

51574

SERVICE DATE – JANUARY 26, 2023

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

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

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

Portland & Western Railroad, Inc. (PNWR), has filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments to abandon the rail line extending between milepost 10.28 in Forest Grove, Or., and milepost 4.68 in Hillsboro, Or. (the Line). PNWR owns a perpetual freight easement for the Line, and the underlying property is owned by the Oregon Department of Transportation. There are four stations on the Line: Forest Grove (milepost 10.28), Cornelius (milepost 7.8), Hillsboro (milepost 4.7) and Forest Grove Junction (milepost 4.68). The Line traverses U.S. Postal Service Zip Codes 97116, 97113, 97123, and 97124, entirely in Washington County, Or.

PNWR has certified that: (1) No local or overhead traffic has moved over the Line since November 2015; (2) as the Line is stub-ended, there is no overhead traffic to be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with 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 C.F.R. §§ 1105.7(b) and 1105.8(c) (notice of

environmental and historic reports),¹ 49 C.F.R. § 1105.12 (newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to government agencies) have been met.

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 February 25, 2023, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by February 3, 2023.³ Formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2) and interim trail use/rail banking requests under

¹ On January 20, 2023, PNWR filed a supplement certifying that it complied with the requirements of 49 C.F.R. § 1105.11.

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 C.F.R. § 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.

49 C.F.R. § 1152.29 must be filed by February 6, 2023.⁴ Petitions to reopen or requests for public use conditions under 49 C.F.R. § 1152.28 must be filed by February 15, 2023.

All pleadings, referring to Docket No. AB 541 (Sub-No. 3X), 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 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 January 31, 2023. 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. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339. 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/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), PNWR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and

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

fully abandoned the Line. If consummation has not been effected by PNWR's filing of a notice of consummation by January 26, 2024, 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: January 23, 2023.

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