

**BEFORE THE OREGON DEPARTMENT  
OF TRANSPORTATION**

RX 1954

**In the Matter of the Alteration of the Railroad-  
Highway Grade Crossing at SW Tualatin Road  
and PORTLAND & WESTERN RAILROAD (PNWR)  
Inc., TRI COUNTY METROPOLITAN  
TRANSPORTATION DISTRICT OF OREGON  
(TriMet), Oregon Electric District, in Tualatin,  
Washington County, Oregon.**

) **NOTICE OF PROPOSED RAIL  
) CROSSING ALTERATION AND  
) NOTICE OF OPPORTUNITY FOR  
) HEARING  
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Pursuant to ORS 824.202, the Oregon Department of Transportation, Commerce and Compliance Division (Department) has authority over the construction, alteration and protection of railroad-highway crossings in the State of Oregon. On October 1<sup>st</sup> 2021, The City of Tualatin made application under ORS 824.206 seeking authority to alter the subject railroad-highway grade crossing (hereafter "crossing"). The affected railroads are the Portland & Western Railroad (PNWR) and Tri County Metropolitan Transportation District of Oregon (TriMet). The affected public authority in interest is the City of Tualatin. Interested Agencies or Persons in this matter include The Oregon Department of Transportation.

The Appendix to this Notice depicts the scope of the proposed crossing project. The average daily traffic (ADT) volume at the crossing is ≈9300 vehicles. The posted speed of vehicles is 35 miles per hour (mph). The roadway intersects the track at an angle of ≈58 degrees. There is a daily average of 32 freight trains and 1 switch train over the crossing. The maximum authorized speed on this track is 50 mph north bound and 40 mph south bound.

Applicant proposes to alter the crossing as depicted in the Appendix to this Notice. Applicant proposes that the crossing be equipped with no left turn signs and slight changes to the lane width and sidewalks. Additionally the bicycle pathway will be stopped prior to the crossing and appropriate signage indicating the termination of the path would be installed. Bicycle advance warning pavement markings will also be installed.

From the foregoing, the Department finds that the requested crossing alterations are required by the public safety, necessity, convenience and general welfare. The Department proposes that the application be granted upon the following terms.

1. Alterations shall be substantially in progress within **two years** from the entered date of the Final Order. No authority to establish a Quiet Zone is granted by the Final Order.
2. Applicant (City) shall:
  - a. Alter and maintain that portion of the crossing lying outside lines drawn perpendicular to the end of ties to accommodate the roadway configuration and sidewalks depicted in the Appendix to this Notice, and bear all the costs. The roadway approaches shall comply with OAR 741-120-0020 (1), (2), (3), and (4), and the sidewalks shall comply with OAR 741-120-0025 (1), (2), and (3).
  - b. Furnish, install, and maintain three bicycle advance warning pavement markings per TM505 and as depicted in the Appendix to this Notice and bear all costs.
  - c. Furnish and install one reduced size grade crossing advance warning (W10-1) sign. Locate the devices as depicted in the Appendix to this Notice, and in accordance with OAR 741-110-0040(4).
  - d. Furnish, install, and maintain one bicycle stop clearance line as depicted in the Appendix to this Notice and bear all costs. Furnish, install and maintain one no trespassing sign as depicted in the Appendix to this Notice and bear all costs.
  - e. Furnish, install and maintain two no left turn (R3-2) signs as depicted in the Appendix to this Notice and bear all costs.
  - f. Furnish, install and maintain two "DO NOT STOP ON TRACKS" (R8-8) signs at the crossing as depicted in the Appendix to this Notice, and bear all the costs.
  - g. Furnish, install, and maintain three tactile warning strips on the sidewalk approaches to the crossing, and bear all the costs. The tactile strips shall have a minimum width of two feet and be placed a minimum of 12 feet 8 inches from the nearest rail per ODOT RD908 and the Appendix to this notice.
  - h. Furnish and install one grade crossing advance warning (W10-1) sign. Locate the devices as depicted in the Appendix to this Notice, and in accordance with OAR 741-110-0040(4).
  - i. Bear all the cost of the work listed in paragraphs 3.b. and 3.c., below.
3. Railroad (PNWR) shall:
  - a. Subject to reimbursement by applicant, construct that portion of the crossing lying between lines drawn perpendicular to the end of ties to accommodate the roadway configuration and sidewalks depicted in the Appendix to this Notice. The roadway shall comply with OAR 741-120-0020 (1), (2), (3), and (4), and the sidewalks shall comply with OAR 741-120-0025 (1), (2), and (3).
  - b. Install new pedestrian gate arm for extended length as depicted in the Appendix to this Notice.

- c. Subject to reimbursement by the Applicant, furnish and replace one existing pedestrian automatic gate at the crossing according to OAR 741-110-0030(3)(a) and OAR 741-110-0030(3)(d), respectively. Locate the devices as depicted in the Appendix to this Notice. Activate the devices in accordance with OAR 741-110-0070.
  - d. Maintain the ordered items in paragraph 3.a. and 3.b., and bear all the costs.
  - e. Notify the Department in writing not less than five working days prior to the date that the ordered automatic signals will be activated and placed in service.
4. Each party shall notify the Department in writing upon completion of its portion of the project.
5. All previous Orders of the Public Utility Commission or the Department relating to the subject crossing, not in conflict with this Notice, remain in full effect.

## NOTICE OF RIGHT TO REQUEST A HEARING

You are entitled to a hearing as provided by the Administrative Procedure Act (ORS chapter 183). If you want a hearing, you must file a written request with ODOT within 30 days from the date of this Notice. You may use the Request Form attached to this Notice. If you would like an opportunity to meet with the Department to discuss the application and proposed terms of approval, check #3 on this form. This will preserve your request for a hearing.

You may mail a request for hearing to: Oregon Department of Transportation, Commerce and Compliance Division, 3930 Fairview Industrial Drive SE Salem OR 97302-1166. Phone 503-378-5849 or fax the request to 503-378-3567. If you are a corporation, partnership, limited liability company, unincorporated association, trust or government body, you must be represented by an attorney licensed to practice law in Oregon pursuant to OAR 137-003-0550. If a person other than an Oregon- licensed attorney signs the hearing request, an Oregon- licensed attorney must ratify the request for hearing in writing within 28 days of the date that the request for hearing was received by the agency. OAR 137-003-0550(4).

If you request a hearing, at the hearing you have the right to respond to, and to present evidence and argument, on all issues. An administrative law judge from the Office of Administrative Hearings will preside at the hearing. ORS 183.635.

IF YOU DO NOT REQUEST A HEARING IN WRITING  
WITHIN 30 DAYS FROM THE DATE OF THIS NOTICE  
ODOT MAY ISSUE A FINAL ORDER

If you do request a hearing, but later withdraw your request for hearing, fail to appear at the hearing, or notify ODOT or the administrative law judge that you do not intend to appear at the hearing, you will have waived your right to a hearing and ODOT may issue a Final Order on default. In that event, the ODOT designates the relevant portions of its file, including all materials that you have submitted, as the record for purpose of proving a prima facie case upon default.

## NOTICE TO ACTIVE DUTY SERVICEMEMBERS

Active duty service members have a right to stay these proceedings under the federal Service members Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

Dated this 25<sup>th</sup> day of OCTOBER, 2021.

Oregon Department of Transportation,  
Commerce and Compliance Division  
Manager, Crossing Safety Unit



Chris Malm