City of Banks, Oregon jbecker@cityofbanks.org	The National Geodetic Survey Communications and Outreach Branch, ngs.infocenter@noaa.gov
The Honorable Kathryn Harrington Chair, Board of Commissioners MS-21 155 N. First Ave, Suite 300 Hillsboro, OR 97124 bcc@washingtoncountyor.gov	The Honorable Jerry Willey Chair, Board of Commissioners MS-21 155 N. First Ave, Suite 300 Hillsboro, OR 97124 bcc@washingtoncountyor.gov

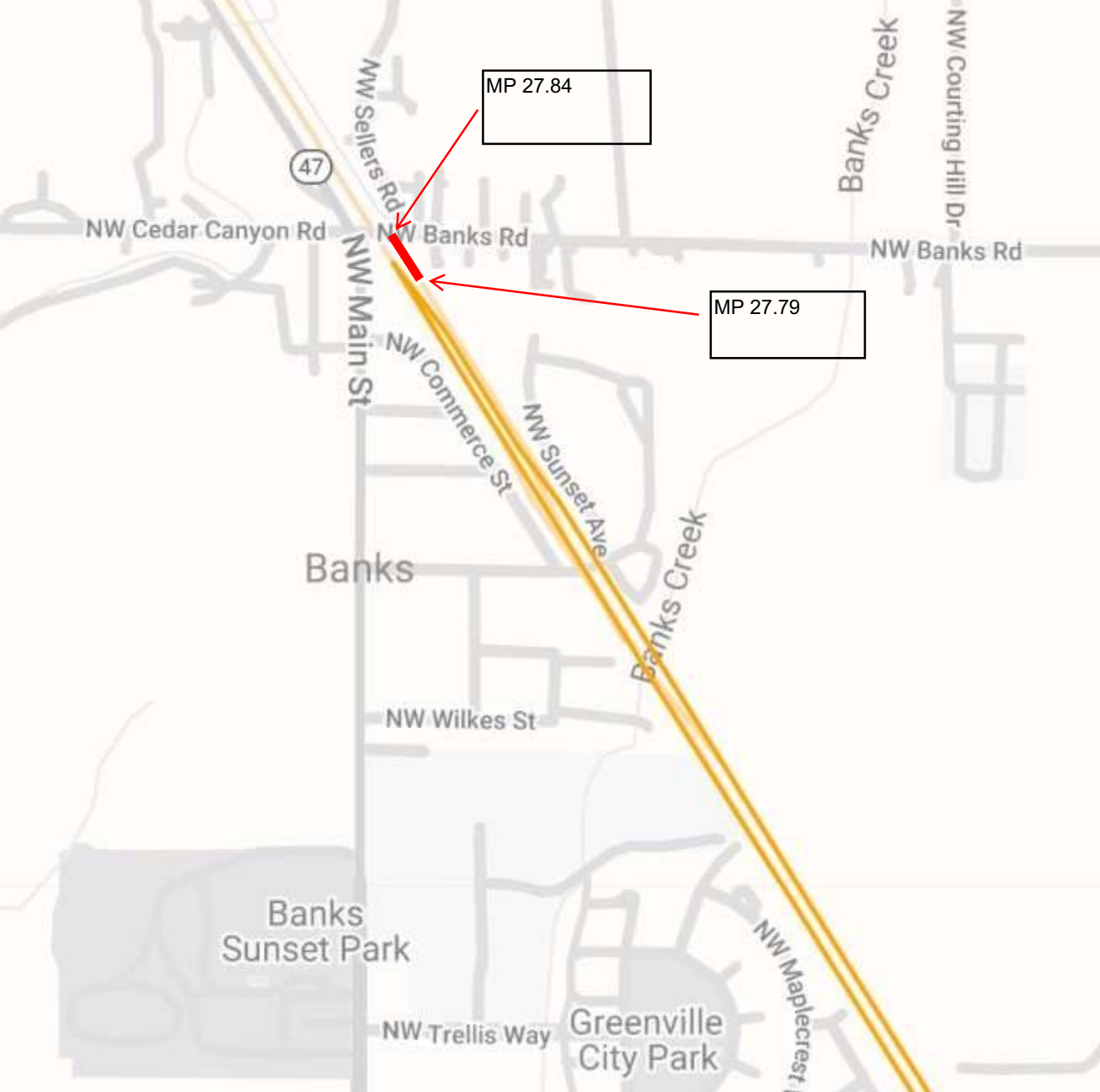
Justin J. Marks
CLARK HILL PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
202.772.0916
jmarks@clarkhill.com

EXHIBIT A

MAPS







Subject Line to be Abandoned in red.

PNWR lines to remain active in orange.

EXHIBIT B

CONSULTATION LETTERS

Justin J. Marks
T (202) 772-0916
F +12027720919
Email:jjmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue N.W.
Suite 1300 South
Washington, DC 20004
T (202) 772-0909
F (202) 772-0919

February 15, 2024

ALL AGENCIES ON THE
ATTACHED SERVICE LIST

Re: Portland & Western Railroad, Inc. – Abandonment Exemption –
in Washington County, OR
Surface Transportation Board Docket No. AB 541 (Sub. No. 4X)

To Whom it May Concern:

This letter is to advise you that the Portland & Western Railroad, Inc. ("PNWR") intends to file for the abandonment of a segment of its line between Milepost 27.84 and Milepost 27.79 in Banks, OR (the "Subject Line") extending approximately 264 feet. PNWR is proposing to abandon the perpetual freight easement it owns over the Subject Line; the underlying property is owned by the Oregon Department of Transportation ("ODOT"). The Subject Line traverses through United States Postal Service ZIP Code 97106 entirely in Washington County, OR. Maps of the Subject Line are attached as Exhibit A.

PNWR plans to seek Surface Transportation Board ("STB") authorization for its abandonment through a notice of exempt abandonment pursuant to the provisions of 49 CFR § 1152.50 on or after April 15, 2024, in Surface Transportation Board Docket No. AB 541 (Sub. No. 4X).

Based upon information in PNWR's possession, the Subject Line does not contain federally granted rights of way; the owner of the underlying property, ODOT, may have additional information. Any documentation in PNWR's possession will be made available promptly to those requesting it.

No local service has been provided on the Subject Line for over two years and at some point, since its last service the track was removed. PNWR does not believe that there are any alternatives to the proposed action. PNWR believes that the abandonment will not have a significant effect upon the environment.

In advance of preparing an environmental report as required by applicable STB regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental effects of the proposed abandonment.

We would appreciate an expression from you by March 15, 2024 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon the environment (or expressing any concerns that you have). If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (202) 772-0916.

February 15, 2024
Page 2

Thank you for your cooperation.

Sincerely,

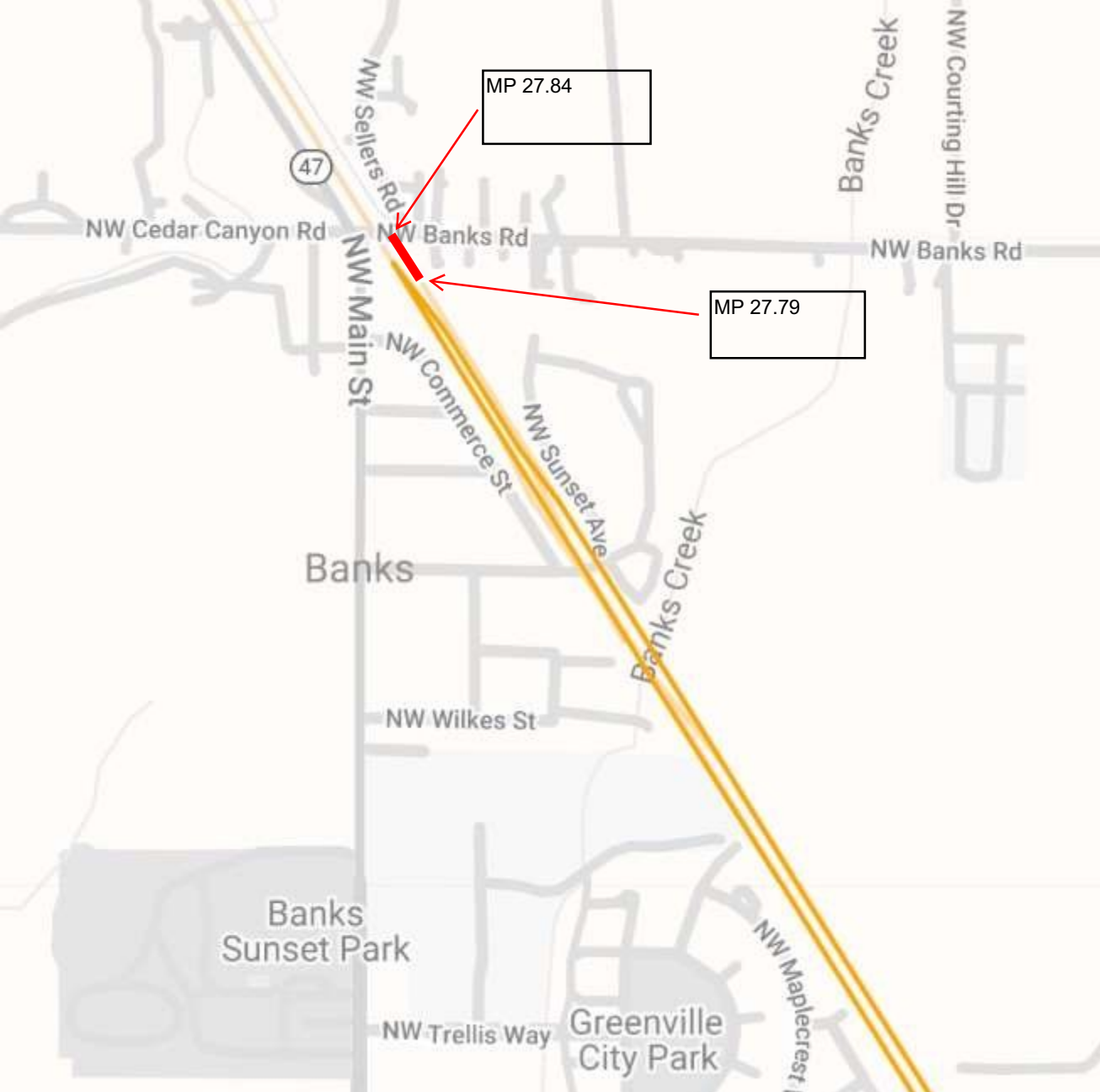
A handwritten signature in blue ink that reads "Justin J. Marks". The signature is written in a cursive, flowing style.

Justin J. Marks
Counsel for Portland & Western, Inc.

Enclosure







Subject Line to be Abandoned in red.

PNWR lines to remain active in orange.

Consultation Service List for STB Docket No. AB 541 (Sub. No. 4X)

Oregon State Clearinghouse Oregon Department of Transportation 355 Capital Street, NE, MS 11 Salem, OR 97301-3871	The Natural Resources Conservation Service USDA 1201 NE Lloyd Blvd, Suite 900 Portland, OR 97232
Oregon Department of Environmental Quality 700 NE Multnomah Street, Suite 600 Portland, OR 97232-4100 nwraqpermits@deq.oregon.gov	Natural Resources Conservation Service USDA Office of the Chief 1400 Independence Ave., SW Room 5105-A Washington, DC 20250
State Historical Preservation Office Oregon Heritage Oregon Parks and Recreation Department 725 Summer Street NE, Suite C Salem, OR 97301 ORSHPO.Clearance@oregon.gov	U.S. Environmental Protection Agency Region 10 1200 Sixth Avenue, Suite 155 Seattle, WA 98101
Mr. Bob Melbo State Rail Planner Oregon Department of Transportation Rail and Public Transit Division 555 13th St NE Salem, OR 97301-4179 Robert.I.Melbo@odot.oregon.gov	Cary Goodman Rail Asset Program Coordinator Oregon Department of Transportation Public Transportation Division 555 13th St NE Salem, OR 97301-4179 cary.goodman@odot.oregon.gov
Oregon Coastal Zone Management Oregon Coastal and Ocean Program Management Department of Land Conservation and Development 800 Oregon Street, NE #18 Portland, OR 97223 dlcd.info@dlcd.oregon.gov	U.S. Bureau of Land Management Oregon-Washington State Office 1220 S.W. 3rd Avenue Portland, OR 97204
U.S. Fish and Wildlife Service Region 1 Eastside Federal Complex 911 NE 11th Avenue Portland, OR 97232-4181	U.S. Army Corps of Engineers Portland District P.O. Box 2946 Portland, OR 97208-2946 Robert.H.Fraley@usace.army.mil

National Park Service 1849 C Street, NW Washington, DC 20240	National Park Service Regional Office Pacific West Region 333 Bush Street #500 San Francisco, CA 94104
Jolynn Becker City Manager City of Banks, Oregon jbecker@cityofbanks.org	The National Geodetic Survey Communications and Outreach Branch, ngs.infocenter@noaa.gov
The Honorable Kathryn Harrington Chair, Board of Commissioners MS-21 155 N. First Ave, Suite 300 Hillsboro, OR 97124 bcc@washingtoncountyor.gov	The Honorable Jerry Willey Chair, Board of Commissioners MS-21 155 N. First Ave, Suite 300 Hillsboro, OR 97124 bcc@washingtoncountyor.gov

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F (202) 772-0919

February 15, 2024

Oregon Coastal Zone Management
Oregon Coastal and Ocean Program Management
Department of Land Conservation and Development
800 Oregon Street, NE #18
Portland, OR 97223

dlcd.info@dlcd.oregon.gov

Re: Portland & Western Railroad, Inc. – Abandonment Exemption –
in Washington County, OR
Surface Transportation Board Docket No. AB 541 (Sub. No. 4X)

To Whom it May Concern:

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PNWR plans to seek Surface Transportation Board ("STB") authorization for its abandonment through a notice of exempt abandonment pursuant to the provisions of 49 CFR § 1152.50 on or after April 15, 2024, in Surface Transportation Board Docket No. AB 541 (Sub. No. 4X).

Based upon information in PNWR's possession, the Subject Line does not contain federally granted rights of way; the owner of the underlying property, ODOT, may have additional information. Any documentation in PNWR's possession will be made available promptly to those requesting it.

No local service has been provided on the Subject Line for over two years and at some point, since its last service the track was removed. PNWR does not believe that there are any alternatives to the proposed action. PNWR believes that the abandonment will not have a significant effect upon the environment.

In advance of preparing an environmental report as required by applicable STB regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental effects of the proposed abandonment.

February 15, 2024
Page 2

We would appreciate an expression from you by March 15, 2024 confirming that the proposed abandonment does not fall within the Oregon Coastal Zone Management Program. If this understanding is incorrect, please let us know if, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon the environment (or expressing any concerns that you have). If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (202) 772-0916.

Thank you for your cooperation.

Sincerely,

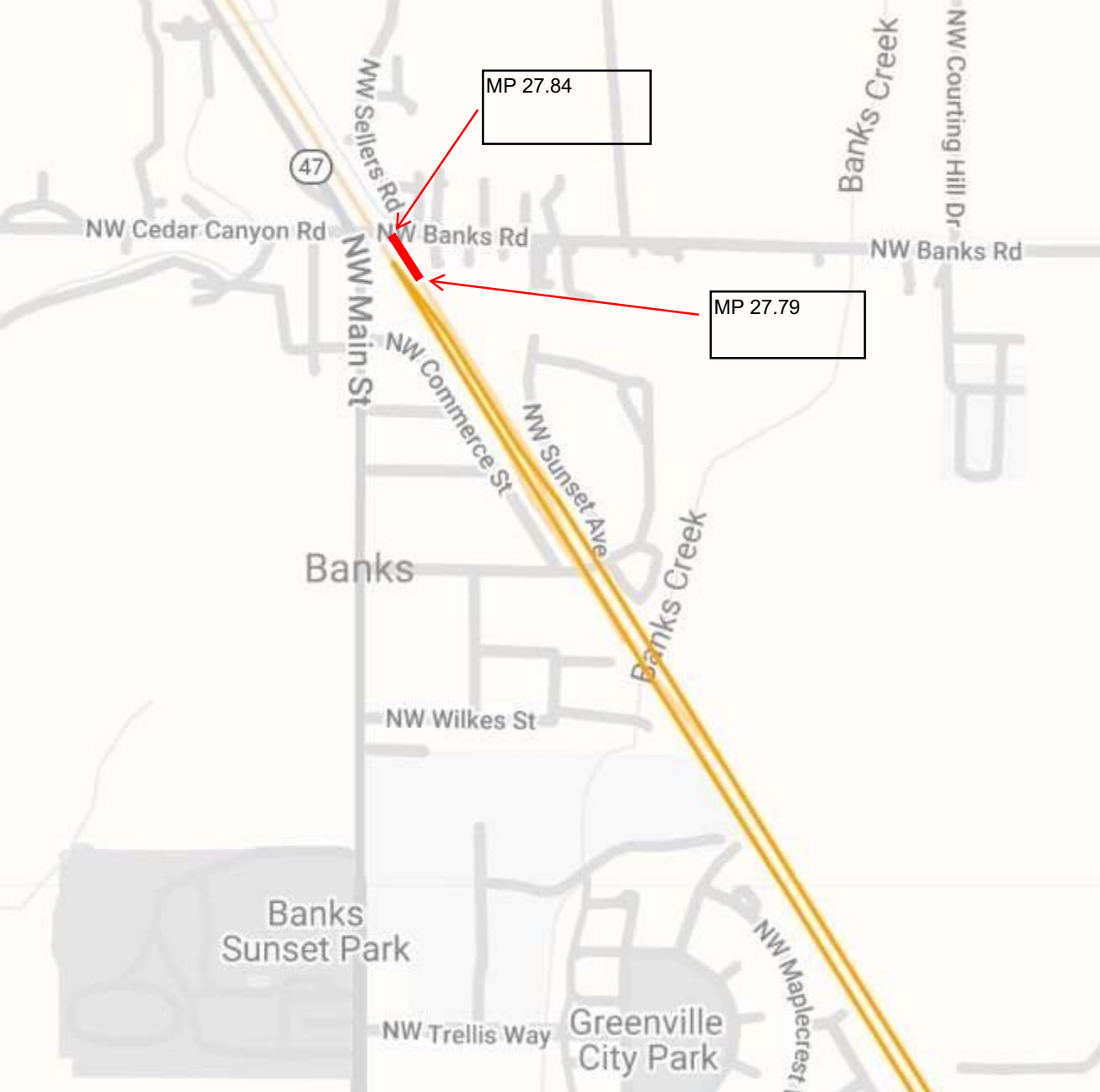


Justin J. Marks
Counsel for Portland & Western, Inc.

Enclosure







Subject Line to be Abandoned in red.

PNWR lines to remain active in orange.

EXHIBIT C

AGENCY RESPONSES

Marks, Justin J.

From: GOODMAN Cary <Cary.GOODMAN@odot.oregon.gov>
Sent: Friday, February 16, 2024 12:39 PM
To: Marks, Justin J.
Cc: MELBO Robert I; jbecker@cityofbanks.org
Subject: RE: PNWR Abandonment in Banks, OR Consultation Letter

[External Message]

Good morning Justin,

ODOT is supportive of PNWR's proposed abandonment there in Banks, OR.

Best,

Cary

Cary Goodman
Rail Asset Program Coordinator
ODOT Public Transportation Division
971.332.0928
cary.goodman@odot.oregon.gov

From: Marks, Justin J. <jmarks@ClarkHill.com>
Sent: Thursday, February 15, 2024 12:13 PM
To: GOODMAN Cary <Cary.GOODMAN@odot.oregon.gov>; jbecker@cityofbanks.org
Cc: MELBO Robert I <Robert.I.MELBO@odot.oregon.gov>
Subject: PNWR Abandonment in Banks, OR Consultation Letter

You don't often get email from jmarks@clarkhill.com. [Learn why this is important](#)

This message was sent from outside the organization. Treat attachments, links and requests with caution. Be conscious of the information you share if you respond.

Good afternoon,

I represent the Portland & Western Railroad, Inc. (PNWR) in matters before the U.S. Surface Transportation Board (STB). I understand that you have been in discussions with PNWR about the abandonment of this small segment of track. This email is intended to both educate you on the STB's abandonment process and to serve as a cover email for the attached letter.

As part of the abandonment process, PNWR is required to solicit comments (if any) from relevant agencies as to the potential environmental impact of PNWR's proposed abandonment. We will utilize these comments to draft an Environmental and Historic Report as required by the STB's regulations.

We are seeking comment from the agencies on the service list (including yours) by March 15, we will then use those comments (if any) to develop and submit the Environmental and Historical Report back to the consulted agencies and to the STB. By regulation, we are required to wait 20-days to file our Notice of Exempt Abandonment. As stated in the attached, we are hoping to file our Notice of Exemption on or after April 15.

If you have any questions, please let me know.

Thank you,

Justin

Justin J. Marks

Attorney at Law

Clark Hill

1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004

+1 202.772.0916 (office) | +1 703.215.6938 (cell) | +1 202.772.0930 (fax)

jmarks@clarkhill.com | www.clarkhill.com

Marks, Justin J.

From: PHIPPS Lisa * DLCD <Lisa.PHIPPS@dlcd.oregon.gov>
Sent: Thursday, March 14, 2024 4:43 AM
To: Marks, Justin J.
Subject: Portland & Western Railroad Inc - Abandonment Exemption

[External Message]

Hello, Mr. Marks,

I am writing to confirm that the proposed abandonment of a segment of rail line between Milepost 27.84 and Milepost 27.79 in Banks, OR is not subject to federal consistency review as it does not fall within the coastal zone.

Please don't hesitate to contact us if you have any questions.

Thank you,
Lisa Phipps



Lisa M. Phipps

Oregon Coastal Program Manager
Pronouns: She/Her
Oregon Department of Land Conservation and Development
Cell: 503-812-5448
lisa.phipps@dlcd.oregon.gov | www.oregon.gov/LCD

Please note: I am out of the office on Friday afternoons.

EXHIBIT D

NEWSPAPER NOTICE

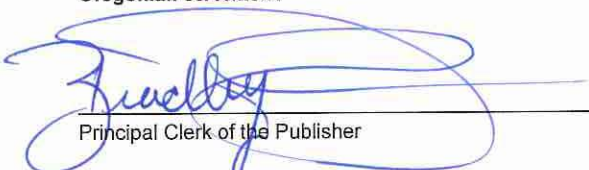
AD#: 0010839126

State of Oregon,) ss

County of Multnomah)

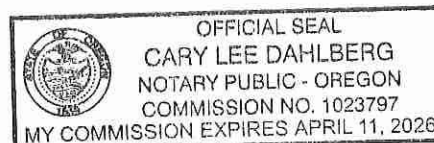
Bradley Dion being duly sworn, deposes that he/she is principal clerk of Oregonian Media Group; that Oregonian is a public newspaper published in the city of Portland, with general circulation in Oregon, and this notice is an accurate and true copy of this notice as printed in said newspaper, was printed and published in the regular edition and issue of said newspaper on the following date(s):

Oregonian 03/13/2024


Principal Clerk of the Publisher

Sworn to and subscribed before me this 13th day of March 2024


Notary Public



NOTICE OF INTENT TO ABANDON RAIL SERVICE

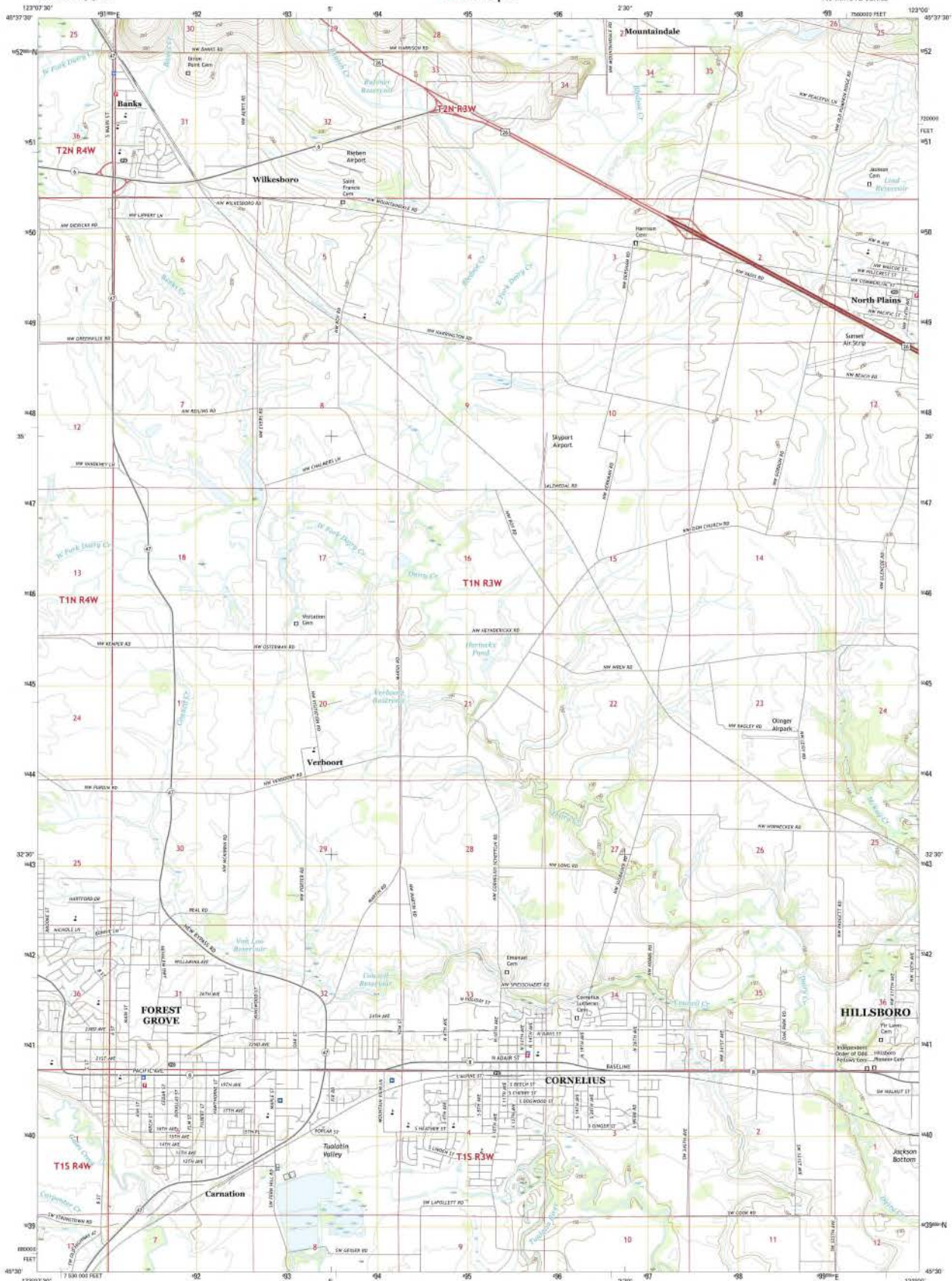
Portland & Western Railroad, Inc. (PNWR) Issues this notice that on or about April 15, 2024, it intends to file with the Surface Transportation Board (STB or Board), Washington, DC 20423, a notice of exemption pursuant to the provisions of 49 CFR Part 1152 Subpart F - Exempt Abandonments and Discontinuances of Service and Trackage Rights permitting PNWR to abandon service over approximately 264 feet of the line of railroad between milepost 27.84 and milepost 27.79, which traverses through United States Postal Zip Code 97106, in Banks, Washington County, Oregon. The PNWR proceeding will be docketed as STB Docket No. AB-541 (Sub-No. 4X).

The Board's Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Office of Environmental Analysis (OEA), Surface Transportation Board, Washington, DC or by calling that office at 202-245-0454.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance to subsidize rail service) must be filed directly with the STB's Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423-0001 [see 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [see 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the STB's Office of Public Assistance, Governmental Affairs and Compliance at 202-245-0238. Copies of any comments or requests for conditions should be served on PNWR's representative: Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W. Suite 1300 South, Washington, DC 20004; jmarks@clarkhill.com; 202-772-0916.

EXHIBIT E

TOPOGRAPHICAL MAPS



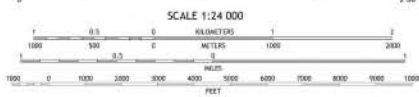
Produced by the United States Geological Survey
North American Datum of 1983 (NAD83)
World Geodetic System of 1984 (WGS84) Projection and
1000-meter grid Universal Transverse Mercator, Zone 10T
10,000-foot Grid, Oregon Coordinate System of 1983 (OCS83)

This map is not a legal document. Boundaries may be generalized for this map scale. Private lands within government reservations may not be shown. Obtain permission before entering private lands.

Revised: _____, NAD83, October 2014
Roads: _____, U.S. Census Bureau, 2013
Hydrography: _____, National Hydrography Dataset, 2009
Contours: _____, National Elevation Dataset, 2009
Boundaries: _____, National Boundary Dataset, 2004
Public Land Survey System: _____, BLM, 2010
Wellheads: _____, FWS National Wetlands Inventory 1997 - 2014

UTM GRID AND 100,000-METER NORTH
BOUNDARY OF 100,000-METER GRID

UTM GRID AND 100,000-METER NORTH
BOUNDARY OF 100,000-METER GRID



CONTOUR INTERVAL, 10 FEET
NORTH AMERICAN DATUM OF 1983
This map was produced to conform with the
National Standard Program US Topo Product Standard, 2011.
A metadata file associated with this product is available at www.usgs.gov



ROAD CLASSIFICATION

Expressway
Secondary Hwy
Local Road
Bypass
Interstate Route
US Route
State Route

1	2	3
4		5
6	7	8

1. Barten
2. Meacham
3. Zelle, Mann
4. Golden, Cree
5. H. H. H. H.
6. Garrison
7. L. A. L. A.
8. Schell

EXHIBIT F

SHPO CORRESPONDENCE

OR SHPO SUBMITTAL FORM

RESPONSE REQUIRED IN ALL SECTIONS

WHY

This submittal is (Select One) ☒ the First Initiation of Consultation and no SHPO Case # exists
☐ a Response to SHPO Request for more information on existing SHPO Case # provided below
☐ New Information for review on existing SHPO Case # provided below
 Existing SHPO Case #

WHAT

Your Project Name
Your Project Number
Extremely Brief Project/Undertaking Description

WHERE

Project Location
County(s)
Street Address City
OR Legal Description T/R/S
OR Long/Lat (decimal degrees to 4 decimal places) Long Lat

WHO RECEIVES CORRESPONDENCE FROM THE SHPO

If not the Formal Contact, the Working Project Contact is who the SHPO communicates with for more information about the project and/or submittal package

Formal Contact		Working Project Contact (cc'd on all correspondence to Formal Contact)	
Name	Justin Marks	Name	
Org	Clark Hill, PLC	Org	
Address	1001 Pennsylvania Avenue N.W. Suite 1300 South	Address	
Address		Address	
City/ST/Zip	Washington DC 20004	City/St/Zip	
Phone	202 772 0916	Phone	
Email	jmarks@clarkhill.com	Email	

HOW

Is there a federal nexus for the project (funding, permitting, licensing, etc.)? ☒ Yes ☐ No
Ownership of Project Land? ☐ Private ☐ Public ☒ Both

Additional Comments (Optional)

SUBMITTED TO SHPO FOR

- ☐ Built Environment Review
☐ Archaeology Review
☒ Both Built and Archaeology Review

SUBMITTAL EMAIL ACCOUNT

ORSHPO.Clearance@oregon.gov

ADDITIONAL ATTACHMENTS (Select All that Apply & Attach Individually)

- ☒ Cover Letter
☒ Map(s) (Required for Archaeology if not included in a Report)
☒ Oregon SHPO Clearance Form (Built Environment)
☐ 106 Documentation Form (Built Environment)
☐ Built Environment Only Report
☐ Archaeology Report INCLUDING State of Oregon Report Cover Sheet
☐ Combined Arch & Built Report INCLUDING State of Oregon Report Cover
☐ Sheet BLM or USFS Archaeology Site Record(s) # Individually Attached
☐ Spatial Data
☐ Other 1 (Name It)
☐ Other 2 (Name It)
☐ Other 3 (Name It)

OREGON SHPO CLEARANCE FORM

Do not use this form for ODOT or Federal Highway projects or to record archaeological sites

This form is for: federal cultural resource reviews (Section 106); state cultural resource reviews (ORS 358.653)					
SECTION 1: PROPERTY INFORMATION			SHPO Case Number:		
Resource Name: Portland & Western Railroad, Inc. Rail Line to be Abandoned					
Street Address: Longitude: 45.3717N Latitude 123.0649W					
City: Banks			County: Washington		
Agency Project #			Project Name: Portland & Western Railroad, Inc. Abandonment in Banks, OR STB Docket No. AB 541 (Sub No. 4).		
If there is not a street address, include the Township, Range, and Section, cross streets, or other address description					
Owner:	☒ Private	☐ Local Gov	☐ State Gov	☐ Federal Gov	☐ Other: _____
Are there one or more buildings or structures?		☐ YES ☒ NO – If no, skip to Section 2 and append photo(s)			
Is the property listed in the National Register of Historic Places?		☐ YES – Individually ☐ YES – In a district ☒ NO			
Original Construction date: _____ ☐ Check box if date is estimated					
Siding Type(s) and Material(s): NA			Window Type(s) and Material(s): NA		
Has the property been physically altered?		☐ No Alterations ☐ Few Alterations ☒ Major / Many Alterations			
SECTION 2: APPLICANT DETERMINATION OF ELIGIBILITY - Check the appropriate box					
<i>The purpose of this review is to avoid impacts to properties that are "eligible" (historic) or already listed in the National Register of Historic Places. Fully establishing historic significance can be very costly and time consuming. Therefore initial evaluations are based on age (50 years or greater) and integrity (historic appearance), which are the minimum qualifications for listing in the National Register. Additional documentation may be needed further in the process, but typically initial evaluations allow the review process to proceed expeditiously.</i>					
☐ The property is considered Eligible at this time because it is already listed in the National Register or • is at least 50 years old and retains its historic integrity (minimal alterations to key features) • has potential significance (architectural or historical)					
☒ The property is considered Not Eligible at this time because it: • is less than 50 years old or is 50 years or older but there have been major alterations to key features • is known to have no significance, based on National Register-level documentation and evaluation					
SECTION 3: APPLICANT DETERMINATION OF EFFECT - Check the appropriate box					
☒ The project has NO EFFECT on a property that is eligible or already listed in the National Register, either because there is no eligible property involved or the eligible property will not be impacted physically or visually.					
☐ The project will have a minor impact on a property that is eligible or already listed in the National Register, and therefore there is NO ADVERSE EFFECT . Minor impacts include replacement of some, but not all, siding, doors, or windows, etc.					
☐ The project will have a major impact on a property that is eligible or already listed in the National Register, therefore there is an ADVERSE EFFECT . Major impacts include full or partial demolition, complete residing, full window replacement, etc.					
STATE HISTORIC PRESERVATION OFFICE COMMENTS – Official use only					
Eligibility:	☐ Concur with the eligibility determination above. ☐ Do not concur with the eligibility determination above.				
Effect:	☐ Concur with the effect determination above. ☐ Do not concur with the effect determination above.				

RECEIVED STAMP

OREGON SHPO CLEARANCE FORM

Do not use this form for ODOT or Federal Highway projects or to record archaeological sites

Signed: _____

Date: _____

RLS	
ILS	

CONTACT INFORMATION STAMP

Comments:

SECTION 4: PREVIOUS ALTERATIONS TO THE BUILDING OR STRUCTURE

Only complete this section for buildings that are 50 years old or older. Describe any alterations that have already occurred to the building, such as material replacement, including siding, windows, and doors; any additions, including garages; and any removal or addition of architectural details, such as brackets, columns, and trim. Provide estimated dates for the work. Attach additional pages as necessary.

The property is not a building.

SECTION 5: PROJECT DESCRIPTION

Describe what work is proposed, including what materials will be used and how they will be installed. Specifically identify what historic materials will be retained, restored, replaced, or covered. Include drawings, photos, cut sheets (product descriptions), additional sheets, and other materials as necessary. For vacant lots, please describe the intended use.

This project is for the abandonment of approximately 264 feet of rail line in the City of Banks, OR. Section 106 review is required for an abandonment before the US Surface Transportation board. The track that was once part of the rail line has been removed. The Subject Line is now vacant and its use will be determined by the owner of the underlying right-of-way, the Oregon Department of Transportation.

SECTION 6: FUNDING SOURCE

☐ ARRA ☐ FCC ☐ FERC ☐ HUD ☐ ODOE ☐ USDARD ☐ USFS ☐ HPF
☐ Other: _____

SECTION 7: AGENCY CONTACT INFORMATION

Name of Organization Submitting the Project: Clark Hill PLC on behalf of Portland & Western Railroad, Inc.

Project Contact Name and Title: Justin Marks, Senior Attorney

Street Address, City, Zip: Washington DC, 20004

OREGON SHPO CLEARANCE FORM

Do not use this form for ODOT or Federal Highway projects or to record archaeological sites

Phone: 202.772.0916		Email: jmarks@clarkhill.com	
Date of Submission: 2/16/2024			
SECTION 8: ATTACHMENTS			
REQUIRED		☒ 3 – 4, color, 4 x 5 photographs of the subject property, digital or print. One photo is sufficient for vacant property	
AS NEEDED <i>Contact SHPO staff with questions</i>		☐ Project area map, for projects including more than one tax lot. (Required for HPF-funded projects). See instructions.	
		☐ Additional drawings, reports, or other relevant materials	
		☐ Continuation sheet for sections 4 or 5, or additional context to determine National Register Eligibility.	
SHPO Mailing Address: Review and Compliance, Oregon SHPO, 725 Summer St. NE, Suite C, Salem, OR 97301 Documents meeting all aspects of the digital submission policy may be submitted by email to ORSHPO.Clearance@oregon.gov			

OREGON SHPO CLEARANCE FORM CONTINUATION SHEET

Do not use this form for ODOT, Federal Highway projects or to record archaeological sites

CONTINUATION SHEET

- *Include additional documentation for Section 4 or 5 as necessary. Attach maps, drawings, and reports as needed to illustrate current conditions and the planned project. If submitting this form by email, photos and maps may be inserted into continuation sheets.*
- *If completing a complete Determination of Eligibility (DOE) or Finding of Effect (FOE), use continuation sheets as necessary or include appendixes.*

See (Google Earth) photo enclosed with cover letter to this form.

OREGON SHPO CLEARANCE FORM INSTRUCTIONS

Do not use this form for ODOT, Federal Highway projects or to record archaeological sites

SECTION 1: PROPERTY INFORMATION:

- Include complete address and agency project number and name, if applicable.
- Check YES if there are any buildings on the site. Check NO if it is a vacant parcel (in which case it will be evaluated for archaeology and the potential impact on surrounding buildings only.)
- Check YES if your research (look on our website at <http://heritagedata.prd.state.or.us/historic/> and/or call your local planning office) shows the property is listed. Check NO if you find that it is not listed.
- Fill in the construction date. Check box if date is estimated.
- Describe the siding and window types and materials. Examples: double hung wood windows; vertical wood siding.
- Check to what degree the property has been altered. Ask yourself, would the original owner recognize the building, or have there been many changes that obscure the historic features?

SECTION 2: APPLICANT DETERMINATION OF ELIGIBILITY:

- Check the ELIGIBLE box if the building is listed (National Register OR Local landmarks register), has previously been evaluated as eligible, or is 50 years of age AND the majority of the exterior historic features are retained.
- Check the NOT ELIGIBLE box if the building is not yet 50 years old, or if in your opinion there have been many and/or major changes (e.g. additions, siding and/or window replacement, porch enclosures).
- Applicants who acknowledge that the property meets the minimum qualifications for listing in the National Register but choose to contest this determination must complete a Determination of Eligibility (DOE). The DOE must demonstrate that the property is not eligible for the National Register using the Criteria listed in National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation." The DOE may be submitted on continuation sheets or as a separate document.

SECTION 3: APPLICANT DETERMINATION OF EFFECT:

- Check the NO EFFECT box if the property is NOT ELIGIBLE for listing in the National Register or if the work will not replace or alter the appearance of any of the building's exterior features.
- Check the NO ADVERSE EFFECT box if the property is ELIGIBLE for listing or is already listed in the National Register and the work is visible (e.g. re-roofing with same materials, window or siding repair, adding a vent) but will not remove or obscure historic features.
- Check ADVERSE EFFECT if the property is ELIGIBLE or listed in the National Register and the work includes major changes, such as replacing the siding or windows.

SECTION 4: PREVIOUS ALTERATIONS

- List the changes that **already** occurred to the building, including siding, windows, doors, porches, additions including dormers, or if the property was moved. Include the approximate date of each alteration. The information can be provided in list format.

SECTION 5: PROJECT DESCRIPTION:

- Clearly describe what is being repaired or replaced, and how that work will be done. What materials and installation process are proposed? Include sufficient information (e.g. close-up photos, product specification sheets) so we can compare what exists with what is proposed. The information can be provided in list format.

SECTION 6: FUNDING SOURCE:

- Check the federal or state agency funding the project; or check "other" and fill in the agency name.

SECTION 7: AGENCY CONTACT INFORMATION:

- List the name of the organization submitting the Clearance Form

SECTION 8: ATTACHMENTS:

- Photos: Include photos of the entire building, especially the elevations that can be seen from the street. Include close-ups of features that will be impacted by the project.
- Additional Information: When applicable, include window specifications, plans or diagrams that illustrate pertinent existing conditions and/or proposed work
- Continuation sheets for additional Section 4 or 5 narrative or to append a formal Determination of Eligibility (DOE) or Finding of Effect (FOE). These materials may also be submitted as a separate document.
- A map with location of project clearly marked with latitude and longitude coordinates in decimal degree format to the 5th decimal point is REQUIRED for all projects funded with Historic Preservation Funds through the Certified Local Government Grant. A single point for projects encompassing less than 5 acres is sufficient.

Justin J. Marks
T (202) 772-0916
F +12027720919
Email:jjmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue N.W.
Suite 1300 South
Washington, DC 20004
T (202) 772-0909
F (202) 772-0919

February 15, 2024

State Historical Preservation Office
Oregon Heritage
Oregon Parks and Recreation Department
725 Summer Street NE, Suite C
Salem, OR 97301

ORSHPO.Clearance@oregon.gov

Re: Portland & Western Railroad, Inc. – Abandonment Exemption –
in Washington County, OR
Surface Transportation Board Docket No. AB 541 (Sub. No. 4X)

To Whom it May Concern:

This letter is to advise you that the Portland & Western Railroad, Inc. ("PNWR") intends to file for the abandonment of a segment of its line between Milepost 27.84 and Milepost 27.79 in Banks, OR (the "Subject Line") extending approximately 264 feet. PNWR is proposing to abandon the perpetual freight easement it owns over the Subject Line; the underlying property is owned by the Oregon Department of Transportation ("ODOT"). The Subject Line traverses through United States Postal Service ZIP Code 97106 entirely in Washington County, OR. Maps of the Subject Line are attached as Exhibit A.

PNWR plans to seek Surface Transportation Board ("STB") authorization for its abandonment through a notice of exempt abandonment pursuant to the provisions of 49 CFR § 1152.50 on or after April 15, 2024, in Surface Transportation Board Docket No. AB 541 (Sub. No. 4X).

Based upon information in PNWR's possession, the Subject Line does not contain federally granted rights of way; the owner of the underlying property, ODOT, may have additional information. Any documentation in PNWR's possession will be made available promptly to those requesting it.

No local service has been provided on the Subject Line for over two years and at some point, since its last service the track was removed. The Subject Line has no visible structures 50 years old or older on the right-of-way. PNWR does not believe that there are any alternatives to the proposed action. PNWR believes that the abandonment will not have a significant effect upon the environment or historical resources.

In advance of preparing an environmental and historical report as required by applicable STB regulations, we are consulting with appropriate agencies such as yours as to any

February 15, 2024
Page 2

concerns which they may have as to any effects of the proposed abandonment on historical resources.

We would appreciate an expression from you by March 15, 2024 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon any historical resources (or expressing any concerns that you have). If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (202) 772-0916.

Thank you for your cooperation.

Sincerely,

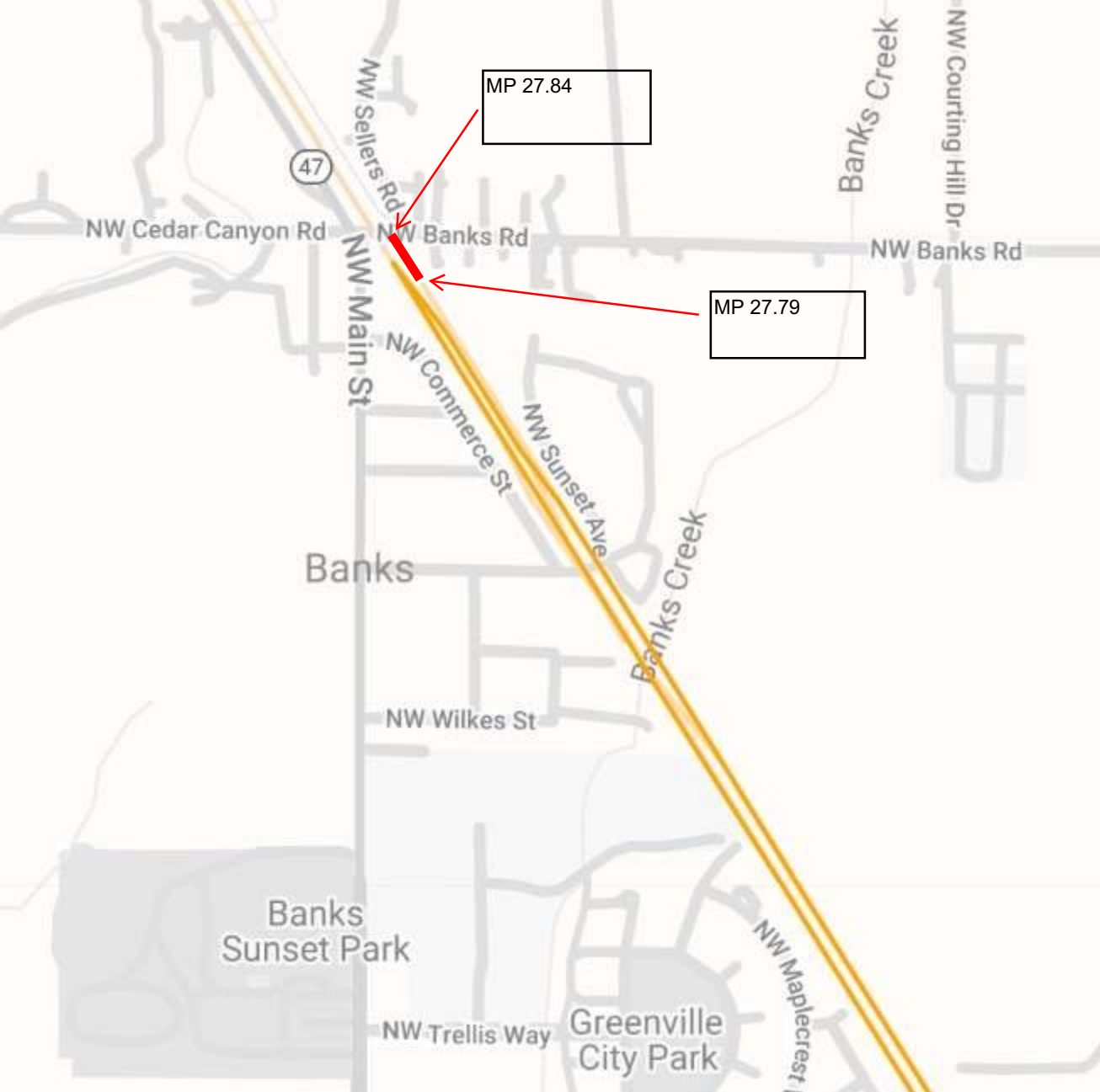
A handwritten signature in blue ink that reads "Justin J. Marks". The signature is fluid and cursive, with the first name "Justin" and last name "Marks" clearly legible.

Justin J. Marks
Counsel for Portland & Western, Inc.

Enclosure







Subject Line to be Abandoned in red.

PNWR lines to remain active in orange.



Oregon

Tina Kotek, Governor

Parks and Recreation Department

Oregon Heritage/
State Historic Preservation Office
725 Summer St. NE, Suite C
Salem, OR 97301-1266
(503) 986-0690
Fax (503) 986-0793
oregonheritage.org



March 13, 2024

Mr. Justin Marks
Clark Hill
1001 Pennsylvania Ave NW, Ste 1300
Washington, DC 20004

RE: SHPO Case No. 24-0415

PNWR, Portland & Western Railroad, Inc. Abandonment in the City of Banks, OR STB Docket No. AB 541 (Sub No. 4X) Portland & Western Railroad, Inc. Abandonment in the City of Banks, OR STB Docket No. AB 541 (Sub No. 4X)
Abandon section of rail line
, Banks, Washington County

Dear Justin Marks:

Thank you for submitting information for the undertaking referenced above for the Portland and Western Railroad

(PNWR) in Washington County, Oregon. Thank you for providing consultation materials for the abandonment fo, as referenced above. We assume that PNWR, Inc. is acting on behalf of the Surface Transportation Board (STB) for Section 106 consultation as outlined in the December 10, 2019 "Delegation of Authority for the Section 106 Review of Rail Abandonment Projects" letter. If this assumption is incorrect, please have the STB contact our office to continue consultation or delegate Section 106 responsibilities in writing.

According to our records the project location has not been investigated for historic properties. Based on the information provided, Oregon SHPO recommends an inventory be done before the undertaking proceeds. A list of contractors can be found on the Association of Oregon Archaeologists website (www.oregonarchaeologists.com). This list includes qualified archaeologists in the state of Oregon. Some of these contractors have professional staff to address built-environment resources. For assistance in hiring a contractor, our office has published advice in Archaeology Bulletin 4 (<https://www.oregon.gov/oprd/OH/Documents/Bulletin4.pdf>).

Please note that the abandonment (depending on the future owner) and deconstruction of the railroad could result in an adverse effect, if the PNWR was determined eligible for listing. Your letter indicates that the tracks on the segment proposed for abandonment have already been removed. We request information on whether this action was consulted on with this office.

We have no records that the PNWR has been evaluated for National Register of Historic Places eligibility. In order to complete the Section 106 consultation process, an Area of Potential Effect (APE), taking into consideration direct and indirect effects, would need to be established, and appropriate identification efforts for historic properties within that APE would need to occur prior to determining project effects.

If you have not already done so, be sure to consult with all appropriate Native American tribes and interested parties regarding the proposed undertaking. Additional consultation regarding this case must be sent through Go Digital. In order to help us track the undertaking accurately, reference the SHPO case number above in all correspondence.

Please contact our office if you have any questions, comments or need additional assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Koren Tippett". The signature is fluid and cursive, with a large loop at the end of the last name.

Koren Tippett

Special Project Archaeologist, OPRD/SHPO Liasion

(971) 304-4737

Koren.Tippett@opr.oregon.gov