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December 11, 2025

Alan Tabachnick
Federal Preservation Officer
Surface Transportation Board
Office of Environmental Analysis
395 E St SW
Washington, DC 20423

Re: Portland & Western Railroad, Inc. – Abandonment Exemption –
In Washington County, OR
Surface Transportation Board Docket No. AB 541 (Sub. No. 4X)
Clarification of the Area of Potential Effect

Dear Mr. Tabachnick:

On December 5, 2025, Portland & Western Railroad, Inc. ("PNWR") provided OEA with a record of its consultation with the Oregon SHPO to include the Applied Archaeological Research, Inc. ("AAR") report that was commissioned by the City of Banks to satisfy the Oregon SHPO's request for a study by a qualified archeologist. The AAR report found that "the proposed acquisition and development of the [area of potential effect] would have a direct, adverse effect" on a National Register of Historic Places ("NRHP") eligible resource. Included within the PNWR letter to OEA was an expression from the Oregon SHPO that concurred with the AAR finding.

PNWR is submitting this letter to correct the record to clarify the area of potential effect because the AAR report defines the area of potential effect ("APE") beyond the scope of the permanent freight easement to be abandoned by PNWR.

The AAR report describes and evaluates the APE to be the scope of the proposed City of Banks project – a picnicking and gathering area for recreational hiking and bicycling. The report describes the APE in two segments. The northern half is described as an open gravel lot where the tracks have been removed and extending 230 feet long and 60 feet wide. The southern half is described as containing intact track, 10ft wide and approximately 188 ft long.

The AAR report may represent the area of the City of Banks project. However, it does not represent the segment of PNWR freight easement to be abandoned. As described in the PNWR notice of exemption and the PNWR environmental and historical report, the line to be abandoned measures 264 feet extending from Milepost 27.84 and Milepost 27.79 and the right of way is generally 60 feet wide. The permanent freight easement extends to the midway point of NW Banks Rd.

The AAR report's description of the northern half of the freight easement is mostly consistent with PNWR's description of the line to be abandoned, except, as stated above, the permanent freight easement extends to the midway point of NW Banks Rd. The AAR report describes the freight easement as being "immediately south of NW Banks Road."

The AAR report includes within the APE, a southern half. And the report finds that the "United Railways track [the southern half] would be clearly eligible for inclusion in the NRHP." However, the southern half is not part of this abandonment proceeding because that segment of track does not fall under 49 U.S.C. § 10901.

A railroad is only required to abandon a rail line that is common carrier track under 49 U.S.C. § 10901. Track that is carrier owned, but utilized as side track falls under 49 U.S.C. § 10906 and is exempt from the STB's abandonment regulation. Other track that is not subject to STB regulation is industry owned private track. Under the Board's regulations at 49 C.F.R. § 1105.5, a transaction that is not within the STB's jurisdiction does not require a historic review under the National Historic Preservation Act ("NHPA").

The AAR report and the SHPO eligibility and negative effect determination are based on the impacts on the United Railways track (the southern half) and not the segment subject to the STB's abandonment authority. However, for this abandonment proceeding before the STB, the southern portion of the project does not fall under the STB's abandonment jurisdiction and therefore does not require a historic review under the NHPA.

PNWR respectfully requests that OEA consider this clarification as it considers the historical impacts of the PNWR abandonment of the freight easement.

Sincerely,



Justin J. Marks
Counsel to Portland & Western Railroad, Inc.

Enclosure

cc: City of Banks
Oregon Department of Transportation
Oregon SHPO