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SERVICE DATE – MAY 3, 2024

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 541 (Sub-No. 4X)]

Portland & Western Railroad, Inc.—Abandonment Exemption—in Washington County,
Or.

Portland & Western Railroad, Inc. (PNWR), has filed a verified notice of exemption under 49 CFR part 1152 subpart F—Exempt Abandonments to abandon approximately 264 feet of rail line extending between milepost 27.84 and milepost 27.79 in Banks, Or. (the Line).¹ The Line traverses through U.S. Postal Service Zip Code 97106.

PNWR has certified that: (1) no local freight traffic has moved over the Line during the past two years; (2) because the Line is not a “through line,” there is no overhead traffic that would need to be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government on behalf of such user) regarding cessation of service over the Line is pending with either the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(b) and 1105.8(c) (notice of environmental and historic reports), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

¹ PNWR states that it owns a perpetual freight easement for the Line and that the underlying property is owned by the Oregon Department of Transportation (ODOT).

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,² this exemption will be effective on June 2, 2024, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2), and interim trail use/railbanking requests under 49 CFR 1152.29 must be filed by May 13, 2024.⁴ Petitions to reopen and requests for public use conditions under 49 CFR 1152.28 must be filed by May 23, 2024.

All pleadings, referring to Docket No. AB 541 (Sub-No. 4X), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of

² Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 CFR 1152.27(c)(2)(i).

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁴ Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

each pleading must be served on PNWR's representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004.

If the verified notice contains false or misleading information, the exemption is void ab initio.

PNWR has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by May 10, 2024. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0294. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245-0245. Comments on environmental or historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/railbanking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), PNWR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by PNWR's filing of a notice of consummation by May 3, 2025, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at www.stb.gov.

Decided: April 30, 2024.

By the Board, Mai T. Dinh, Director, Office of Proceedings.