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OEA

SERVICE DATE – MAY 14, 2024

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

DRAFT ENVIRONMENTAL ASSESSMENT

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

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

BACKGROUND

In this proceeding, Portland & 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 extends approximately 264 feet from milepost 27.84 to milepost 27.79 in Banks, Oregon (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 will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to PNWR, there is no extant track or other railroad related features along the Line, and the right-of-way (ROW) is approximately 60 feet wide. The Line is situated within a commercial and residential area in the center of the City of Banks. PNWR owns an exclusive freight easement over the Line, and the underlying property is owned by the Oregon Department of Transportation (ODOT).

The Line was constructed in the early 20th century and appears on historic maps from the 1940s as the Southern Pacific. According to PNWR, the Line is a stub-ended segment of rail line adjacent to the Banks-Veronia State Trail, a former BNSF Railway, Inc. (BNSF) line of railroad. PNWR acquired the rail, ties, and other facilities of the Line, and a freight easement through a series of transactions with BNSF. According to the PNWR, there has been no service over the Line for over two years, and it is unknown when the track was removed.

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 local traffic has moved over the Line over the last two 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 air quality or 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. According to PNWR, it would not be salvaging any rail ties or other track materials on the Line as as result of the proposed abandonment because no such materials currently exist on the Line.

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. To date, USFWS has not provided comments. To identify protected species in the project area, OEA conducted a search of the USFWS Information for Planning and Conservation (IPAC) system.² The table below shows the federally listed endangered and threatened species known or thought to occur in the project area, as identified by OEA’s search and further research.

Federally Listed Species in the Project Area	
Birds	Status
Marbled Murrelet (<i>Brachyramphus mamoratus</i>)	Threatened
Northern Spotted Owl (<i>Strix occidentalis caurina</i>)	Threatened

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” “4” “X” sequentially in the four boxes for “Docket Number,” then selecting “Search.” The E&H Report was filed on March 18, 2024.

² USFWS Information for Planning and Conservation (IPaC) search conducted on May 13, 2024 (<https://ecos.fws.gov/ipac/>).

Streaked Horned Lark (<i>Eremophila alpestris strigata</i>)	Threatened
Reptiles	
Northwestern Pond Turtle (<i>Actinemys marmorata</i>)	Proposed Threatened
Insects	
Fender's Blue Butterfly (<i>Icaricia icarioides fender</i>)	Threatened
Monarch Butterfly (<i>Danaus plexippus</i>)	Candidate
Flowering Plants	
Kincaid's Lupine (<i>Lupinus sulphureuss ssp. kincaidii</i>)	Threatened
Willamette Daisy (<i>Erigeron decumbens</i>)	Endangered

Because salvage activities are not planned as part of the proposed abandonment, OEA concludes that the proposed abandonment would have no effect on these species. Accordingly, consultation with USFWS under Section 7 of the Endangered Species Act is unnecessary. OEA is sending a copy of this Draft EA to USFWS and the Oregon Fish and Wildlife Office for review.

PNWR submitted the E&H Report to the U.S. Environmental Protection Agency (USEPA) and the U.S. Army Corps of Engineers (Corps) and requested comments on potential permitting requirements under Sections 402 and 404 of the Clean Water Act (CWA). OEA has not received responses from either agency but believes that the proposed abandonment would not impact waterways, including wetlands, as none are present in the project area and PNWR would not be conducting salvage of the Line during this proceeding. OEA is providing USEPA Region 10 and the Corps Region 1 a copy of this Draft EA for review.

The proposed abandonment is not located within a Coastal Zone. Thus, no further consultation is required.

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.

Because PNWR does not propose to conduct any abandonment-related salvage activities, OEA concludes that the proposed abandonment would not result in any air emissions and would have no impact on air quality. Therefore, no mitigation related to air quality is necessary or recommended. Furthermore, because PNWR does not propose to conduct any abandonment-related salvage activities, OEA also concludes that the proposed abandonment would not result in any noise impacts. Therefore, no mitigation related to noise impacts is necessary or recommended.

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 for this proceeding, OEA is providing a copy of this Draft EA to USFWS, the Oregon Fish and Wildlife Office, USEPA Region 10 and Corps Region 1.

HISTORIC REVIEW

PNWR served the E&H Report on the Oregon State Historic Preservation Office (SHPO), pursuant to 49 C.F.R. § 1105.8(c).³ In a letter dated March 13, 2024, the SHPO requested that an inventory of potential historic properties be undertaken by a qualified contractor meeting state standards. SHPO further requested that a formal determination of eligibility be prepared for the Line to be abandoned and that consultation continue until the Section 106 process is completed. Accordingly, OEA is recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effects) eligible for listing or listed in the National Register until completion of the Section 106 process. 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.⁴ 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 APE) of the proposed abandonment: Confederated Tribes of Siletz Indians of Oregon, Confederated Tribes of the Grande 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 the following condition be imposed on any decision granting abandonment authority:⁵

Portland & Western Railroad, Inc. (PNWR) shall retain its interest in and take no steps to alter

³ 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 overseeing historic preservation at <https://www.stb.gov/resources/environmental/historic-preservation-overview>.

⁴ U.S. Department of Housing and Urban Development, Tribal Directory Assessment Tool, <https://egis.hud.gov/tdat> (last accessed May 13, 2024).

⁵ 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.

the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 54 U.S.C. § 306108, has been completed. PNWR shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the State Historic Preservation Office and the public. PNWR may not file its consummation until the Section 106 process has been completed and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended condition is imposed, 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, the right-of-way may be suitable for other public use. 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.⁶

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.⁷

PUBLIC ASSISTANCE

⁶ 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" "4" "X" sequentially in the four boxes for "Docket Number," then selecting "Search."

⁷ Id.

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 <https://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: Alan Tabachnick, Surface Transportation Board, 395 E Street SW, Washington, DC 20423-0001, Attention: Environmental Filing, Docket No. AB 541 (Sub-No. 4X). If you have any questions, please contact Alan Tabachnick by email at alan.tabachnick@stb.gov or by phone at 202-245-0367.

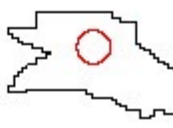
Date made available to the public: May 14, 2024.

Comment due date: May 29, 2024.

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

Attachment



	Docket No. AB 541 (Sub-No. 4X) Portland & Western Railroad, Inc. Abandonment Exemption Washington County, Or.	Legend — the Line Note: Maps produced by the STB's Office of Environmental Analysis are based on information provided by the applicant and are for reference purposes only.	 Washington County	 Oregon
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