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SERVICE DATE – DECEMBER 20, 2024

OEA

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**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

Docket No. AB 541 (Sub-No. 5X)

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

BACKGROUND

In this proceeding, Portland and Western Railroad, Inc. (PNWR) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the prior approval requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Washington County, Oregon. The rail line proposed for abandonment is approximately 4,111 feet extending between milepost 31.3 and 32.2 in the City of Tigard, Or. (the Line). A map depicting the Line in relationship to the area served is appended to this Draft Environmental Assessment (Draft EA). If the notice becomes effective, the railroad would be able to salvage track, ties and other railroad appurtenances and to dispose of rail, track materials and other personal property.

PNWR owns a perpetual freight easement for the Line, and the Oregon Department of Transportation (ODOT) owns the underlying right-of-way. Because ODOT has no residual common carrier obligation to provide freight rail service over the Line, the entire common carrier obligation of any rail carrier or party to provide freight service over the Line would be extinguished with abandonment of PNWR's freight operating easement.

DESCRIPTION OF THE LINE

PNWR believes that the Line was originally built by the Oregon Electric Railway. PNWR acquired the Line from the Burlington Northern and Santa Fe Railway Company in 1997 (STB Finance Docket No. 33502, served Nov. 24, 1997). The Line traverses United States Postal Service Zip Code 97223, entirely in Washington County. The Line is located in an urban area and runs parallel to an active PNWR rail line. The right of way is generally 60-feet wide, and no stations exist on the Line. According to PNWR, the track was removed at some point, and the City of Tigard converted the Line into a trail.

ENVIRONMENTAL REVIEW

PNWR submitted a combined environmental and historic report (E&H Report) that concludes the quality of the human environment would not be affected significantly as a result of the proposed abandonment of the Line, including salvage. PNWR served the E&H Report on a

number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)]¹ implementing the National Environmental Policy Act. The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

Diversion of Traffic

According to PNWR, no traffic has moved over the Line in the last seventeen years, and there is no overhead traffic to be rerouted. Therefore the proposed abandonment would not result in the diversion of rail traffic to truck traffic that could result in significant impacts to the local transportation network. Nor would the proposed abandonment adversely impact the development, use and transportation of energy resources or recyclable commodities or the transportation of ozone-depleting materials.

Salvage Activities

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way. Here, PNWR states that the right-of-way has been covered with concrete and converted to a walking and bicycling path. Accordingly, PNWR does not intend to conduct any salvage activities.

The National Geodetic Survey (NGS) has indicated that no geodetic survey markers are present in the area of the proposed abandonment. Therefore, no further consultation with NGS is recommended.

PNWR requested comments from the U.S. Fish and Wildlife Service (USFWS) regarding the potential impact of the proposed abandonment to protected wildlife, including federally listed threatened and endangered species. OEA conducted a search of the USFWS Information for Planning and Consultation (IPaC) system, which indicated that seven threatened and endangered species—the Northern Spotted Owl, the streaked Horned Lark, Northwestern Pond Turtle, Fender's Blue Butterfly, Monarch Butterfly, Kincaid's Lupine, and Wilamette Daisy—may be in the area of the proposed abandonment, but that there are no critical habitats. Additionally, the IPaC system indicated that several protected migratory birds may have a presence in the general area including Golden and Bald Eagles, Black Swift, California Gull, Chestnut-backed

¹ The E&H Report is available for viewing on the Board's website at www.stb.gov by clicking "Search STB Records;" selecting "Filings" in the "Search for" dropdown menu; entering "AB" "541" "5" "X" sequentially in the four boxes for "Docket Number," then selecting "Search." The E&H Report was filed on November 1, 2024.

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Chickadee, Evening Grosbeak, Lesser Yellowlegs, Olive-sided Flycatcher, Rufous Hummingbird, Short-billed Dowitcher, Western Grebe, Western Gull and the Western Screech Owl.

OEA has determined that these federally listed threatened or endangered species would not be affected because no salvage activities would occur as a result of the proposed abandonment. The right-of-way has been paved and is currently being used as a trail. OEA is providing USFWS Oregon Fish and Wildlife Office a copy of this Draft EA for its review.

The proposed abandonment is not located within the State of Oregon's Coastal Zone. Thus, consistency with the State Coastal Zone Management Program is not required.

PNWR has no plans to undertake in-stream work or dredge and/or fill any materials in connection with the proposed abandonment. Therefore, OEA believes that no authorization under the Clean Water Act or any water quality permitting would be necessary.

OEA believes there would be no air emissions or noise related impacts associated because there no salvage would occur as a result of the proposed abandonment.

Based on all information available to date, OEA does not believe that the proposed abandonment would cause significant environmental impacts. In addition to the parties on the Board's service list, OEA is providing a copy of this Draft EA to the USFWS Oregon Fish and Wildlife Office, the U.S. Environmental Protection Agency, Region 10, and the U.S. Army Corps of Engineers Portland District for review.

HISTORIC REVIEW

PNWR served the E&H Report on the Oregon Parks and Recreation Department, Oregon Heritage/State Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c).² In a letter dated October 25, 2024, the SHPO stated that it found no eligible cultural resources in the area and concurred that there would be no historic properties affected as a result of the proposed abandonment.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.5(b), and following consultation with the SHPO, OEA has made a determination of

² Applicants seeking authority from the Board to abandon railroad lines may act on behalf of the Board when complying with the Section 106 regulations of the National Historic Preservation Act. Applicants are authorized to initiate the Section 106 review process and carry out some of its steps, but the Board retains overall responsibility for the Section 106 review. See 36 C.F.R. § 800.2(c)(4); 49 C.F.R. Part 1105; Delegation Letter (Dec. 9, 2009). The Delegation Letter can be found at a link on the bottom of the Board's website overviewing historic preservation at <https://www.stb.gov/resources/environmental/historic-preservation-overview>.

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No Adverse Effect on historic properties listed in or eligible for inclusion in the National Register of Historic Places as a result of the proposed abandonment. The documentation for this finding, as specified at 36 C.F.R. § 800.11(e), consists of the PNWR's historic report, all relevant correspondence, and this Draft EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at www.stb.gov. Guidance regarding the Board's historic preservation review process is available on the Board's website at <https://www.stb.gov/resources/environmental/historic-preservation-overview>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the U.S. Department of Housing and Urban Development's Tribal Directory Assessment Tool (TDAT) to identify federally recognized Tribes that may have ancestral connections to the project area.³ The database indicated that the following federally-recognized tribes may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the Area of Potential Effects or APE) of the proposed abandonment: Confederated Tribes of Siletz Indians of Oregon, Confederated Tribes of the Grand Ronde Community of Oregon, and Confederated Tribes of the Warm Springs Reservation of Oregon. Accordingly, OEA is sending a copy of this Draft EA to these Tribes for review and comment.

CONDITIONS

OEA recommends that no conditions be imposed on any decision granting abandonment authority.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use.

³ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed December 5, 2024).

A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Board's Federal Register notice of the proposed abandonment. The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁴

TRAIL USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29). The Federal Register notice is also issued as a Board decision and is available on the Board's website.⁵

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

OEA encourages interested parties to submit their comments on the Draft EA electronically through the Board's website at www.stb.gov. From the Board's home page, select "File an Environmental Comment" below the "Need Assistance?" button. Log-in accounts are not needed to file environmental comments electronically, and brief comments can be typed in the comment field, and lengthier comments can be attached as Word, Adobe Acrobat, or other file formats.

Alternatively, comments submitted by mail should be addressed to: Andrea E. Poole, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, Attention:

⁴ Board decisions are available for viewing on the Board's website at www.stb.gov by clicking "Search STB Records;" selecting "Decisions" in the "Search for" dropdown menu; entering "AB" "541" "5" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

⁵ Id.

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Environmental Filing, Docket No. AB 541 (Sub-No. 5X). If you have any questions, please contact Andrea E. Poole by email at Andrea.Poole@stb.gov by phone at 202-934-3330.

Date made available to the public: December 20, 2024.

Comment due date: January 6, 2025.

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

Attachment

