

Before the
SURFACE TRANSPORTATION BOARD

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

PORTLAND & WESTERN RAILROAD, INC.
- ABANDONMENT EXEMPTION - IN WASHINGTON COUNTY, OR

ENVIRONMENTAL/HISTORIC REPORT

(color copies included)

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Counsel for
Portland & Western Railroad, Inc.

Dated: November 1, 2024

Before the
SURFACE TRANSPORTATION BOARD

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

PORTLAND & WESTERN RAILROAD, INC.
- ABANDONMENT EXEMPTION - IN WASHINGTON COUNTY, OR

ENVIRONMENTAL/HISTORIC REPORT

Portland & Western Railroad, Inc. (“PNWR”) owns the rail, track materials and other personal property comprising the rail line between Milepost 31.3 and Milepost 32.2 in Tigard, OR, and an exclusive easement over the underlying property (together, the “Subject Line”). The underlying property is owned by the Oregon Department of Transportation (“ODOT”). PNWR will be seeking exemption authority for the abandonment of the Subject Line. No stations exist on the Subject Line. The Subject Line traverses through United States Postal Service ZIP Code 97223, entirely in Washington County, OR. Maps of the Subject Line are attached as Exhibit A.

PNWR plans to seek Surface Transportation Board (“STB”) authorization for its abandonment through a notice of exempt abandonment pursuant to the provisions of 49 CFR §1152.50 on or after November 18, 2024. This report is being filed in connection therewith, and in accordance with the requirements of 49 CFR 1105.7 and 1105.8. To prepare this report, Applicant consulted with various state and federal agencies as required by the Board’s regulations. *See* the letters attached as Exhibit B. Based on the written responses received by Applicant to-date attached as Exhibit C, Applicant states as follows:

ENVIRONMENTAL REPORT

(49 CFR 1105.7)

1. PROPOSED ACTION AND ALTERNATIVES

Applicant originally acquired the Subject Line from the Burlington Northern and Santa Fe Railway Company in 1997.¹ The Subject Line runs parallel to an active PNWR rail line that PNWR is not abandoning and holds independent common carrier authority for the active segment.² No local service has been provided on the Subject Line for over 17 years and at some point, since its last service the track was removed, and the right-of-way was converted to a walking and bicycling path. PNWR will not be salvaging any rail ties or other track materials on the Subject Line because no such materials currently exist.

2. EFFECTS ON THE TRANSPORTATION SYSTEM

Applicant believes that the abandonment would have no effect on the transportation system because an active PNWR line runs parallel to the Subject Line, there has been no local or overhead service on the Subject Line for over 17 years, and no traffic will be diverted. Applicant sent a consultation letter regarding the proposed abandonment to ODOT. *See Exhibit B.* ODOT has not responded to the PNWR letter.

3. LAND USE

(i) Applicant is unaware of any regional or local land use patterns with which the proposed abandonment would be inconsistent. Applicant consulted with the following agencies regarding the proposed abandonment that may be concerned with land use issues: Oregon Department of

¹ *Portland & Western Railroad, Inc. --- Acquisition and Operation Exemption – The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 33502 (served Nov. 24, 1997).

² *Portland & Western Railroad, Inc. – Acquisition and Operation Exemption – Union Pacific Railroad Company*, STB Finance Docket No. 34792 (served Nov. 24, 2006).

Environmental Quality (“ODEQ”), the Natural Resources Conservation Service (“NRCS - Oregon”); Natural Resources Conservation Service (“NRCS – National”); U.S. Environmental Protection Agency Region 10 (“EPA”); NOAA National Geodetic Survey (“NGS”); U.S. Bureau of Land Management Oregon-Washington State Office (“BLM”); U.S. Army Corps of Engineers Portland District; Washington County Board of Commissioners; National Park Service, Pacific West Region (“NPS – Pacific West Region”); National Park Service (“NPS – National”); U.S. Fish and Wildlife Service Region 1 (“FWS”). Copies of these letters are attached as part of Exhibit B. To date, none of these agencies have provided a response.

(ii) Applicant does not believe that the proposed abandonment will have any adverse effect on any prime agricultural land. Consultation notices were sent to the potentially concerned agencies listed in paragraph 3(i) above, and as indicated, none of these agencies have provided a response.

(iii) Applicant does not believe that the abandonment is inconsistent with any coastal zone plans because the project is not in Oregon’s coastal zone.³ A consultation notice was sent to the Oregon Department of Land Conservation and Development, Oregon Coastal and Ocean Program Management. Applicant received a response from this Department informing it that the project is not in Oregon’s coastal zone. A copy of the response is included as part of Exhibit C.

(iv) Applicant believes that the right of way may be suitable public purposes. Applicant understands that the Subject Line is currently being utilized as a walking path.

4. ENERGY

Since there has not been any local service on the Subject Line for more than 17 years,

³ See <https://www.oregon.gov/lcd/OCMP/Pages/Coastal-Zone.aspx>.

- (i) the proposed abandonment will have no effect on the transportation of energy sources;
- (ii) the proposed abandonment will have no effect on recyclable commodities;
- (iii) the proposed abandonment will have no effect on overall energy efficiency; and
- (iv) the proposed abandonment will not divert any traffic from rail to motor carriage.

The effects of the proposed abandonment will not exceed the thresholds set forth in 49 CFR 1105.7(e)(4)(iv).

5. **AIR**

Since there has not been any local service on the Subject Line for over 17 years, the proposed abandonment will not result in any increases in rail or truck traffic or rail yard activity. The effects of the proposed abandonment will not exceed the thresholds set forth in 49 CFR 1105.7(e)(5).

6. **NOISE**

Applicant does not believe that the proposed abandonment will result in any increase in noise levels.

7. **SAFETY**

Applicant does not believe that the proposed abandonment will have any adverse effect on public health or safety.

8. **BIOLOGICAL RESOURCES**

- (i) Applicant has consulted with the FWS, as well as to the following agencies that are potentially concerned with biological resources: ODEQ, NCRS – Oregon, NCRS – National, BLM, U.S. Army Corps of Engineers, NPS – Pacific West Region, NPS – National, FWS.

Copies of these consultation letters are attached as part of Exhibit B. Applicant has not received any responses from these agencies.

(ii) Applicant does not believe that there are any wildlife sanctuaries or refuges, National or State parks or forests in the vicinity of the proposed abandonment. Consultation letters were sent to the agencies identified in the paragraph 8(i), and Applicant has not received any responses.

9. **WATER**

(i) The proposed abandonment will be handled in a manner that is consistent with the applicable local, State and Federal water quality standards. Applicant consulted with the agencies identified in paragraph 8(i), and as noted in paragraph 8(i) has not received any responses.

(ii) Applicant sent a consultation letter regarding the proposed abandonment to the U.S. Army Corps of Engineers. A copy of this letter is attached as part of Exhibit B. PNWR has not received a response.

(iii) Applicant does not believe that any Clean Water Act permits will be required in connection with the proposed abandonment or any salvage. Consultation letters were sent to ODEQ and EPA. Neither agency has yet responded.

10. **PROPOSED MITIGATION**

Since no adverse environmental impacts are expected, no mitigation is proposed.

11. **ADDITIONAL INFORMATION FOR RAIL CONSTRUCTION**

Not applicable.

12. CONSULTATION

As shown by the copies of letters attached as Exhibit B, Applicant has consulted with the following agencies: ODEQ, NRCS – Oregon, NRCS – National, EPA NGS, Oregon Depart. Of Land Conservation and Development BLM, U.S. Army Corps of Engineers, the Washington County Board of Commissioners, NPS – Pacific West Region, NPS – National, FWS.

None of the above agencies provided a response.

13. CERTIFICATIONS

Applicant certifies that:

- (a) It consulted with the agencies listed in 49 CFR 1105.7, as described in paragraph 12 above.
- (b) On this date, it sent copies of this report to each of the agencies consulted as shown on the attached certificate of service.
- (c) Notice of the proposed abandonment was published in the *Oregonian* on October 23, 2024. A copy of the form of notice and the proof of publication are attached as Exhibit D.
- (d) Applicant will not file its verified notice of abandonment until at least twenty (20) days after the consulted agencies have been served with a copy of this report.

**HISTORIC REPORT
(49 CFR 1105.8)**

1. U.S.G.S TOPOGRAPHIC MAP

A U.S.G.S. topographic map showing the location of the proposed abandonment are attached as Exhibit E.

2. DESCRIPTION OF RIGHT OF WAY

The Subject Line extends between Milepost 31.3 and Milepost 32.2 in Tigard, OR (the “Subject Line”) extending approximately 4,111 feet. It is in the City of Tigard, OR a city of approximately 55,000 residents within the Portland metro area. It is situated amongst an urbanized area of town and lies along an active PNWR railroad line. The right of way is generally 60 feet wide. PNWR owns an exclusive easement over the underlying property. ODOT owns the underlying property.

The City of Tigard has converted the Subject Line into the Tigard Heritage Trail, the city describes the trail as a “popular bike and pedestrian pathway [celebrating] local heritage and identity as a ‘pedestrian boulevard’ with historic and cultural landmarks.”⁴

3. PHOTOGRAPHS OF HISTORIC STRUCTURE(S)

The Subject Line has no visible structures 50 years old or older on the right-of-way and therefore, no photographs are included herein.

4. DATES OF CONSTRUCTION OF HISTORIC STRUCTURE(S)

As noted in paragraph 3 above, no historic structures exist on the right-of-way.

⁴ *City of Tigard, Heritage Trail* last visited Oct. 10, 2024, available at <https://www.tigard-or.gov/your-government/departments/public-works/parks-recreation/trails/heritage-trail>.

5. HISTORY OF CARRIER OPERATIONS IN THE AREA

PNWR believes that the Subject Line was originally built by the Oregon Electric Railway. Applicant originally acquired the Subject Line from BNSF Railway, Inc. in 1997.⁵ The Subject Line runs parallel to an active PNWR rail line that PNWR is not abandoning and holds independent common carrier authority for the active segment.⁶ No local service has been provided on the Subject Line for over 17 years and at some point, since its last service the track was removed, and the right-of-way was converted to a walking path. ODOT owns the underlying property. There has been no service provided over the Subject Line proposed for abandonment for over seventeen years.

6. SUMMARY OF STRUCTURE DOCUMENTATION

There are no historic structures on the Subject Line, and accordingly, PNWR is not submitting any summary of documentation relating to the structures.

7. OPINION REGARDING CRITERIA FOR LISTING

Based on readily available information in PNWR’s possession, PNWR does not believe the Subject Line represents an historical resource or that any protective conditions are warranted.

Applicant has given notice of the proposed abandonment and is consulting with the State Historic Preservation Officer at the Oregon State Historic Preservation Office (“SHPO”). The SHPO responded to PNWR’s notice via letter dated October 25, 2024 stating that the Subject Line is not eligible for listing in the National Register of Historic Places and that no historic properties will be affected. Copies of these letters are included as part of Exhibit F.

⁵ *Portland & Western Railroad, Inc. --- Acquisition and Operation Exemption – The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 33502 (served Nov. 24, 1997).

⁶ *Portland & Western Railroad, Inc. – Acquisition and Operation Exemption – Union Pacific Railroad Company*, STB Finance Docket No. 34792 (served Nov. 24, 2006).

8. **ENVIRONMENTAL CONDITIONS**

Applicant is unaware of any prior subsurface ground disturbance or fill, or environmental conditions which might affect the archeological recovery of resources or the surrounding terrain.

Because no track remains on the Subject Line, no salvage work will be conducted.



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jmarks@clarkhill.com

*Counsel for
Portland & Western Railroad, Inc.*

Dated: November 1, 2024

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of November, 2024, I served a copy of the foregoing Environmental and Historic Report on the persons listed below by email or first class mail, postage prepaid:

<p>Oregon State Clearinghouse Oregon Department of Transportation 355 Capital Street, NE, MS 11 Salem, OR 97301-3871</p>	<p>The Natural Resources Conservation Service USDA 1201 NE Lloyd Blvd, Suite 900 Portland, OR 97232</p>
<p>Oregon Department of Environmental Quality 700 NE Multnomah Street, Suite 600 Portland, OR 97232-4100 nwraqpermits@deq.oregon.gov</p>	<p>Natural Resources Conservation Service USDA Office of the Chief 1400 Independence Ave., SW Room 5105-A Washington, DC 20250</p>
<p>State Historical Preservation Office Oregon Heritage Oregon Parks and Recreation Department 725 Summer Street NE, Suite C Salem, OR 97301 ORSHPO.Clearance@oregon.gov</p>	<p>U.S. Environmental Protection Agency Region 10 1200 Sixth Avenue, Suite 155 Seattle, WA 98101</p>
<p>Mr. Bob Melbo State Rail Planner Oregon Department of Transportation Rail and Public Transit Division 555 13th St NE Salem, OR 97301-4179 Robert.I.Melbo@odot.oregon.gov</p>	<p>Cary Goodman Rail Asset Program Coordinator Oregon Department of Transportation Public Transportation Division 555 13th St NE Salem, OR 97301-4179 cary.goodman@odot.oregon.gov</p>
<p>Oregon Coastal Zone Management Oregon Coastal and Ocean Program Management Department of Land Conservation and Development 800 Oregon Street, NE #18 Portland, OR 97223 dlcd.info@dlcd.oregon.gov</p>	<p>U.S. Bureau of Land Management Oregon-Washington State Office 1220 S.W. 3rd Avenue Portland, OR 97204</p>

U.S. Fish and Wildlife Service Region 1 Eastside Federal Complex 911 NE 11th Avenue Portland, OR 97232-4181	U.S. Army Corps of Engineers Portland District P.O. Box 2946 Portland, OR 97208-2946 Robert.H.Fraley@usace.army.mil
National Park Service 1849 C Street, NW Washington, DC 20240	National Park Service Regional Office Pacific West Region 333 Bush Street #500 San Francisco, CA 94104
Tigard Oregon Mayor Heidi Lueb 13125 SW Hall Blvd, Tigard Or, 97223 heidil@tigard-or.gov	The National Geodetic Survey Communications and Outreach Branch, ngs.infocenter@noaa.gov rrae@noaa.gov
Washington County Commissioner District 3 Roy Rogers 155 N First Avenue Room 300 Hillsboro Or, 97124 district3@washingtoncountyor.gov	

Justin J. Marks
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1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
202.772.0916
jmarks@clarkhill.com

EXHIBIT A

MAP



Legend

Subject Line to be Abandoned
= Blue Line

PNWR Line to Remain Active
= Red Line

EXHIBIT B

CONSULTATION LETTERS

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F +12027720919
Email:jjmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue N.W.
Suite 1300 South
Washington, DC 20004
T (202) 772-0909
F (202) 772-0919

September 27, 2024

All Agencies on the Service List

Re: Portland & Western Railroad, Inc. – Abandonment Exemption –
in Washington County, OR
Surface Transportation Board Docket No. AB 541 (Sub. No.5X)

To Whom it May Concern:

This letter is to advise you that the Portland & Western Railroad, Inc. (“PNWR”) intends to file for the abandonment of a segment of its line between Milepost 31.3 and Milepost 32.2 in Tigard, Washington County, OR (the “Subject Line”) extending approximately 4,111 feet. PNWR is proposing to abandon the perpetual freight easement it owns over the Subject Line; the underlying property is owned by the Oregon Department of Transportation (“ODOT”).

The Subject Line runs parallel to an active PNWR rail line that PNWR is not abandoning. PNWR holds independent common carrier authority for each segment.¹ A map of the Subject Line is enclosed. The Subject Line traverses through United States Postal Service ZIP Code 97223 entirely in Washington County, OR.

PNWR plans to seek Surface Transportation Board (“STB”) authorization for its abandonment of the Subject Line through a notice of exempt abandonment pursuant to the provisions of 49 CFR § 1152.50 on or after November 18, 2024, in Surface Transportation Board Docket No. AB 541 (Sub. No. 5X).

Based upon information in PNWR’s possession, the Subject Line does not contain federally granted rights of way; the owner of the underlying property, ODOT, may have additional information. Any documentation in PNWR’s possession related to federal granted rights of way will be made available promptly to those requesting it.

No local service has been provided on the Subject Line for over 17 years and at some point, since its last service the track was removed, and the right-of-way was converted to a

¹ PNWR was granted authority to operate over the Subject Line in *Portland & Western Railroad, Inc. --- Acquisition and Operation Exemption – The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 33502 (served Nov. 24, 1997). PNWR was granted authority to operate over the line that will not be abandoned in *Portland & Western Railroad, Inc. – Acquisition and Operation Exemption – Union Pacific Railroad Company*, STB Finance Docket No. 34792 (served Nov. 24, 2006).

September 27, 2024
Page 2

walking path. PNWR does not believe that there are any alternatives to the proposed action. PNWR believes that the abandonment will not have a significant effect upon the environment.

In advance of preparing an environmental report as required by applicable STB regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental effects of the proposed abandonment.

We would appreciate an expression from you by October 28, 2024, to let us know if, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon the environment (or expressing any concerns that you have). If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (202) 772-0916.

Thank you for your cooperation.

Sincerely,



Justin J. Marks
Counsel for Portland & Western, Inc.

Enclosure



Legend

Subject Line to be Abandoned
= Blue Line

PNWR Line to Remain Active
= Red Line

Service List

<p>Oregon State Clearinghouse Oregon Department of Transportation 355 Capital Street, NE, MS 11 Salem, OR 97301-3871</p>	<p>The Natural Resources Conservation Service USDA 1201 NE Lloyd Blvd, Suite 900 Portland, OR 97232</p>
<p>Oregon Department of Environmental Quality 700 NE Multnomah Street, Suite 600 Portland, OR 97232-4100 nwraqpermits@deq.oregon.gov</p>	<p>Natural Resources Conservation Service USDA Office of the Chief 1400 Independence Ave., SW Room 5105-A Washington, DC 20250</p>
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<p>Mr. Bob Melbo State Rail Planner Oregon Department of Transportation Rail and Public Transit Division 555 13th St NE Salem, OR 97301-4179 Robert.I.Melbo@odot.oregon.gov</p>	<p>Cary Goodman Rail Asset Program Coordinator Oregon Department of Transportation Public Transportation Division 555 13th St NE Salem, OR 97301-4179 cary.goodman@odot.oregon.gov</p>
<p>Oregon Coastal Zone Management Oregon Coastal and Ocean Program Management Department of Land Conservation and Development 800 Oregon Street, NE #18 Portland, OR 97223 dlcd.info@dlcd.oregon.gov</p>	<p>U.S. Bureau of Land Management Oregon-Washington State Office 1220 S.W. 3rd Avenue Portland, OR 97204</p>
<p>U.S. Fish and Wildlife Service Region 1 Eastside Federal Complex 911 NE 11th Avenue Portland, OR 97232-4181</p>	<p>U.S. Army Corps of Engineers Portland District P.O. Box 2946 Portland, OR 97208-2946 Robert.H.Fraley@usace.army.mil</p>

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Tigard Oregon Mayor Heidi Lueb 13125 SW Hall Blvd, Tigard Or, 97223 heidil@tigard-or.gov	The National Geodetic Survey Communications and Outreach Branch, ngs.infocenter@noaa.gov rrae@noaa.gov
Washington County Commissioner District 3 Roy Rogers 155 N First Avenue Room 300 Hillsboro Or, 97124 district3@washingtoncountyor.gov	

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September 27, 2024

Oregon Coastal Zone Management
Oregon Coastal and Ocean Program Management
Department of Land Conservation and Development
800 Oregon Street, NE #18
Portland, OR 97223

dlcd.info@dlcd.oregon.gov

Re: Portland & Western Railroad, Inc. – Abandonment Exemption –
in Washington County, OR
Surface Transportation Board Docket No. AB 541 (Sub. No.5X)

To Whom it May Concern:

This letter is to advise you that the Portland & Western Railroad, Inc. ("PNWR") intends to file for the abandonment of a segment of its line between Milepost 31.3 and Milepost 32.2 in Tigard, OR (the "Subject Line") extending approximately 4,111 feet. PNWR is proposing to abandon the perpetual freight easement it owns over the Subject Line; the underlying property is owned by the Oregon Department of Transportation ("ODOT").

The Subject Line runs parallel to an active PNWR rail line that PNWR is not abandoning. PNWR holds independent common carrier authority for each segment.¹ A map of the Subject Line is enclosed. The Subject Line traverses through United States Postal Service ZIP Code 97223 entirely in Washington County, OR.

PNWR plans to seek Surface Transportation Board ("STB") authorization for its abandonment of the Subject Line through a notice of exempt abandonment pursuant to the provisions of 49 CFR § 1152.50 on or after November 18, 2024, in Surface Transportation Board Docket No. AB 541 (Sub. No. 5X).

Based upon information in PNWR's possession, the Subject Line does not contain federally granted rights of way; the owner of the underlying property, ODOT, may have additional

¹ PNWR was granted authority to operate over the Subject Line in *Portland & Western Railroad, Inc. --- Acquisition and Operation Exemption – The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 33502 (served Nov. 24, 1997). PNWR was granted authority to operate over the line that will not be abandoned in *Portland & Western Railroad, Inc. – Acquisition and Operation Exemption – Union Pacific Railroad Company*, STB Finance Docket No. 34792 (served Nov. 24, 2006).

September 27, 2024
Page 2

information. Any documentation in PNWR's possession related to federal granted rights of way will be made available promptly to those requesting it.

No local service has been provided on the Subject Line for over 17 years and at some point, since its last service the track was removed, and the right-of-way was converted to a walking path. PNWR does not believe that there are any alternatives to the proposed action. PNWR believes that the abandonment will not have a significant effect upon the environment.

In advance of preparing an environmental report as required by applicable STB regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to environmental effects of the proposed abandonment.

We would appreciate an expression from you by October 28, 2024 confirming that the proposed abandonment does not fall within the Oregon Coastal Zone Management Program. If this understanding is incorrect, please let us know if, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon the environment (or expressing any concerns that you have). If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (202) 772-0916.

Thank you for your cooperation.

Sincerely,



Justin J. Marks
Counsel for Portland & Western, Inc.

Enclosure



Legend

Subject Line to be Abandoned
= Blue Line

PNWR Line to Remain Active
= Red Line

EXHIBIT C

AGENCY RESPONSES

Marks, Justin J.

From: PHIPPS Lisa * DLCD <Lisa.PHIPPS@dlcd.oregon.gov>
Sent: Friday, September 27, 2024 5:54 PM
To: Marks, Justin J.
Cc: KELLY Laura * DLCD; TAYLOR Casaria * DLCD; BURRIGHT Jeff D * DLCD
Subject: Portland & Western Railroad: Surface Transportation Board Docket No. AB 541 (Sub. No.5X)

[External Message]

Hello, Mr. Marks,
I am writing to confirm that the proposed abandonment of a segment of rail line between Milepost 31.3 and 32.2 in Tigard, Oregon is not subject to federal consistency review as it does not fall within the coastal zone.

Please don't hesitate to contact us if you have any questions.

Thank you,
Lisa Phipps



Lisa M. Phipps

Oregon Coastal Program Manager
Pronouns: She/Her
Oregon Department of Land Conservation and Development
Cell: 503-812-5448
lisa.phipps@dlcd.oregon.gov | www.oregon.gov/LCD

Please note: I am out of the office on Friday afternoons.

EXHIBIT D

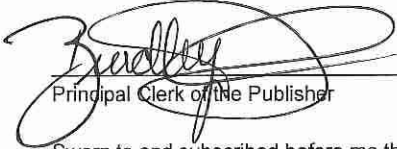
NEWSPAPER NOTICE

AD#: 0010926889

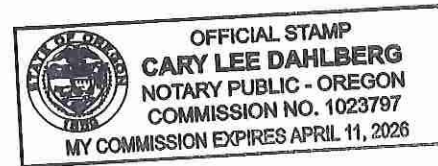
State of Oregon,) ss
County of Multnomah)

Bradley Dion being duly sworn, deposes that he/she is principal clerk of Oregonian Media Group; that Oregonian is a public newspaper published in the city of Portland, with general circulation in Oregon, and this notice is an accurate and true copy of this notice as printed in said newspaper, was printed and published in the regular edition and issue of said newspaper on the following date(s):

Oregonian 10/23/2024


Principal Clerk of the Publisher

Sworn to and subscribed before me this 23th day of October 2024

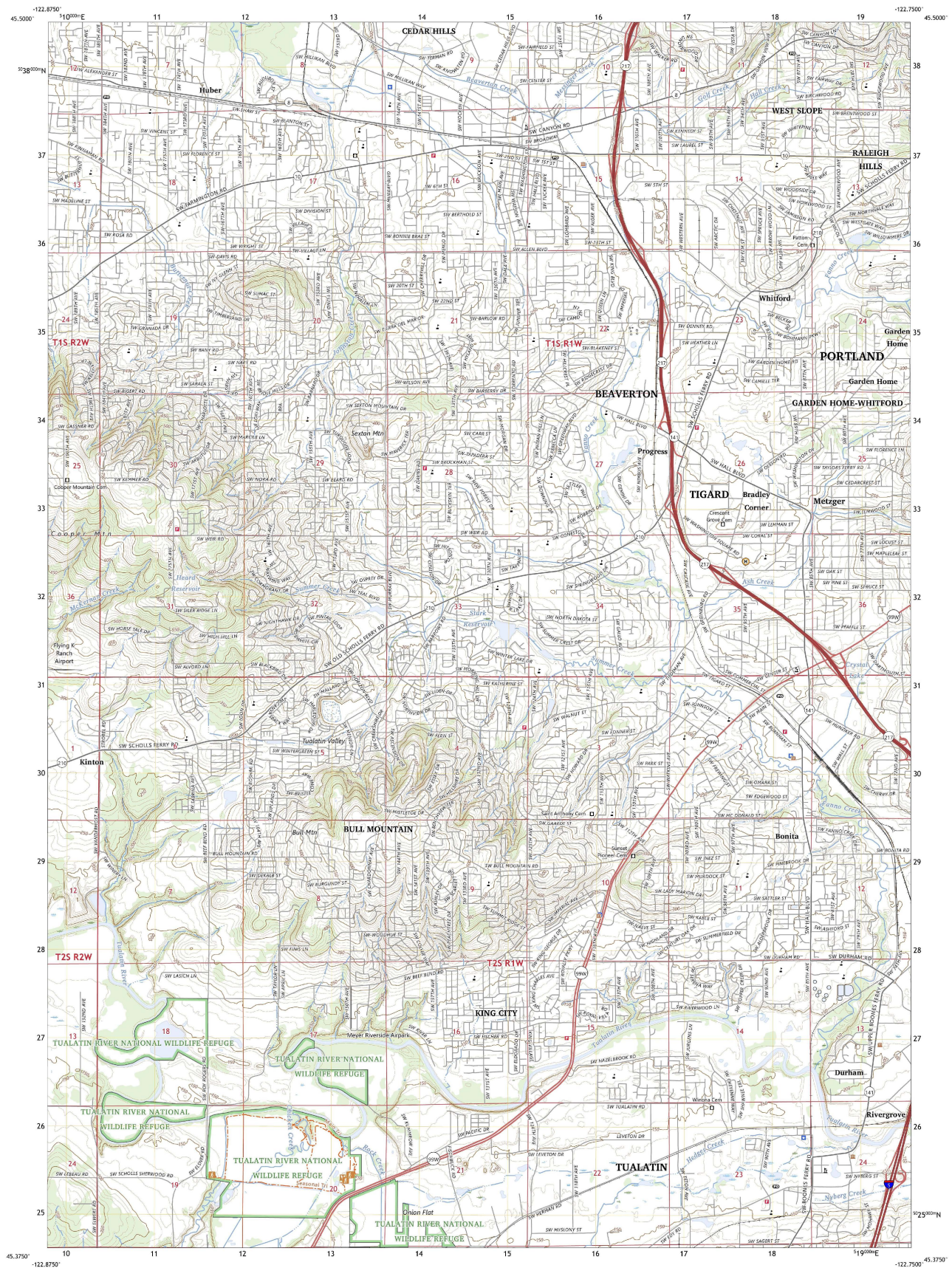



Notary Public

NOTICE OF INTENT TO ABANDON RAIL SERVICE
Portland & Western Railroad, Inc. (PNWR) issues this notice that on or about November 18, 2024, it intends to file with the Surface Transportation Board (STB or Board), Washington, DC 20423, a notice of exemption pursuant to the provisions of 49 CFR Part 1152 Subpart F – Exempt Abandonments and Discontinuances of Service and Trackage Rights permitting PNWR to abandon its perpetual easement and service over approximately 4,111 feet of the line of railroad between milepost 31.3 and milepost 32.2 (the “Line”), which traverses through United States Postal Zip Code 97223 in Tigard, Washington County, Oregon. The underlying property is owned by the Oregon Department of Transportation. (For clarity, the Line is adjacent and runs parallel to an active PNWR rail line that will not be abandoned.) The PNWR proceeding will be docketed as STB Docket No. AB-541 (Sub-No. 5X).
The Board’s Office of Environmental Analysis (OEA) will generally prepare an Environmental Assessment (EA), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Office of Environmental Analysis (OEA), Surface Transportation Board, Washington, DC or by calling that office at 202-245-0454.
Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as offers of financial assistance to subsidize rail service) must be filed directly with the STB’s Section of Administration, Office of Proceedings, 395 E Street, S.W., Washington, DC 20423-0001 [see 49 CFR 1104.1(a) and 1104.3(a)], and one copy must be served on applicant’s representative [see 49 CFR 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the STB’s Office of Public Assistance, Governmental Affairs and Compliance at 202-245-0238. Copies of any comments or requests for conditions should be served on PNWR’s representative: Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. N.W. Suite 1300 South, Washington, DC 20004; jmarks@clarkhill.com; 202-772-0916.

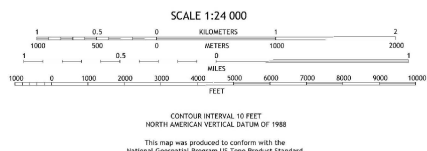
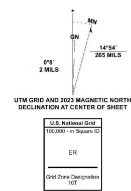
EXHIBIT E

TOPOGRAPHICAL MAP



Produced by the United States Geological Survey
North American Datum of 1983 (NAD83)
World Geodetic System of 1984 (WGS84) Projection and
1 000-meter grid (National Transverse Mercator Zone 12T)
This map is not a legal document. Boundaries may be
operational for the map scale. Private lands within government
reservations may not be shown. Obtain permission before
entering private lands.

Imagery.....NAP, July 2020 - July 2020
Roads.....U.S. Census Bureau, 2016
Name.....USGS, 1980-2023
Hydrography.....National Hydrography Dataset, 2005-2023
Contour.....National Elevation Dataset, 2000-2009
Boundaries.....Multiple sources; see metadata file 2000-2023
Public Land Survey System.....BLM, 2019
Wetlands.....FWS National Wetlands Inventory 1981-2009



ROAD CLASSIFICATION

Expressway	Local Connector
Secondary Hwy	Local Road
Ramp	4WD
Interstate Route	US Route
	State Route

EXHIBIT F

SHPO CORRESPONDENCE



Oregon

Tina Kotek, Governor

Parks and Recreation Department

Oregon Heritage/
State Historic Preservation Office
725 Summer St. NE, Suite C
Salem, OR 97301-1266
(503) 986-0690
Fax (503) 986-0793
oregonheritage.org



October 25, 2024

Mr. Justin Marks
Clark Hill
1001 Pennsylvania Ave NW, Ste 1300
Washington, DC 20004

RE: SHPO Case No. 24-1484

Portland & Western Railroad, Inc, Portland & Western Railroad, Inc. Abandonment in the City of Banks,
OR STB Docket No. AB 541 (Sub No. 5X), ODOT
proposed abandonment of RR
Lat -122.7790 Long 45.4314, Tigard, Washington County

Dear Justin Marks:

Thank you for submitting information for the undertaking referenced above. We concur with the determination that the cultural resource identified is not eligible for listing in the National Register of Historic Places. We concur that there will be no historic properties affected due to the abandonment of the 4,111 feet of the rail line.

This concludes consultation with our office under Section 106 of the National Historic Preservation Act (per 36 CFR Part 800) and/or Oregon Revised State (ORS) 358.653 for built-environment resources. If you have not already done so, be sure to consult with all appropriate Native American tribes and interested parties regarding the proposed undertaking.

If the undertaking design or effect changes or if additional historic properties are identified, further consultation with our office will be necessary before proceeding with the proposed undertaking. Additional consultation regarding this case must be sent through Go Digital. In order to help us track the undertaking accurately, reference the SHPO case number above in all correspondence.

Please contact our office if you have any questions, comments or need additional assistance.

Sincerely,

Robert T. Olguin

Robert Olguin
Review and Compliance, Historian
(503) 602-2468
Robert.Olguin@oprds.oregon.gov

OR SHPO SUBMITTAL FORM

RESPONSE REQUIRED IN ALL SECTIONS

WHY

This submittal is (Select One) the First Initiation of Consultation and no SHPO Case # exists
 a Response to SHPO Request for more information on existing SHPO Case # provided below
 New Information for review on existing SHPO Case # provided below
 Existing SHPO Case #

WHAT

Your Project Name
Your Project Number
Extremely Brief Project/Undertaking Description

WHERE

Project Location
County(s)
Street Address City
OR Legal Description T/R/S
OR Long/Lat (decimal degrees to 4 decimal places) Long Lat

WHO RECEIVES CORRESPONDENCE FROM THE SHPO

If not the Formal Contact, the Working Project Contact is who the SHPO communicates with for more information about the project and/or submittal package

Formal Contact	Working Project Contact (cc'd on all correspondence to Formal Contact)
Name <input type="text" value="Justin Marks"/>	Name <input type="text"/>
Org <input type="text" value="Clark Hill, PLC"/>	Org <input type="text"/>
Address <input type="text" value="1001 Pennsylvania Avenue N.W. Suite 1300 South"/>	Address <input type="text"/>
Address <input type="text"/>	Address <input type="text"/>
City/ST/Zip <input type="text" value="Washington DC 20004"/>	City/St/Zip <input type="text"/>
Phone <input type="text" value="202 772 0916"/>	Phone <input type="text"/>
Email <input type="text" value="jmarks@clarkhill.com"/>	Email <input type="text"/>

HOW

Is there a federal nexus for the project (funding, permitting, licensing, etc.)? Yes No
Ownership of Project Land? Private Public Both

Additional Comments (Optional)

SUBMITTED TO SHPO FOR

Built Environment Review
 Archaeology Review
 Both Built and Archaeology Review

SUBMITTAL EMAIL ACCOUNT

ORSHPO.Clearance@oregon.gov

ADDITIONAL ATTACHMENTS (Select All that Apply & Attach Individually)

Cover Letter
 Map(s) (Required for Archaeology if not included in a Report)
 Oregon SHPO Clearance Form (Built Environment)
 106 Documentation Form (Built Environment)
 Built Environment Only Report
 Archaeology Report INCLUDING State of Oregon Report Cover Sheet
 Combined Arch & Built Report INCLUDING State of Oregon Report Cover
 Sheet BLM or USFS Archaeology Site Record(s) # Individually Attached
 Spatial Data
 Other 1 (Name It)
 Other 2 (Name It)
 Other 3 (Name It)

Justin J. Marks
T (202) 772-0916
F +12027720919
Email:jjmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue N.W.
Suite 1300 South
Washington, DC 20004
T (202) 772-0909
F (202) 772-0919

September 27, 2024

State Historical Preservation Office
Oregon Heritage
Oregon Parks and Recreation Department
725 Summer Street NE, Suite C
Salem, OR 97301

ORSHPO.Clearance@oregon.gov

Re: Portland & Western Railroad, Inc. – Abandonment Exemption –
in Washington County, OR
Surface Transportation Board Docket No. AB 541 (Sub. No. 5X)

To Whom it May Concern:

This letter is to advise you that the Portland & Western Railroad, Inc. ("PNWR") intends to file for the abandonment of a segment of its line between Milepost 31.3 and Milepost 32.2 in Tigard, OR (the "Subject Line") extending approximately 4,111 feet. PNWR is proposing to abandon the perpetual freight easement it owns over the Subject Line; the underlying property is owned by the Oregon Department of Transportation ("ODOT").

The Subject Line runs parallel to an active PNWR rail line that PNWR is not abandoning. PNWR holds independent common carrier authority for each segment.¹ A map of the Subject Line is enclosed. The Subject Line traverses through United States Postal Service ZIP Code 97223 entirely in Washington County, OR.

PNWR plans to seek Surface Transportation Board ("STB") authorization for its abandonment of the Subject Line through a notice of exempt abandonment pursuant to the provisions of 49 CFR § 1152.50 on or after November 18, 2024, in Surface Transportation Board Docket No. AB 541 (Sub. No. 5X).

Based upon information in PNWR's possession, the Subject Line does not contain federally granted rights of way; the owner of the underlying property, ODOT, may have additional

¹ PNWR was granted authority to operate over the Subject Line in *Portland & Western Railroad, Inc. --- Acquisition and Operation Exemption – The Burlington Northern and Santa Fe Railway Company*, STB Finance Docket No. 33502 (served Nov. 24, 1997). PNWR was granted authority to operate over the line that will not be abandoned in *Portland & Western Railroad, Inc. – Acquisition and Operation Exemption – Union Pacific Railroad Company*, STB Finance Docket No. 34792 (served Nov. 24, 2006).

information. Any documentation in PNWR's possession related to federal granted rights of way will be made available promptly to those requesting it.

No local service has been provided on the Subject Line for over 17 years and at some point, since its last service the track was removed, and the right-of-way was converted to a walking path. PNWR does not believe that there are any alternatives to the proposed action. PNWR believes that the abandonment will not have a significant effect upon the environment.

In advance of preparing an environmental and historical report as required by applicable STB regulations, we are consulting with appropriate agencies such as yours as to any concerns which they may have as to any effects of the proposed abandonment on historical resources.

We would appreciate an expression from you by October 28, 2024 that, within the area of your authority, you do not perceive that the abandonment will have a significant effect upon any historical resources (or expressing any concerns that you have). If you have any questions about the railroad's proposal or if you need assistance in this matter, please call me at (202) 772-0916.

Thank you for your cooperation.

Sincerely,



Justin J. Marks
Counsel for Portland & Western, Inc.

Enclosure



Legend

Subject Line to be Abandoned
= Blue Line

PNWR Line to Remain Active
= Red Line

OREGON SHPO CLEARANCE FORM

Do not use this form for ODOT or Federal Highway projects or to record archaeological sites

This form is for: federal cultural resource reviews (Section 106); state cultural resource reviews (ORS 358.653)						
SECTION 1: PROPERTY INFORMATION			SHPO Case Number:			
Resource Name: Portland & Western Railroad, Inc. Rail Line to be Abandoned						
Street Address: 45.4314153N; -122.7792624W						
City: Tigard			County: Washington			
Agency Project #			Project Name: Portland & Western Railroad, Inc. Abandonment in Banks, OR STB Docket No. AB 541 (Sub No. 5).			
<i>If there is not a street address, include the Township, Range, and Section, cross streets, or other address description</i>						
Owner:	<input checked="" type="checkbox"/> Private	<input type="checkbox"/> Local Gov	<input type="checkbox"/> State Gov	<input type="checkbox"/> Federal Gov	<input type="checkbox"/> Other: _____	
Are there one or more buildings or structures? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO – If no, skip to Section 2 and append photo(s)						
Is the property listed in the National Register of Historic Places? <input type="checkbox"/> YES – Individually <input type="checkbox"/> YES – In a district <input type="checkbox"/> NO						
Original Construction date: _1908_ <input checked="" type="checkbox"/> Check box if date is estimated						
Siding Type(s) and Material(s): NA			Window Type(s) and Material(s): NA			
Has the property been physically altered? <input type="checkbox"/> No Alterations <input type="checkbox"/> Few Alterations <input checked="" type="checkbox"/> Major / Many Alterations						
SECTION 2: APPLICANT DETERMINATION OF ELIGIBILITY - Check the appropriate box						
<i>The purpose of this review is to avoid impacts to properties that are "eligible" (historic) or already listed in the National Register of Historic Places. Fully establishing historic significance can be very costly and time consuming. Therefore initial evaluations are based on age (50 years or greater) and integrity (historic appearance), which are the minimum qualifications for listing in the National Register. Additional documentation may be needed further in the process, but typically initial evaluations allow the review process to proceed expeditiously.</i>						
<input type="checkbox"/> The property is considered Eligible at this time because it is already listed in the National Register or						
<ul style="list-style-type: none"> • is at least 50 years old and retains its historic integrity (minimal alterations to key features) • has potential significance (architectural or historical) 						
<input checked="" type="checkbox"/> The property is considered Not Eligible at this time because it:						
<ul style="list-style-type: none"> • is less than 50 years old or is 50 years or older but there have been major alterations to key features • is known to have no significance, based on National Register-level documentation and evaluation 						
SECTION 3: APPLICANT DETERMINATION OF EFFECT - Check the appropriate box						
<input checked="" type="checkbox"/> The project has NO EFFECT on a property that is eligible or already listed in the National Register, either because there is no eligible property involved or the eligible property will not be impacted physically or visually.						
<input type="checkbox"/> The project will have a minor impact on a property that is eligible or already listed in the National Register, and therefore there is NO ADVERSE EFFECT . Minor impacts include replacement of some, but not all, siding, doors, or windows, etc.						
<input type="checkbox"/> The project will have a major impact on a property that is eligible or already listed in the National Register, therefore there is an ADVERSE EFFECT . Major impacts include full or partial demolition, complete residing, full window replacement, etc.						
STATE HISTORIC PRESERVATION OFFICE COMMENTS – Official use only						
Eligibility:	<input type="checkbox"/> Concur with the eligibility determination above. <input type="checkbox"/> Do not concur with the eligibility determination above.					
Effect:	<input type="checkbox"/> Concur with the effect determination above. <input type="checkbox"/> Do not concur with the effect determination above.					

RECEIVED STAMP

OREGON SHPO CLEARANCE FORM

Do not use this form for ODOT or Federal Highway projects or to record archaeological sites

Signed: _____ Date: _____

RLS	
ILS	

CONTACT INFORMATION STAMP

Comments:

SECTION 4: PREVIOUS ALTERATIONS TO THE BUILDING OR STRUCTURE

Only complete this section for buildings that are 50 years old or older. Describe any alterations that have already occurred to the building, such as material replacement, including siding, windows, and doors; any additions, including garages; and any removal or addition of architectural details, such as brackets, columns, and trim. Provide estimated dates for the work. Attach additional pages as necessary.

The property is not a building.

SECTION 5: PROJECT DESCRIPTION

Describe what work is proposed, including what materials will be used and how they will be installed. Specifically identify what historic materials will be retained, restored, replaced, or covered. Include drawings, photos, cut sheets (product descriptions), additional sheets, and other materials as necessary. For vacant lots, please describe the intended use.

This project is for the abandonment of approximately 4,111 feet of rail line in Tigard, OR. Section 106 review is required for an abandonment before the US Surface Transportation board. The track that was once part of the rail line has been removed and the right-of-way is now a concrete path known as the Tigard Heritage Trail. Use of the Subject Line will be determined by the owner of the underlying right-of-way, the Oregon Department of Transportation.

SECTION 6: FUNDING SOURCE

ARRA FCC FERC HUD ODOE USDARD USFS HPF
 Other: _____

SECTION 7: AGENCY CONTACT INFORMATION

Name of Organization Submitting the Project: Clark Hill PLC on behalf of Portland & Western Railroad, Inc.

Project Contact Name and Title: Justin Marks, Senior Attorney

Street Address, City, Zip: 1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004

Phone: 202.772.0916

Email: jmarks@clarkhill.com

OREGON SHPO CLEARANCE FORM

Do not use this form for ODOT or Federal Highway projects or to record archaeological sites

Date of Submission: 9/27/2024	
SECTION 8: ATTACHMENTS	
REQUIRED	<input type="checkbox"/> 3 – 4, color, 4 x 5 photographs of the subject property, digital or print. One photo is sufficient for vacant property
AS NEEDED <i>Contact SHPO staff with questions</i>	<input type="checkbox"/> Project area map, for projects including more than one tax lot. (Required for HPF-funded projects). See instructions.
	<input type="checkbox"/> Additional drawings, reports, or other relevant materials
	<input type="checkbox"/> Continuation sheet for sections 4 or 5, or additional context to determine National Register Eligibility.
SHPO Mailing Address: Review and Compliance, Oregon SHPO, 725 Summer St. NE, Suite C, Salem, OR 97301 Documents meeting all aspects of the digital submission policy may be submitted by email to ORSHPO.Clearance@oregon.gov	

OREGON SHPO CLEARANCE FORM CONTINUATION SHEET

Do not use this form for ODOT, Federal Highway projects or to record archaeological sites

CONTINUATION SHEET

- *Include additional documentation for Section 4 or 5 as necessary. Attach maps, drawings, and reports as needed to illustrate current conditions and the planned project. If submitting this form by email, photos and maps may be inserted into continuation sheets.*
- *If completing a complete Determination of Eligibility (DOE) or Finding of Effect (FOE), use continuation sheets as necessary or include appendixes.*

See photos enclosed with cover letter to this form.

OREGON SHPO CLEARANCE FORM INSTRUCTIONS

Do not use this form for ODOT, Federal Highway projects or to record archaeological sites

SECTION 1: PROPERTY INFORMATION:

- Include complete address and agency project number and name, if applicable.
- Check YES if there are any buildings on the site. Check NO if it is a vacant parcel (in which case it will be evaluated for archaeology and the potential impact on surrounding buildings only.)
- Check YES if your research (look on our website at <http://heritagedata.prd.state.or.us/historic/> and/or call your local planning office) shows the property is listed. Check NO if you find that it is not listed.
- Fill in the construction date. Check box if date is estimated.
- Describe the siding and window types and materials. Examples: double hung wood windows; vertical wood siding.
- Check to what degree the property has been altered. Ask yourself, would the original owner recognize the building, or have there been many changes that obscure the historic features?

SECTION 2: APPLICANT DETERMINATION OF ELIGIBILITY:

- Check the ELIGIBLE box if the building is listed (National Register OR Local landmarks register), has previously been evaluated as eligible, or is 50 years of age AND the majority of the exterior historic features are retained.
- Check the NOT ELIGIBLE box if the building is not yet 50 years old, or if in your opinion there have been many and/or major changes (e.g. additions, siding and/or window replacement, porch enclosures).
- Applicants who acknowledge that the property meets the minimum qualifications for listing in the National Register but choose to contest this determination must complete a Determination of Eligibility (DOE). The DOE must demonstrate that the property is not eligible for the National Register using the Criteria listed in National Register Bulletin 15, "How to Apply the National Register Criteria for Evaluation." The DOE may be submitted on continuation sheets or as a separate document.

SECTION 3: APPLICANT DETERMINATION OF EFFECT:

- Check the NO EFFECT box if the property is NOT ELIGIBLE for listing in the National Register or if the work will not replace or alter the appearance of any of the building's exterior features.
- Check the NO ADVERSE EFFECT box if the property is ELIGIBLE for listing or is already listed in the National Register and the work is visible (e.g. re-roofing with same materials, window or siding repair, adding a vent) but will not remove or obscure historic features.
- Check ADVERSE EFFECT if the property is ELIGIBLE or listed in the National Register and the work includes major changes, such as replacing the siding or windows.

SECTION 4: PREVIOUS ALTERATIONS

- List the changes that **already** occurred to the building, including siding, windows, doors, porches, additions including dormers, or if the property was moved. Include the approximate date of each alteration. The information can be provided in list format.

SECTION 5: PROJECT DESCRIPTION:

- Clearly describe what is being repaired or replaced, and how that work will be done. What materials and installation process are proposed? Include sufficient information (e.g. close-up photos, product specification sheets) so we can compare what exists with what is proposed. The information can be provided in list format.

SECTION 6: FUNDING SOURCE:

- Check the federal or state agency funding the project; or check "other" and fill in the agency name.

SECTION 7: AGENCY CONTACT INFORMATION:

- List the name of the organization submitting the Clearance Form

SECTION 8: ATTACHMENTS:

- Photos: Include photos of the entire building, especially the elevations that can be seen from the street. Include close-ups of features that will be impacted by the project.
- Additional Information: When applicable, include window specifications, plans or diagrams that illustrate pertinent existing conditions and/or proposed work
- Continuation sheets for additional Section 4 or 5 narrative or to append a formal Determination of Eligibility (DOE) or Finding of Effect (FOE). These materials may also be submitted as a separate document.
- A map with location of project clearly marked with latitude and longitude coordinates in decimal degree format to the 5th decimal point is REQUIRED for all projects funded with Historic Preservation Funds through the Certified Local Government Grant. A single point for projects encompassing less than 5 acres is sufficient.



