

**U.S. Department of Transportation
Federal Railroad Administration**

NORTHERN COLUMBIA BASIN RAILROAD PROJECT

FINDING OF NO SIGNIFICANT IMPACT

JUNE 2020



**U.S. Department of Transportation
Federal Railroad Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

TABLE OF CONTENTS

1. Introduction	1
2. Project Location	3
3. Statement of Purpose and Need	5
3.1 Purpose of the Project	5
3.2 Need for the Project	5
4. Alternatives	6
4.1 Prior Authorized Alternative	6
4.2 Modified Alignment Proposed Alternatives	7
4.2.1 Segment 1	7
4.2.2 Segment 2	8
4.2.2 Segment 3	9
5. Selected Alternative	10
6. Affected Environment and Environmental Impacts	12
7. Section 106 and Section 4(f) Determination	18
8. Avoidance and Minimization Measures and Commitments	21
9. Coordination and Consultation	32
9.1 Stakeholder Involvement	34
9.2 Public Involvement and Participation	36
10. Conclusion	37
References	38

FIGURE

Figure 1: Project Location	4
----------------------------------	---

TABLE

Table 1.1: Impact Summary of Modified Alignment/Selected Alternative	15
--	----

APPENDICES

Appendix A: Amended Programmatic Agreement

Appendix B: Section 106 Finding of Effect and DAHP Concurrence

1. Introduction

The Federal Railroad Administration (FRA) and the Surface Transportation Board (STB) prepared a Draft Supplemental Environmental Assessment (DSEA) and a Final Supplemental Environmental Assessment (FSEA) (collectively Supplemental EA), to evaluate the Port of Moses Lake's (Port) proposal to construct approximately 7.6 miles of new rail line in two separate segments and acquire approximately 3 miles of an existing rail line in a third segment, for a project known as the Northern Columbia Basin Railroad Project (Project). The Supplemental EA was prepared in compliance with the National Environmental Policy Act (NEPA) to fulfill the requirements of 42 USC 4321 *et seq.*, Council on Environmental Quality (CEQ) Implementing Regulations for NEPA (40 CFR Part 1500-1508), FRA's Procedures for Considering Environmental Impacts (64 FR 28545, May 26, 1999, as updated in 78 FR 2713, January 14, 2013) (FRA Environmental Procedures), and the STB's environmental regulations (49 CFR Part 1105). STB was the lead federal agency for the Supplemental EA and FRA was a cooperating agency.

In 2008, the Port filed a Petition for Exemption seeking the authority of the STB to construct and acquire the rail lines. STB's Office of Environmental Analysis (OEA) and the Washington Department of Transportation (WSDOT) prepared an Environmental Assessment (EA) in 2008-2009 (Prior EA) to ensure that any STB authorization to construct and operate the Project complied with statutory requirements of NEPA, the CEQ's NEPA implementing regulations, STB's environmental regulations, Executive Orders, the statutory requirements of the Washington State Environmental Policy Act, WSDOT environmental requirements, and other applicable federal and state rules and regulations. The Prior EA is available on [STB's website](#), then enter "FD 34396" in the Docket Number search window. The Prior EA's technical memoranda and reports are available by request to the STB's OEA.

A Programmatic Agreement (PA) was also negotiated and executed in 2009 by OEA, the Washington State Department of Archaeology and Historic Preservation (DAHP or State Historic Preservation Office (SHPO), and the Port, to demonstrate compliance with Section 106 of the National Historic Preservation Act (NHPA).

STB authorized construction and acquisition of the proposed rail lines (Original Alignment) in a decision issued August 27, 2009 in docket numbers FD 34396 and FD 34396 (Sub-No. 1)¹ (Authorization Decision) and imposed compliance with terms of the PA as a condition of the decision. However, according to the Port, a severe economic downturn in the region, along with

¹ STB's Sub-No. 1 Docket contains acquisition authority for Segment 3. See Port of Moses Lake--Acquisition Exemption--Moses Lake, Washington, Finance Docket No. 34936 (Sub-No. 1) (STB served Aug. 27, 2009). STB's authority is permissive and does not require the Port to acquire the segment. See James Riffin - Pet. for Declaratory Order, FD 35245, slip op. at 6 (STB served Sept. 15, 2009), *aff'd* Riffin v. STB, No. 09-1277, 2010 WL 4924719 (D.C. Cir. Nov. 30, 2010) (*per curiam*) (authorization is permissive, not mandatory). The Port has been in discussions with FRA that it may either acquire Segment 3 or enter into a long-term agreement to cover rehabilitation, maintenance and operation of the segment.

local land use and business developments, delayed the Project and complicated the Port's efforts at securing the financing necessary for the Project. In 2017, the Port was selected to receive grant funding for the Project from the U.S. Department of Transportation (USDOT) under the Fostering Advancements in Shipping and Transportation for the Long-term Achievement of National Efficiencies (FASTLANE) Grant Program, which is being administered by FRA. In combination with earlier funding sources from Washington State, the federal funds enabled the Port to proceed with the Project.

In 2018, the Port requested authorization for certain limited route modifications (Modified Alignment) to minimize impacts to the built and natural environment and to better fulfill the Project purpose. OEA and FRA determined that these circumstances warranted preparation of a Supplemental EA pursuant to NEPA, CEQ NEPA regulations, the STB's environmental rules, FRA Environmental Procedures, and other applicable state and federal laws, including the NHPA.

Accordingly, in November 2018, the Port filed a Petition to Re-Open the STB proceeding in Docket No. 34936, and potential environmental impacts associated with the Modified Alignment were analyzed and presented in a Supplemental EA in 2019. FRA was a cooperating agency in the Supplemental EA. The terms of the PA were extended in an amendment, executed on July 3, 2019.² Under the amendment, the PA is effective for 10 years after the January 2, 2020 effective date of the STB decision authorizing the proposed modifications to the Project. That amendment also included adding FRA as a signatory (Appendix A).

FRA has prepared this Finding of No Significant Impact (FONSI) to comply with NEPA, CEQ's implementing regulations, FRA Environmental Procedures, and related laws. FRA has made this FONSI based on information included in the Prior EA, Supplemental EA, and all related technical memoranda and other materials, which are incorporated by reference to this FONSI.

² The PA's original term of 10 years expired on August 27, 2019.

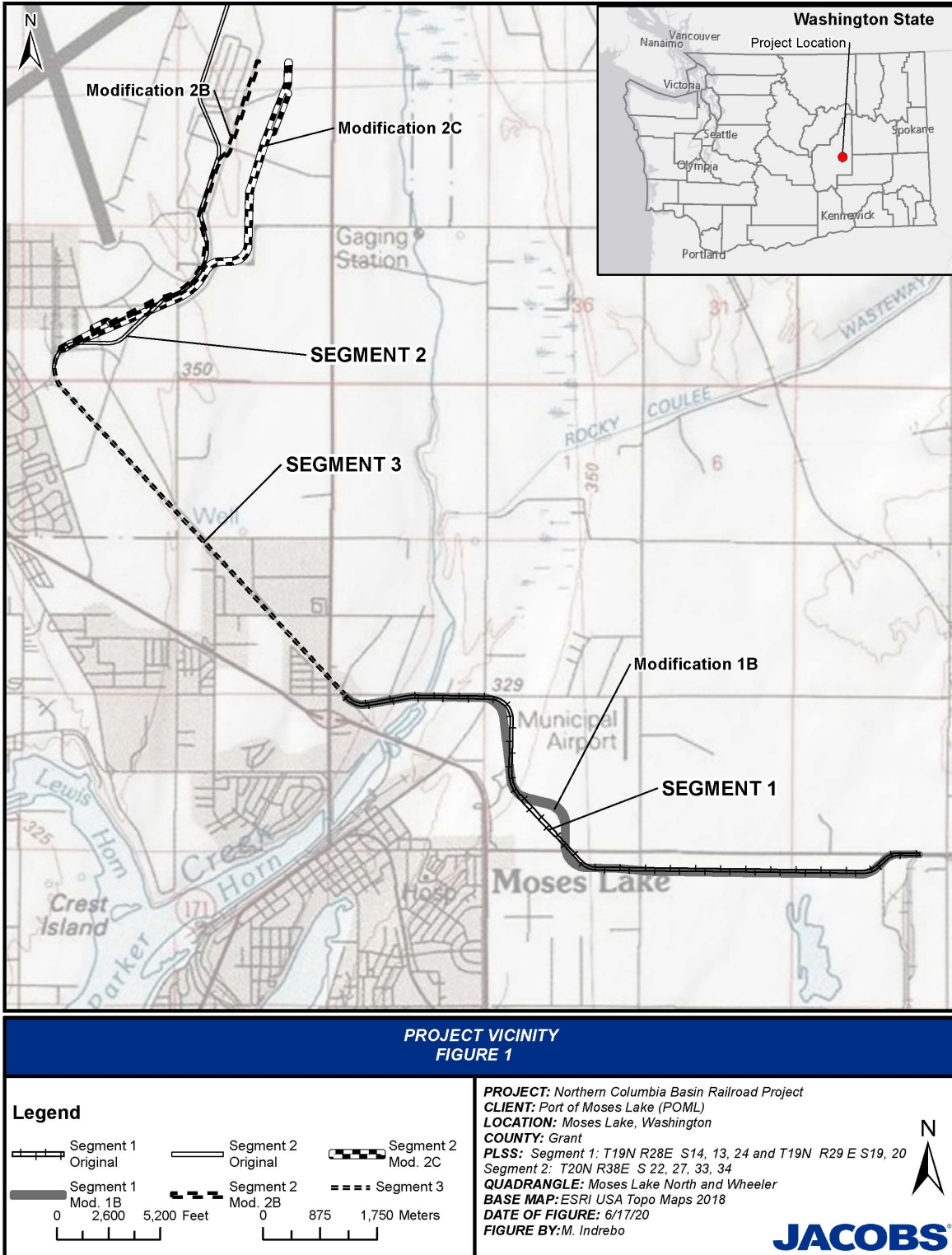
2. Project Location

The Project is located in central Washington State in the City of Moses Lake and within Grant County, approximately 100 miles west of Spokane and 180 miles east of Seattle. The Project is approximately 8.5 miles north of Interstate 90 and lies primarily in the City of Moses Lake, but also includes unincorporated areas of Grant County, Washington. Existing land uses include agricultural (although there is no zoning for agricultural use), industrial, commercial and residential, as zoned and regulated by the City of Moses Lake and/or Grant County. Several parcels owned by the Port near the Grant County International Airport (GCIA) are designated as the “GCIA Zone” intended to maintain and enhance aviation-compatible businesses.

The Project location is shown in Figure 1. The Project extends west from the community of Wheeler (located east of the City of Moses Lake) to the Crab Creek water crossing, then north to the GCIA industrial area, and has three components:

- Segment 1 would include construction of approximately 4.5 miles of new track from the Columbia Basin Railroad Company, Inc. (CBRW) rail line in the community of Wheeler, to CBRW’s rail line just west the Crab Creek water crossing. Compared to the Original Alignment, the Modified Alignment would be located slightly southward as it parallels Wheeler Road and would include construction of a safer, perpendicular rail crossing at Wheeler Road. It would also avoid crossing Hamilton Road NE and include construction of a safer, perpendicular crossing at Industrial Street.
- Segment 2 would include construction of approximately 3.1 miles of new track from the existing CBRW rail line to the eastern side of the GCIA. Compared to the Original Alignment, the Modified Alignment would be located eastward at the GCIA, would include the removal of a curve, avoid crossing Randolph Road, and reduce the length of track construction.
- Segment 3 would include the rehabilitation of approximately 3 miles of CBRW track that would connect Segments 1 and 2, starting west of Crab Creek and proceeding northwest to the Port/GCIA.

Figure 1: Project Location



3. Statement of Purpose and Need

3.1 Purpose of the Project

The Project's purpose is to provide rail service to lands designated for industrial development in the eastern and northern parts of the City of Moses Lake and east of the GCIA, to enhance opportunities for economic development, and to attract new, rail-dependent businesses to those areas.

3.2 Need for the Project

The Project would restore vital rail service to the City of Moses Lake and adjacent to the GCIA and allow rail traffic to and from the GCIA industrial area to avoid passing through downtown Moses Lake, leaving that area available for possible future development as a waterfront park, boardwalk, and bicycle/pedestrian trail. The Project would also eliminate a major impediment to retaining and attracting new industries by providing a cost-effective rail connection to the BNSF Railway Company mainline (via the CBRW track) for existing businesses, agricultural producers, and new industries to ship to and from Pacific Northwest ports and the Midwest.

4. Alternatives

The Prior EA and Supplemental EA evaluated Project alternatives developed to meet the purpose and need of the Project.

Prior EA

In the Prior EA, OEA and WSDOT considered 11 Build Alternatives; 9 of the alternatives were for Segment 1 and 2 of the alternatives were for Segment 2. Of the 11 alternatives, 8 were dismissed because they did not meet the purpose and need of the Project, or were determined to be unfeasible due to economic, technical, or constructability issues. The resulting environmentally preferred alternative, approved by STB in its 2009 Authorization Decision, included the following components:

- Construction of Segment 1 with the Alternative 1A crossing of Crab Creek, with or without the “Ecology Modification” (an eastward alignment shift through a large wetland area).
- Construction of Segment 2 without Alternative 2A (a more easterly route by the GCIA).
- Rehabilitation of Segment 3.

Supplemental EA

In the Supplemental EA, OEA and FRA evaluated the Port’s proposed modifications to Segments 1 and 2 (Modified Alignment). The Supplemental EA evaluated the potential environmental impacts of the Modified Alignment compared to the Original Alignment.

Following is a description of the alternatives analyzed in the Supplemental EA.

4.1 Prior Authorized Alternative

Under the Prior Authorized Alternative, the Project’s Original Alignment as approved by the STB’s 2009 Authorization Decision would be implemented by the Port.

Segment 1

The Original Alignment for Segment 1 begins in Wheeler, proceeds south of Wheeler Road and continues west paralleling Wheeler Road, crosses Wheeler Road diagonally, proceeds northwest to cross Hamilton Road NE, and then proceeds north and west to cross Crab Creek.

Segment 2

The Original Alignment for Segment 2 begins near the end of the existing CBRW rail line at the southern end of the GCIA, heads east and turns to the northeast to follow the curve of Randolph Road NE, eventually heads north alongside Randolph Road NE, makes a few slight turns as it crosses both Randolph Road NE and Tyndall Road NE, and eventually terminates in the industrial area on the eastern side of the GCIA.

Segment 3

Segment 3 was constructed in approximately 1942 to serve the construction and operation of Larson Air Force Base, now the GCIA. Segment 3 has five public at-grade crossings, two of which had been signalized but are currently inactive. These two inactive crossing signals (Stratford Road and Loring Drive) will be replaced with new cantilevered flashers, crossing gates and signal electronics. The remaining three public crossings will have new railroad crossing signs installed. Additionally, approximately 400 track feet at the beginning of Segment 3 will be salvaged and replaced with new upgraded track. This will include the replacement of the paved crossings at Kinder and Wenatchee Roads with timber or concrete panels. The salvaged track material will be used to replace defective joint bars, tie plates, and rails on the remaining portion of Segment 3. Further track work will consist of replacing existing worn or otherwise defective ties with new ties; adding ballast; and re-surfacing, lining, and tamping the track. These are routine railroad maintenance activities that are accomplished within the existing roadbed and do not involve new ground disturbance. Existing drainage ditches and culverts will be cleared of blockages.

The existing alignment and general profile of the existing rail line will not change. Little to no new grading work is required and no additional land will be acquired. Under either scenario of the Port acquiring Segment 3 or obtaining a long-term operating agreement, CBRW will retain the right to operate service.

The Prior Authorized Alternative would not address changes in land use and business developments that have occurred since the 2009 Authorization Decision because:

- Primary access driveways to several industrial tenants would be crossed.
- The Grant County Public Works facility and adjacent buildings, and other buildings constructed since 2009, would not be avoided.
- Impacts to an irrigation system and cropland would not be minimized.
- Impacts to utilities along Hamilton Road NE and Randolph Road would not be minimized.

In addition, the Prior Authorized Alternative (Original Alignment) did not include safety improvements that have been identified since 2009, including replacing diagonal crossings with perpendicular crossings at Wheeler Road in Segment 1, and at Road 7NE and Tyndall Road in Segment 2, and eliminating crossings of Hamilton Road NE in Segment 1 and of Randolph Road in Segment 2. For these reasons, the Port sought STB's authorization to modify the Prior Authorized Alternative (Original Alignment).

4.2 Modified Alignment Proposed Alternatives

4.2.1 Segment 1

The Proposed Alternative for Segment 1 would have slight modifications designated as Modification 1B to the Original Alignment approved by the STB in 2009. Modification 1B is designed to avoid crossing primary access driveways to several industrial tenants; avoid the

Grant County Public Works facility and adjacent buildings; minimize impacts to an irrigation system and cropland; construct a safer, perpendicular rail crossing at Wheeler Road; minimize property needed and avoid newly constructed buildings; avoid crossing Hamilton Road NE and construct a safer, perpendicular crossing at Industrial Street; minimize impacts to utilities along Hamilton Road NE; and minimize wetland impacts and avoid rock outcrops. Modification 1B would also use culverts instead of bridges to cross historic earthen irrigation and drainage ditches at Rocky Coulee Diversion Canal 180+182 (RCD 180+182) and at East Low Lateral Canal 20 (EL 20).

The eastern end of Segment 1, south of and parallel to Wheeler Road, would be realigned approximately 86 feet southward; there would be a perpendicular crossing, rather than a diagonal crossing, at Wheeler Road; there would be a perpendicular crossing at Industrial Street rather than a diagonal crossing at Hamilton Street north of Wheeler Road; and the track would be realigned approximately 50 feet westward through the southern and western portions of Wetland A before crossing Crab Creek.

4.2.2 Segment 2

There are two Proposed Alternatives for Segment 2, Modification 2B and Modification 2C. The Port will build either Modification 2B or Modification 2C, not both modifications analyzed in the Supplemental EA.

Modification 2B is designed to straighten a curve and reduce the amount of track construction, better reach existing and future development areas, and avoid a newly constructed building.

Modification 2B would:

- Remove a curve and straighten the alignment at the beginning/south end, where it would connect to the existing CBRW/Segment 3 rail line.
- Reduce the length of track construction by approximately 2,700 feet.
- Shift the alignment east at the north end to better reach existing and future development areas and to accommodate emerging rail shipping needs.
- Adjust the starting point at the north end of the easterly shift to avoid a newly constructed building.

Modification 2C is designed to straighten a curve and reduce the amount of track construction, better reach future development areas, avoid a newly constructed building, avoid crossing Randolph Road and construct safer, perpendicular crossings at lesser-traveled roads, minimize impacts to utilities along Randolph Road, and avoid crossing primary access driveways to several industrial tenants. Modification 2C would:

- Remove a curve and straighten the alignment at the beginning/south end where it would connect to the existing CBRW/Segment 3 rail line.
- Reduce the length of track construction by approximately 2,000 feet.

- Eliminate rail crossings of Randolph Road immediately south of and within the GCIA industrial area.
- Shift the alignment further east and away from Randolph Road to minimize conflicts with utilities (storm drain, sewer, power, natural gas) that emanate from and/or parallel the road.
- Bisect undeveloped portions of existing industrial parcels to allow for future spur sidings and turnouts that would avoid existing buildings and serve both existing and future industrial tenants.
- Avoid crossing primary access driveways to existing industrial tenants along Randolph Road and substantially reduce the amount of grading.

4.2.2 Segment 3

There are no proposed alternatives or modifications to the Segment 3 Original Alignment approved by the STB's 2009 Authorization Decision. The existing alignment and general profile of the existing rail line will not change. Little to no new grading work is required and no additional land will be acquired. Under either scenario of the Port acquiring Segment 3 or obtaining a long-term operating agreement, CBRW will retain the right to operate service.

The Port did not propose to modify Segment 3 from what was originally studied in the Prior EA and approved by the STB in its 2009 Authorization Decision. Therefore, the analysis of Segment 3 in the Supplemental EA, including environmental impacts from the proposed rehabilitation of the CBRW rail line and associated mitigations or Project commitments, identified a change to only one environmental condition for one resource – Fish, Wildlife and Vegetation – which is the removal of Yuma myotis as a state priority species. Aside from this minor change, this FONSI is based on the evaluation of potential impacts of Segment 3 in the Prior EA.

5. Selected Alternative

OEA and FRA have determined that the environmentally preferred route for the Modified Alignment to the rail line is Modification 1B for Segment 1; Modification 2C for Segment 2, incorporating the design changes involving Road I NE proposed by the Port as discussed in Chapter 4 of the FSEA; and the Original Alignment for Segment 3 as approved by the STB's 2009 Authorization Decision. Modification 1B for Segment 1 and Modification 2C for Segment 2 are similar to the Original Alignment approved by STB's 2009 Authorization Decision, with minor adjustments that minimize impacts to existing land uses, including land development that has occurred in the Project vicinity since 2009. Segment 3 involves rehabilitation of approximately three miles of existing CBRW track that connects Segments 1 and 2. Because the Port is not proposing to modify Segment 3, it remains as approved by the STB in its 2009 Authorization Decision.

Segment 1/Modification 1B would still involve construction of approximately 4.5 miles of new track from a connection with CBRW's rail line in the community of Wheeler on the east side of the City of Moses Lake, to a connection with CBRW's rail line just west of the Crab Creek water crossing. However, the following modifications would be made:

- Redesign a curve and industrial and other driveway crossings at the beginning/east end to accommodate the existing topography.
- Shift the rail line approximately 86 feet southward at the eastern end, south of/along Wheeler Road, to avoid the Grant County Public Works facility, a buried gas line, and three buildings.
- Shift the rail line slightly to the north near EL 20, south of Wheeler Road, to avoid an irrigation pivot and to maximize cropland usability.
- Add a new curve south of Wheeler Road to make a safer, perpendicular rail crossing at Wheeler Road, and to minimize property needed along the frontage of Wheeler Road.
- Add a new curve north of Wheeler Road to cross Industrial Street, rather than Hamilton Road NE, to avoid removal of a newly constructed building and impacts to utilities in Hamilton Road NE (Hamilton Road NE and Industrial Street did not exist when the Project was originally designed).
- Construct a new, perpendicular at-grade crossing of Industrial Street to maintain access to industrial properties, rather than closing off Industrial Street and constructing an extension of Silva Street.
- Deviate the rail line slightly to the west between Hamilton Road NE and Broadway Avenue to minimize impacts to a wetland, avoid rock outcrops, and enable the rail line to better follow existing topography.

- Install culverts instead of bridges for the crossings of historic, earthen irrigation/ drainage ditches/canals at RCD 180+182 and EL 20.³

Segment 2/Modification 2C would still involve construction of approximately 3 miles of new track from the existing CBRW line to the eastern side of the GCIA as in the Original Alignment. However, the following modifications would be made:

- Remove a curve and straighten the alignment at the beginning/south end immediately northeast of the connection with the existing CBRW rail line.
- Reduce the length of track construction by approximately 2,000 feet.
- Eliminate rail crossings of Randolph Road immediately south of and within the GCIA industrial area.
- Shift the alignment further east and away from Randolph Road to minimize conflicts with utilities (storm drain, sewer, power, natural gas) that emanate from and/or parallel the road.
- Continue north with the eastern alignment shift, bisecting undeveloped portions of existing industrial parcels to allow for future spur sidings and turnouts that would avoid existing buildings and serve both existing and future industrial tenants.
- Avoid crossing primary access driveways to existing industrial tenants along Randolph Road and substantially reduce the amount of grading.

Segment 3 would still involve rehabilitation of approximately 3 miles of existing CBRW track to connect Segment 1 and Segment 2. No changes would be made to the Original Alignment.

³ See Preliminary EA, at page 5-5. Crossings were generally mentioned in the 2009 Authorization Decision, slip op at 19. See also 2009 Final EA, at pages ES-20 and 5-16.

6. Affected Environment and Environmental Impacts

Based upon the Prior EA and the Supplemental EA, FRA has concluded the Selected Alternative will have no foreseeable significant impact on the quality of the natural and human environment. FRA finds the Selected Alternative is best able to achieve the Northern Columbia Basin Railroad Project purpose and need and would not result in foreseeable significant environmental impacts.

The potential for the Project to cause environmental impacts is discussed in Chapter 5 of the Prior EA and the Draft Supplemental EA, and is summarized in this section of the FONSI. Table 1.1 summarizes the potential environmental impacts of the construction and operation of the Modified Alignment as presented in the Supplemental EA. The Project scope includes avoidance and minimization measures and environmental commitments, which are presented in Section 7 of this FONSI.

Potential Environmental Impacts

- Air Quality – Impacts are not expected to be significant because there would be a maximum of two trains per day (one round trip), and the Port would implement measures to minimize dust during construction.
- Cultural/Historic/Archaeological (NHPA Section 106) – Potential impacts to unidentified archaeological resources and/or unidentified historic architectural properties would be addressed through the PA executed among STB, FRA, DAHP, and the Port. The PA requires that potential effects to any previously unevaluated parcels and unidentified historic properties be assessed prior to Project construction and would include consultation with the appropriate parties. The PA also requires the Port to prepare and implement an Unanticipated Discovery Plan (UDP) (Appendix A).
- Canals EL 20, EL 20U1 and RCD 180+182 are contributing resources to the Columbia Basin East Low Feeder Canals System, which is the only identified historic property in the Project's Area of Potential Effects (APE) and is in Segment 1. STB, in consultation with DAHP, determined there would be no adverse effect to this historic property (Appendix B and Section 8 of this FONSI).
- Fish/Wildlife/Vegetation (Endangered Species Act Section 7) – Impacts are not expected to be significant because there are no federally-designated or state-designated threatened or endangered fish or wildlife species or federally-designated critical habitat in the Project area, and except for Washington State candidate species (burrowing owl, Townsend's big-eared bat, western grebe, and Clark's grebe), state-designated protection status of fish and wildlife species in the Project area has either remained the same or has changed to less protective status (i.e., no longer priority species or no longer threatened species). Avoidance and minimization measures and Project commitments would result in minimal adverse impacts to the remaining state candidate species.
- Energy – Impacts are not expected to be significant because there would be an insignificant increase in train traffic (maximum of one round trip per day within the next 10 years); the

Project would not affect the transportation of energy resources⁴; would have a positive effect on the transportation of recyclable commodities (steel); and would result in an insignificant amount of increased energy consumption during rail construction and rail operations.

- Hazardous Materials – There are two low-risk, two moderate-risk, and two high-risk, hazardous materials sites that may be encountered during Project construction. Impacts are not expected to be significant because the Port would implement measures regarding the appropriate handling, disposal, and transportation of hazardous materials if they are encountered or disturbed during construction.
- Land Use – Impacts are not expected to be significant because acquisition of vacant land for the Project right-of-way (ROW) needed for Segments 1 and 2 would be conducted in conformance with federal law, conversion of land for the Project ROW would be consistent with existing land use plans and policies, no residences or businesses would be relocated by land acquisition, and to the maximum extent practicable, the Port would advise businesses and the public of construction schedules in advance to minimize disruptions.
- Noise and Vibration – Impacts are not expected to be significant because there would be a maximum of two trains per day (one round trip) and sensitive receptors are not present within the area of impact. The Port would implement measures to minimize noise during construction.
- Socioeconomics/Environmental Justice – No significant impacts to local communities during construction and no significant adverse socioeconomic or community impacts and no disproportionately high or adverse impacts on minority or low-income communities are expected because no community or population groups would be divided or separated; there would be no interference with access to neighborhoods or public services; no residential areas would be separated from retail, service, or employment centers; and no residences would be acquired for the Project ROW.
- Soils and Geology – Impacts are not expected to be significant because there is low potential for soil erosion due to the limited number of slope excavations/fills and deep cuts necessary to construct the Project, the presence of sandy gravel and gravelly sand in underlying soils throughout the Project area that are not typically subject to liquefaction during earthquakes, and required revegetation of disturbed areas following construction.
- Traffic/Transportation – Temporary construction and operational impacts from traffic delays due to the movement of construction equipment on public roads and construction and operation of new at-grade rail crossings are not expected to be significant. Overall, the Project would result in a reduced number of rail crossings and there would be minor traffic wait times at the rail crossings based on the limited amount of vehicular traffic at the

⁴ STB environmental regulations (49 CFR 1105.7) require that environmental impact analyses describe the effect of the proposed action on transportation of energy resources, the effect of the proposed action on recyclable commodities, and whether the proposed action would result in an increase or decrease in overall energy efficiency. Energy resources include fuel consumption resulting from the Project, as well as utility and pipeline corridors potentially affected by the construction of the proposed rail line extension. No energy resources are expected to be transported by the Project.

crossings, and projected train length (up to 10 rail cars) and train speed (25 mph or less). The Port would coordinate with FRA and appropriate state and local agencies regarding suitable levels of crossing protection and final design of the grade crossings and associated warning devices. The Port would also consider school bus schedules in planning and executing the necessary road work. The Port will work with the school district to coordinate with the school bus garage during construction⁵.

- Visual Quality – Minimal adverse effects to the visual character of the Project area are expected because construction activities would be localized and temporary and existing views include urban, industrial, and transportation elements. The Port would revegetate disturbed areas following construction.
- Water Resources – The Project involves work in and around waterbodies in Segment 1, including Crab Creek and irrigation canals/ditches. The Port would minimize or avoid potential adverse impacts to water quality by implementing specific design and construction measures for the Crab Creek bridge and implementing best management practices to control erosion and sedimentation and prevent release of contaminants during Project construction and operation. The Port would obtain all necessary permits for work in and around water resources.
- Wetlands – The Project would impact wetlands in Segment 1, however the Modified Alignment would impact less acreage of wetlands than the Original Alignment because of the westward shift of the rail line through Wetland A and a reduced footprint and improved design for the bridge crossing at Crab Creek. Construction staging areas would be located outside of wetlands, and the Port would adhere to current Washington Department of Ecology (Ecology) and U.S. Army Corps of Engineers (USACE) guidance on wetland mitigation that may include purchase of wetland mitigation credits at an approved Wetland Mitigation Bank rather than developing on-site wetland mitigation.⁶

⁵ Further information on public messaging can be found in Chapter 8 under “Socioeconomics and Environmental Justice”; see measure 26 regarding notification of the construction schedule to the public.

⁶ As of the date of this FONSI, the Port is working with the WSDOT-owned Moses Lake Wetland Mitigation Bank that is in the process of being brought up to bank standards by the City of Moses Lake, which should be completed by the end of 2020. There are enough credits available to mitigate wetland impacts from the Project, and WSDOT has indicated a willingness to sell credits to the Port for this purpose. If continued coordination with USACE and Ecology results in the Port needing to create, restore, or enhance existing wetlands as mitigation for Project impacts, the Port will notify FRA and will be responsible for working with FRA to complete any necessary environmental review.

Table 1.1: Impact Summary of Modified Alignment/Selected Alternative

Resource	Segment 1 Modification 1B	Segment 2 Modification 2C	Segment 3
Air Quality	<ul style="list-style-type: none"> • Minor impact from fugitive dust and equipment emissions during construction. • Minor impact from locomotive particulate and carbon monoxide emissions during operation. 	<ul style="list-style-type: none"> • Minor impact from fugitive dust and equipment emissions during construction. • Minor impact from locomotive particulate and carbon monoxide emissions during operation. 	<ul style="list-style-type: none"> • Minor impact from fugitive dust and equipment emissions during construction. • Minor impact from locomotive particulate and carbon monoxide emissions during operation.
Cultural/Historic/ Archaeological	<ul style="list-style-type: none"> • No adverse impact if utilizing culvert crossing at historic canal EL 20U1 and replacing bridge crossings with culvert crossings at historic canals RCD 180+182 and EL 20. 	<ul style="list-style-type: none"> • Not applicable/no resources present. 	<ul style="list-style-type: none"> • Not applicable/no resources present.
Fish/Wildlife/ Vegetation	<ul style="list-style-type: none"> • Impacts to state candidate species including burrowing owl, Townsend’s big-eared bat, western grebe, and Clark’s grebe during construction and operation. • No impacts to listed federal or state threatened or endangered species (none present). 	<ul style="list-style-type: none"> • Impacts to state candidate species including burrowing owl and Townsend’s big-eared bat during construction and operation. • No impacts to listed federal or state threatened or endangered species (none present). 	<ul style="list-style-type: none"> • Impacts to Townsend’s big-eared bat (state candidate species) during construction and operation. • No impacts to listed federal or state threatened or endangered species (none present); Yuma myotis removed as a state priority species in 2017.
Energy	<ul style="list-style-type: none"> • Minor increase in energy consumption during construction and operation, but insignificant impact to energy supplies. 	<ul style="list-style-type: none"> • Minor increase in energy consumption during construction and operation, but insignificant impact to energy supplies. 	<ul style="list-style-type: none"> • Minor increase in energy consumption during construction and operation, but insignificant impact to energy supplies.

Resource	Segment 1 Modification 1B	Segment 2 Modification 2C	Segment 3
Hazardous Materials	<ul style="list-style-type: none"> • Potential to impact two low-risk and one moderate-risk hazardous materials sites during construction. • If shipped over rail line, potential release of hazardous materials during operation emergencies such as derailments or natural disasters. 	<ul style="list-style-type: none"> • Potential to impact one moderate risk and two high-risk hazardous materials sites during construction. • If shipped over rail line, potential release of hazardous materials during operation emergencies such as derailments or natural disasters. 	<ul style="list-style-type: none"> • If shipped over rail line, potential release of hazardous materials during operation emergencies such as derailments or natural disasters.
Land Use	<ul style="list-style-type: none"> • 54 acres of land acquired and permanently converted to rail right-of-way. • Relocation of one commercial entity after land acquisition. 	<ul style="list-style-type: none"> • 33 acres of land acquired and permanently converted to rail right-of-way. 	<ul style="list-style-type: none"> • Not applicable/existing rail line.
Section 4(f) Properties	<ul style="list-style-type: none"> • <i>De minimis</i> impact determination to historic canals EL 20, EL 20U1, and RCD 180+182. 	<ul style="list-style-type: none"> • No Section 4(f) properties present. 	<ul style="list-style-type: none"> • No Section 4(f) properties present.
Noise/Vibration	<ul style="list-style-type: none"> • No significant noise or vibration impacts. 	<ul style="list-style-type: none"> • No significant noise or vibration impacts. 	<ul style="list-style-type: none"> • No significant noise or vibration impacts.
Socioeconomics/ Environmental Justice	<ul style="list-style-type: none"> • No significant adverse socioeconomic or community impacts during construction or operation. 	<ul style="list-style-type: none"> • No significant adverse socioeconomic or community impacts during construction or operation. • No disproportionately high or adverse impact on minority or low-income communities. 	<ul style="list-style-type: none"> • No significant adverse socioeconomic or community impacts during construction or operation. • No disproportionately high or adverse impact on minority or low-income communities.
Soils/Geology	<ul style="list-style-type: none"> • Areas disturbed during construction subject to increased erosion and soil impacts. • No impacts to soils or geology during operation. 	<ul style="list-style-type: none"> • Areas disturbed during construction subject to increased erosion and soil impact. • No impacts to soils or geology during operation. 	<ul style="list-style-type: none"> • No impacts to soils or geology during construction or operation.

Resource	Segment 1 Modification 1B	Segment 2 Modification 2C	Segment 3
Traffic/ Transportation	<ul style="list-style-type: none"> • Temporary traffic delays during construction. • Beneficial impact of perpendicular crossing versus diagonal crossing at Wheeler Road. • No significant adverse impacts on traffic or transportation during operation. 	<ul style="list-style-type: none"> • Temporary traffic delays during construction. • Beneficial impact of reduced number of road crossings (3 versus 5 crossings.) • Beneficial impact of perpendicular road crossings versus diagonal crossings at Road 7NE and Tyndall Road. • No significant adverse impacts on traffic or transportation during operation. 	<ul style="list-style-type: none"> • Temporary traffic delays during construction. • No significant adverse impacts on traffic or transportation during operation.
Visual Quality	<ul style="list-style-type: none"> • Insignificant localized and temporary impacts during construction. • Minimal adverse impact to three viewpoints during operation. 	<ul style="list-style-type: none"> • Insignificant localized and temporary impacts during construction. • No adverse impacts during operation. 	<ul style="list-style-type: none"> • Insignificant localized and temporary impacts during construction. • No adverse impacts during operation.
Water Resources	<ul style="list-style-type: none"> • Potential adverse water quality impacts to Crab Creek and irrigation canals during construction. • Potential impact to Crab Creek floodplain. • No significant impacts during operation. 	<ul style="list-style-type: none"> • No water resources present. 	<ul style="list-style-type: none"> • No water resources present.
Wetlands	<ul style="list-style-type: none"> • Direct and indirect adverse impacts to 1.23 acres of wetlands during construction and operation. 	<ul style="list-style-type: none"> • No wetlands present. 	<ul style="list-style-type: none"> • No wetlands present.

7. Section 106 and Section 4(f) Determination

Section 106 Cultural, Historic and Archaeological Resources

The Columbia Basin East Low Feeder Canals System was the only resource identified as eligible for listing on the National Register of Historic Places (NRHP) in the Prior EA. Four elements that are part of the canals system are present in Segment 1: RCD 180+182, EL 20, EL 20U1, and EL 20 Extension. The RCD 180+182, EL 20, and EL 20U1 are contributing resources to the NRHP-eligible Columbia Basin East Low Feeder Canals System, while the EL20 Extension is non-contributing. During Section 106 consultation that occurred as part of the Prior EA, OEA determined that Project construction and operation would not adversely affect the historic canals, and that bridges spanning EL 20 and RCD 180+182, and a culvert placed in EL 20U1, would have no adverse effects on the canals. DAHP concurred with OEA's finding of no adverse effect on April 7, 2009.⁷

The Port proposed a design change under Modification 1B that would replace the bridges at EL 20 and RCD 18+182 with reverse siphons (a type of culvert). Individuals meeting the U.S. Secretary of the Interior's (SOI) Professional Qualification Standards from Jacobs Engineering, Inc. (Jacobs), a consultant hired by the Port, conducted a supplemental field survey in May 2017 and assessed whether there would be an adverse effect from using culverts instead of bridges at these two historic canal crossings.

Under the Advisory Council on Historic Preservation's Section 106 implementing regulations (36 C.F.R. § 800.5), a project would have an adverse effect if it would diminish any of the characteristics of a historic property that qualifies it for inclusion in the NRHP. These characteristics include the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Jacobs' 2017 assessment built upon the previous 2007/2008 assessment prepared for WSDOT and the Prior EA by HDR Engineering, Inc. and Jones & Stokes Associates, and concluded that the proposed design refinements would not diminish integrity of location, setting, workmanship, feeling, or association, and would only cause a minor alteration to integrity of materials and design. Based on these recommendations, OEA determined there would be no adverse effect from the proposed design change from bridges to culverts associated with the Modified Alignment. DAHP concurred with OEA's determination on June 18, 2019.

Jacobs' SOI qualified professionals also conducted an archaeological pedestrian survey consisting of intensive survey, reconnaissance survey, and limited subsurface testing in 2018. The survey covered 30 of 44 parcels in the Project's APE where landowner right-of-entry was granted along proposed Modifications 1B, 2B, and 2C. Subsurface investigations focused on the Segment 1/Modification 1B crossing at Crab Creek and the upland areas along the easternmost

⁷ 2009 Final EA, at Appendix A

end of Segment 1/Modification 1B.⁸ No cultural resources were identified in surface or subsurface contexts. Jacobs also concluded that the location of the Modified Alignment is characterized primarily by Pleistocene deposits in upland settings with low potential for buried archaeological sites or areas modified by varying degrees of development. Therefore, previously unrecognized archaeological resources are unlikely to occur along most of Modification 1B and along all of Modifications 2B and 2C.

Programmatic Agreement (PA)

Following issuance of the Prior EA, a PA was negotiated and executed in June 2009 among STB, DAHP, and the Port to identify, assess, avoid, minimize, and mitigate effects to historic properties in accordance with Section 106 of the NHPA and to ensure that archaeological resources and/or historic architectural properties on unevaluated and/or inaccessible parcels would be assessed prior to initiation of Project construction. WSDOT and the CBRW, as the proposed operator of the Project, were consulting parties to the PA.

The PA also established processes for the phased identification and evaluation of potential effects to any previously unidentified historic properties including archaeological resources through consultation with appropriate parties and required that the Port develop and implement a UDP. The PA originally had a term of 10 years (until August 27, 2019), but it has been extended in an amendment to remain in effect for 10 years after the January 2, 2020 effective date of the STB decision authorizing the proposed modifications to the Project. The amendment also added FRA as a signatory to the PA (Appendix A).

Section 4(f) Determination

Section 4(f) of the U.S. Department of Transportation Act of 1966 (49 United States Code [USC] 303), hereinafter referred to as Section 4(f), provides protection to publicly owned parks, recreation areas, wildlife, and waterfowl refuges, and public or private historic resources. Section 4(f) prohibits the use⁹ of these lands unless USDOT determines either:

- There is no feasible and prudent avoidance alternative and the action includes all possible planning to minimize harm to the property resulting from such use.

⁸ These areas were of particular focus because they were areas most likely to have moderate to high potential for the presence of archaeological resources based on archaeological sensitivity modeling of environmental variables (e.g. distance to water, elevation, soil type, etc.) typically observed at recorded archaeological sites within this region of Washington State.

⁹ A use under Section 4(f) is when land from a Section 4(f) property is permanently incorporated into a transportation facility. A constructive use is when a project's proximity impacts are so severe that the projected activities, features or attributes that qualify a resource for protection under Section 4(f) are substantially impaired and the resource can no longer perform its designated function.

- The use of the property, including any measure(s) to minimize harm (such as any avoidance, minimization, mitigation, or enhancement measures) would have a *de minimis* impact.¹⁰

The Prior EA did not identify or evaluate impacts to any Section 4(f) properties because there was no USDOT/FRA approval required for the Project at that time. A Section 4(f) analysis was conducted for the Modified Alignment as part of the Supplemental EA. The NRHP-eligible Columbia Basin East Low Feeder Canals System is the only Section 4(f) property associated with the Project.

Modification 1B crosses historic canals EL 20, EL 20U1, and RCD 180+182, which are contributing features to the Columbia Basin East Low Feeder Canals System. OEA determined that the installation of culverts at these canal crossing locations would result in only minor physical alterations by introducing a maximum of 100 linear feet of culvert in each canal. These limited alterations would not diminish any aspect of the canals system's physical integrity or ability to convey their historic significance, and would not diminish integrity of location, setting, workmanship, feeling, or association, and would only cause a minor alteration to integrity of materials and design. In OEA's June 17, 2019 finding of no adverse effect letter to the DAHP, OEA stated that FRA intended to make a *de minimis* impact determination upon DAHP concurrence with OEA's finding.

FRA determined that the Project will have a *de minimis* impact on the Section 4(f) property because installation of culverts at these canal crossings would result in only minor physical alterations that would not have an adverse effect on the canals. DAHP, the official with jurisdiction regarding Section 4(f)-protected historic sites, concurred with OEA's finding of no adverse effect pursuant to Section 106, and also with FRA's intended *de minimis* finding under Section 4(f), in a letter dated June 18, 2019 (Appendix B).

¹⁰ A *de minimis* impact is one that, after taking into account avoidance, minimization, mitigation and enhancement measures, results in no adverse effect to the activities, features, or attributes qualifying a park, recreation area, or refuge for protection under Section 4(f).

8. Avoidance and Minimization Measures and Commitments

As described previously, the Project would not result in significant impacts to the human or natural environment. The Port will implement specific avoidance and minimization measures, minor mitigation measures, and other environmental commitments. The Port will provide an “Avoidance and Minimization Measures Plan”, consistent with this FONSI, to FRA for review and approval concurrent with the submission of the Final Design package and prior to initiation of construction of the Project.

The Port is required to comply with all applicable federal permitting requirements during the implementation of the Selected Alternatives, which include:

- Americans with Disabilities Act of 1990 (ADA)
- Clean Water Act of 1972, Sections 303 and 304, 401, 402, and 404
- Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA)
- Construction Stormwater General Permit (Washington Department of Ecology)
- E.O. 12088, *Federal Compliance with Pollution Control Standards* (1996), amended in 1996 by E.O. 13016, Amendment to E.O. 12580
- Federal Clean Air Act (FCAA) of 1970
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) of 1947, amended in 1972
- Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Surface Transportation and Uniform Relocation Assistance Act of 1987
- National Historic Preservation Act (NHPA) of 1966 (Public Law 89-665; 16 U.S.C. 470 et seq.)
- Occupational Safety and Health Act of 1970 (OSHA)
- Resource Conservation and Recovery Act of 1976 (RCRA)
- Safe Drinking Water Act of 1974
- Title VI of the Civil Rights Act of 1964
- Toxic Substances Control Act of 1976 (TSCA)
- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

The following avoidance and minimization measures recommended by FRA are presented by environmental resource area. If a measure imposed by the STB’s 2009 Authorization Decision has been revised, it is followed by notes in parentheses indicating whether it was revised in the Draft Supplemental EA and/or in the Final Supplemental EA and the reason for the revision. Measures imposed in 2009 and recommended again here without changes have no notes.

Some minor editorial changes that do not affect the substance of the measures imposed in 2009 have been made for clarity.

The measures listed here are the same as those included in the Draft Supplemental EA except for revisions to what are now measures 7, 8, 11, 15, 28, 36, and 53. Numbering has been changed to be consecutive.

Air Quality

1. The Port¹¹ shall implement Best Management Practices (BMPs) and appropriate fugitive dust suppression controls, such as spraying water on haul roads adjacent to construction sites and exposed soils, street sweeping, covering loaded trucks, and washing haul trucks before they leave the construction site.
2. The Port shall comply with the requirements of all applicable federal, state, and local regulations regarding open burning and the control of fugitive dust related to rail line construction activities.
3. The Port shall revegetate areas disturbed during construction with native grasses or other appropriate native habitat as soon as possible after construction activities are completed, to minimize windblown dust.
4. The Port shall shut off construction equipment when it is not in use to reduce idling emissions.
5. The Port shall verify that construction equipment is properly maintained and regularly inspected and that required pollution control devices are in good working condition.

Cultural, Historic, and Archaeological Resources

6. The Port shall comply with the terms of the PA, as amended on July 3, 2019, which sets forth the steps for the identification and evaluation of historic properties, including archaeological sites, as well as the mitigation of any adverse effects. The PA addresses unanticipated historic or cultural properties, archaeological sites, human remains, funerary items, or assorted artifacts if discovered during Project construction. ***(Originally revised in the DSEA; the DSEA revision combined Measures 6 and 7 of the 2009 Authorization Decision.)***

Fish, Wildlife, and Vegetation

7. The Port shall abide by construction timing and guidelines stipulated by the Washington Department of Fish and Wildlife (WDFW) through the Hydraulic Project Approval (HPA). If there are differences between other measures for this Project and the conditions of the HPA, the HPA shall take precedence. ***(Originally revised in the DSEA as Measure 8.)***

¹¹ It is understood that the Port may utilize contractors, in which case the Port shall ensure that its contractors implement the avoidance, minimization, and mitigation measures imposed in this proceeding. The Port must also ensure that its operator of the line complies with all measures, including the Programmatic Agreement (PA), applicable to line operators.

Revised in the FSEA to clarify that the HPA takes precedence if there are other conflicting measures.)

8. The Port shall consult with WDFW and comply with its applicable laws and regulations so that Project-related construction activities are conducted in a manner that avoids or minimizes impacts to birds and bats (e.g., roosting bald eagles, over-wintering waterfowl, migrating shorebirds, foraging bats, and nesting birds). Such measures include, but are not limited to, avoidance of work that could impact these species, such as construction activities, within 300 feet of the Crab Creek stream channel from June 1 to September 1. **(Originally revised in the DSEA as Measure 9. Revised to add last sentence regarding distance and timing restriction in the FSEA.)**
9. To minimize disturbance to wildlife and vegetation to the maximum extent possible, the Port shall limit construction activities, including staging areas and vehicle turnaround areas, to the rail right-of-way or within previously disturbed areas to the maximum extent possible. Existing vegetation shall be preserved to the maximum extent possible. The Port shall replant disturbed areas with native flora and vegetation unless it would impair rail operations or maintenance. **(Originally revised in the DSEA as Measure 10.)**
10. To preserve water quality in aquatic or wetland habitat, the Port shall implement measures to prevent uncured concrete from coming into contact with surface waters, and all refueling shall occur more than 200 feet from a water body or wetlands.
11. The Port shall minimize the impacts that could result from over-water structures, such as the bridge crossing Crab Creek. To minimize or avoid impacts to walleye spawning, the Port shall comply with measures specified by WDFW. Such measures include, but are not limited to, avoidance of work within the waters of Crab Creek/Parker Horn between March 1 and early July. **(Originally revised in the DSEA as Measure 12. Further revised for clarity in the FSEA.)**
12. To minimize or avoid impacts to nesting burrowing owls, the Port shall:
 - a. Conduct a directed survey for burrowing owl nests within 0.5 miles of the areas to be disturbed by construction. Surveys shall be done during the breeding season (April to June) and shall abide by a WDFW-approved protocol. Survey results shall be submitted to WDFW prior to the start of construction. If active nests or nests that could become active are located within the track alignment footprint, WDFW may require artificial burrow installations. Artificial burrows would be provided by WDFW and may be installed within the Project right-of-way. **(Originally revised in the DSEA as Measure 13.a.)**
 - b. Avoid new construction work in areas within 200 meters of identified nesting areas close to Segment 1 and Segment 2 between February 15 and September 25. If construction activities take place during this period, then the Port shall consult with the WDFW to ensure that construction activities are conducted in a manner that avoids or minimizes impacts to burrowing owls. **(Originally revised in the DSEA as Measure 13.b.)**

13. To minimize or avoid impacts to bald eagle roost trees, the Port shall locate the Project alignment and support areas, such as staging areas, away from roost trees. If clearing of any roost trees is required, the Port shall create artificial roosts in an appropriate location near the existing roost.
14. To minimize or avoid impacts to Yuma myotis and Townsend's big-eared bats, the Port shall install bat boxes (alternative bat roosting structures) to allow bat roosting near the Crab Creek crossing.¹²

Hazardous Materials

15. Prior to initiating any construction activities, the Port shall consult and coordinate with the U.S. Environmental Protection Agency's (USEPA) Region 10 Office, USEPA Superfund program, and the Washington Department of Ecology (Ecology) concerning any necessary additional investigations of identified contaminated sites and the remedies that may be required for those contaminated sites. The Port shall also consult and coordinate with the USEPA Region 10 Office, USEPA Superfund program, and Ecology concerning any necessary additional investigations of contaminated sites encountered during construction and the remedies that may be required for those newly encountered sites. If USEPA determines it is warranted based on the results of site investigations, a monitoring program will be developed and implemented during construction activities. The Port will employ principals of adaptive management during implementation of the mitigation, avoidance, and minimization measures and any monitoring program. Site-related consultation, investigation, and monitoring shall be conducted by a qualified environmental professional as defined by ASTM International and USEPA. The following contaminated sites have already been identified: ***(Revised in the FSEA to add Superfund program, new sites encountered during construction, monitoring, and adaptive management; formerly Measure 17 in the DSEA.)***
 - a. On Segment 1 and Alternative 1A, the Bernard Cattle Company site at the southwest corner of Broadway and Road 4 NE (Cherokee Road).
 - b. On Segment 1 and Alternative 1A, the Francis J. Jenny UST site north of Road 4 NE between the Bernard Cattle Company site and Crab Creek. ***(Originally recommended in the DSEA as a new item under Measure 17.)***
 - c. On Segment 1, the Grant County Road District No. 2 facility on the south side of Wheeler Road (Road 3 NE) just east of Road L.
 - d. On Segment 2, the Randolph Road Base Dump (EPA Site No. 8), and the Paint Hangar Leach Pit (EPA Site No. 22).
 - e. On Modification 2B, Moses Lake Industries Inc. ***(Originally recommended in the DSEA as a new item under Measure 17.)***

¹² Measure 15 in the 2009 Authorization Decision was deleted in the DSEA because the northern leopard frog and its habitat are no longer present in the Project area.

- f. On Segment 2, the Boeing polychlorinated biphenyl cleanup area located on Tyndall Road.
 - g. On Modification 2C, the Grant County Shooting Range, the Dumpster Wash Area, and the Base Closure Landfill. ***(Originally recommended in the DSEA as a new item under Measure 17.)***
16. The Port shall coordinate with the operator of the rail line to develop a Spill Prevention Control and Countermeasures (SPCC) plan and an emergency response plan. In a manner consistent with applicable legal requirements, the SPCC plan and emergency response plan shall address the following:
- a. Definition of what constitutes a reportable spill.
 - b. Requirements and procedures for reporting spills to appropriate government agencies.
 - c. Equipment available to respond to spills and where the equipment will be located.
 - d. Training of personnel and training records.
 - e. List of government agencies and response personnel to be contacted in the event of a spill.
 - f. Measures to address the transport of hazardous materials by rail.
17. The Port shall observe the requirements of the Federal Railroad Administration (FRA) and other federal, state, and local applicable requirements concerning the handling and disposal of any hazardous waste or hazardous materials and clean-up in the event of a spill during construction.
18. The Port shall ensure that the operator of the rail line observes the requirements of FRA and other federal, state, and local applicable requirements concerning the handling and disposal of any hazardous waste or hazardous materials and clean-up in the event of a spill during rail operation.¹³
19. The Port shall ensure that locomotives associated with Project operations are checked regularly for leaks.

Land Use

20. To the maximum extent practicable, the Port shall advise businesses and the public of construction schedules in advance to minimize disruptions.
21. The Port shall abide by all requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. § 4601 et seq.). Relocation assistance shall be provided for any commercial properties acquired for the Project.

¹³ The requirements of the U.S. Department of Transportation (USDOT) Hazardous Materials Regulations, 49 C.F.R. Parts 171-180, apply to the transportation by rail of hazardous waste and other hazardous materials, and are subject to enforcement by FRA.

22. To the extent practicable, the Port shall negotiate with affected property owners to minimize any Project-related severance impacts, including impacts to irrigation systems.
23. The Port shall submit form 7460 (Notice of Proposed Construction or Alteration) to the Federal Aviation Administration (FAA) prior to construction.

Noise and Vibration

24. During construction, the Port shall ensure that manufacturer-recommended mufflers have been installed on all diesel-powered equipment and that all equipment is kept in good operating condition.
25. The Port shall ensure that construction within the boundaries of the City of Moses Lake will not occur between 10:00 p.m. and 7:00 a.m. without prior approval by the City Council.

Socioeconomics and Environmental Justice

26. During Project construction, the Port shall comply with applicable state, county, and city regulations or requirements regarding detour signs and the routing of construction vehicle traffic. The Port shall also provide proper notification of the construction schedule to the public and the nearest fire department and emergency response units.
27. The Port shall work with the operator of the rail line, the City of Moses Lake, community organizations, and Longview Elementary School to arrange for a rail safety program, such as Operation Lifesaver,¹⁴ to be offered at least once per year for as long as the Port operates trains over the rail line. ***(Originally revised in the DSEA as Measure 29.)***
28. The Port shall coordinate with the operator of the rail line, the Washington State Utilities and Transportation Commission (UTC), and the Moses Lake School District, to help identify and implement practicable safe crossings and other potential rail safety measures. ***(Revised in the FSEA to add UTC.)***
29. On Segment 3, the Port shall upgrade the existing crossing gate structures and signs to help provide better advance warnings of approaching trains for pedestrians and drivers.

Soils and Geology

30. The Port shall construct the proposed Project in accordance with the American Railway Engineering and Maintenance of Way Association guidelines.
31. The Port shall mitigate the potential liquefaction of loose or soft alluvium or other soils during an earthquake by designing foundation elements for reduced soil strength, accounting for potential ground displacements, and/or implementing ground improvements.

¹⁴ Operation Lifesaver, Inc. seeks to educate drivers and pedestrians about making safer decisions at crossings and around railroad tracks. Information is available on the organization's website at <https://www.oli.org/>.

32. The Port shall minimize sedimentation and erosion in the Project area by employing BMPs during construction.
33. The Port shall revegetate disturbed areas with native grasses as soon as practicable after Project construction ends.

Traffic and Transportation

34. The Port shall ensure, to the extent possible, that all construction vehicle activity associated with the construction of the proposed Project occurs during daytime hours. ***(Originally revised in the DSEA as Measure 36.)***
35. The Port shall consider school bus schedules in planning and executing the necessary road work.
36. The Port shall consult with appropriate federal, state, and local transportation agencies, and the three residential landowners near Road I NE, and convene diagnostic review meetings to evaluate appropriate levels of crossing protection and to determine final design of the grade crossings and associated warning devices prior to submitting new crossing petitions to UTC.¹⁵ In addition, the Port shall include notice to the three residential landowners near Road I NE in any road closure process with Grant County. ***(Revised in the FSEA to add the three residential landowners, diagnostic review meetings, and submittal of new crossing petitions to UTC.)***
37. The Port shall comply with applicable FRA track maintenance and inspection standards or ensure that the operator of the rail line does so.

Visual Quality

38. To the extent practicable, the Port shall be responsible for the following:
 - a. Ensuring that only the vegetation that needs to be cleared for construction purposes is removed.
 - b. Using native flora and vegetation when replanting disturbed areas.
 - c. Adding compost to the soil before seeding or planting in order to increase plant establishment.
 - d. Ensuring that cut-and-fill slopes are blended with the form and line of the existing landscape through grading practices to enhance visual quality.
 - e. Ensuring that vegetative buffers, such as trees or bushy shrubs, are located near residential areas to help screen the railroad corridor from viewers. These buffers should be located where additional vegetation would not impair visibility at road crossings.

¹⁵ As part of the administration of the USDOT 2017 FASTLANE grant, which is being used to fund final design and construction of the Project, the Port shall submit engineering design sets to FRA for review and approval.

Water Resources

39. The Port shall ensure that any bridge constructed over Crab Creek is designed such that stormwater runoff does not enter the water body.¹⁶
40. For Project-related construction, the Port shall comply with the stormwater management requirements of all federal, state, and local regulations regarding stormwater management, including Ecology's *Stormwater Manual for Eastern Washington* and National Pollutant Discharge Elimination System (NPDES) requirements.
41. The Port shall prepare an approved Stormwater Pollution Prevention Plan (SWPPP) and a Temporary Erosion and Sediment Control (TESC) plan prior to construction. The temporary erosion control measures shall be inspected regularly by the Port and maintained as necessary to ensure that these measures are functioning properly.
42. Consistent with applicable legal requirements, the Port shall coordinate with the operator of the rail line to prepare a Spill Prevention, Control, and Countermeasure (SPCC) plan to minimize any impacts associated with accidental spills of hazardous materials. The SPCC plan will require the development of a spill contingency plan and will provide for the implementation of containment and other countermeasures that could prevent spills from reaching navigable waters or wetlands.
43. The Port shall implement the following erosion and sedimentation controls:
 - a. Installing silt fencing with geotextile material along the proposed Project area perimeter to filter sediment from unconcentrated surface water runoff.
 - b. Placing catch basin inserts in all new and existing catch basins receiving runoff from the disturbed areas of the Project.
 - c. Placing straw bales in paths of concentrated runoff to filter sediment.
 - d. Preserving existing vegetation to the maximum extent possible.
 - e. Revegetating areas disturbed during construction with native grasses, where practicable. These areas shall be reseeded as soon as practicable following construction to prevent erosion.
 - f. Covering exposed soils with plastic or straw in the event of a major storm.
 - g. Constructing temporary ditches, berms, and sedimentation ponds to collect runoff and prevent discharge of sediment into drainages, streams, or wetlands.
 - h. Installing stabilized construction entrances and exits¹⁷ for truck access to the construction site to protect existing roadways and railroad tracks.

¹⁶ As part of the administration of the USDOT 2017 FASTLANE grant, which is being used to fund final design and construction of the Project, the Port shall submit engineering design sets to FRA for review and approval.

¹⁷ A stabilized construction entrance involves placing blacktop or gravel along the edge of the roadway to avoid erosion or displacement of soil where trucks access and leave the roadway.

- i. Cleaning any storm sewer facilities affected by Project construction to prevent sediment from leaving the site after construction is completed and erosion control measures are removed.
44. If the erosion and sediment control measures described above are not adequate to control erosion and sedimentation, all work shall cease, and the Port shall consult with Ecology regarding additional erosion control or restoration measures to protect adjacent properties.
 45. To avoid or minimize impacts to water resources during construction, the Port shall implement the following measures:
 - a. Consulting with the U.S. Army Corps of Engineers (USACE) and complying with the requirements of the Section 404 permitting process (Segment 1/Alternative 1A only).
 - b. Consulting with Ecology and complying with the requirements of the Section 401 Water Quality Certification (WQC) process (Segment 1/Alternative 1A only).
 - c. Locating equipment staging areas further than 200 feet from water bodies (Parker Horn, Crab Creek, or wetlands).
 - d. Leaving in place erosion control measures at culvert construction sites until the permanent culvert construction process is completed.
 - e. Coordinating with farmers and/or agricultural businesses regarding drainage issues that might arise.
 - f. Applying noxious weed control measures by an appropriately licensed contractor, using herbicides approved by the USEPA's Region 10 Office. Herbicides shall not be applied during periods of high wind.
 46. To prevent non-sedimentation pollutants (such as hazardous materials) from entering water bodies, the Port shall implement the following measures:
 - a. Handling and disposing of all pollutants used on-site during construction in a manner that does not contaminate stormwater, wetlands, irrigation canals, Parker Horn, or Crab Creek.
 - b. Establishing staging areas for equipment repair and maintenance at least 200 feet from all wetlands or water bodies.
 - c. Inspecting all construction equipment regularly for any fuel, lube oil, hydraulic fluids, or antifreeze leaks. If leaks are found, the Port shall immediately remove the equipment from service and repair or replace it and remediate the spill.
 - d. Disposing any washout from concrete trucks in a manner that avoids dumping it into storm drains or onto soil or pavement.
 - e. Ensuring that thinners and solvents are used at least 200 feet from wetlands or water bodies. Capturing, containing, and properly disposing of thinners and solvents.

- f. Requiring that fuel trucks maintain a minimum distance of 200 feet from water bodies and fueling construction vehicles away from sensitive areas, such as areas of permeable soils where a spill could more easily migrate to surface water.
 - g. Designing staging areas to capture all runoff and/or spills.
 - h. On-site excavated material, and/or clean structural rock from local commercial quarries that meets the engineering design criteria for use in railroad construction, may be used for fill. On-site excavated materials used for fill shall be tested before it is placed into surface water to ensure it is free of polluting materials. On-site excavated material shall not be used for fill if polluting materials are found and shall be removed from the site using BMPs. **(Originally revised in the DSEA as Measure 48.h.)**
47. The Port shall implement the following construction-related avoidance and minimization measures at the Crab Creek crossing:
- a. Isolating cast-in-place concrete bridge piers or abutments from water in Crab Creek for seven days to allow the concrete to cure and to avoid toxicity to aquatic life. Uncured or wet concrete shall not come into contact with flowing waters. Any isolated water that comes into contact with wet concrete and that has a pH greater than nine shall be pumped out and disposed of appropriately. **(Originally revised in the DSEA as Measure 49.a.)**
 - b. Consultation with USACE, Ecology, and WDFW, and compliance with the requirements of the Clean Water Act Section 404 permit, the Section 401 WQC, and the HPA.
48. To minimize the operational effects of the proposed Project on water resources, the Port shall implement the following railroad practices, or ensure that the operator of the rail line does so:
- a. Develop a bridge maintenance plan in compliance with FRA regulations.
 - b. Regularly check locomotives associated with the proposed operations to identify and repair fluid leaks or discharges.

Wetlands

- 49. Prior to submittal of wetland permit applications to appropriate federal, state, and local agencies, the Port shall perform additional field work and conduct analysis for the properties that were previously unavailable for wetland assessment.
- 50. The Port shall avoid or minimize disturbance to wetland areas whenever possible during construction.
- 51. The Port shall not allow construction staging areas in wetlands, including wetlands located within the Project right-of-way. **(Originally revised in the DSEA as Measure 53.)**

52. The Port shall prepare a Wetland Mitigation Plan to describe measures to avoid and minimize impacts to wetlands. The following measures shall be included:
- a. Compensating for unavoidable impacts by creating, restoring, or enhancing existing wetlands, or by purchasing compensatory wetland mitigation credits at an approved Wetland Mitigation Bank. **(Originally revised in the DSEA as Measure 54.a.)**
 - b. Adhering to current agency guidance on wetland mitigation, Wetland Mitigation in Washington State¹⁸, as well as guidance in the City of Moses Lake's Shoreline Management Master Plan and the Critical Areas Ordinance (for wetlands within the city), and complying with replacement ratios, buffer width, site selection criteria, and other criteria presented in this guidance.
 - c. Identifying a suitable off-site mitigation site.
 - d. Designing bridge span widths, fill slope angles, and the alignment to minimize impacts to wetlands and other aquatic resources.
 - e. Restoring disturbed areas in native plant communities near Wetland A and in the Crab Creek area to improve habitats and buffer wetlands. **(Originally revised in the DSEA as Measure 54.e.)**
 - f. Including habitat restoration to the extent practicable in the design of the proposed Crab Creek bridge to offset loss of wildlife habitats.
53. The Port shall mitigate wetland impacts at an available and approved Wetland Mitigation Bank if this is the preferred mitigation method of USACE and Ecology and shall comply with additional mitigation measures, if any, required by these agencies and the City of Moses Lake. If using a Wetland Mitigation Bank, the Port shall prepare a Mitigation Bank Use Plan that describes the appropriate categories, functions, and acreage of each impacted wetland and buffer and describes cost, credit ratio calculations, and available number of credits for purchase. The following impacted wetlands in Segment 1 shall be mitigated at an approved Wetland Mitigation Bank if the Port is required to do so by USACE, Ecology, or the City of Moses Lake: Wetland A, Wetland B, Wetland C and Wetland E. **(Originally revised in the DSEA as Measure 55. Further revised in the FSEA for clarity.)**
54. The Port shall ensure that irrigation ditches and canals are either avoided by spanning both banks with the crossing structure, or that a culvert is installed to allow water to flow beneath the rail fill.

Permit Conditions

55. Conditions of all permits shall be included in any construction documents that the Port provides to contractors.

¹⁸ Ecology, USACE Seattle District, and EPA Region 10. 2006. *Wetland Mitigation in Washington State: Part 1 and Part 2*. Version 1. Washington State Department of Ecology Publications #06-06-011a and #06-06-011b. Olympia, WA. March 2006.

9. Coordination and Consultation

Prior EA

As part of the environmental review process for the Prior EA, STB's OEA and WSDOT conducted public outreach and solicited public comments regarding Project alternatives. Prior to starting the NEPA process in 2007, OEA and WSDOT prepared a Public Involvement Plan to engage the public during the alternative analysis process for the Project. Public meetings and outreach for the Preliminary EA included a Public Open House held on July 19, 2007; presentations to the Moses Lake City Council and Port of Moses Lake on October 17, 2007; and website information.

Six alternatives for the original Project design were developed prior to starting the NEPA process and the Preliminary EA. These included a No-Build Alternative and the following Build Alternatives:

- Segment 1 south of Wheeler Road and crossing at Parker Horn.
- Segment 1/Alternative 1A south of Wheeler Road and crossing at Crab Creek.
- Segment 2 providing access to the interior of the GCIA industrial area.
- Segment 2/Alternative 2A providing access to the east side of the GCIA industrial area.
- Segment 3 rehabilitation of an existing rail line between Parker Horn/Crab Creek and the GCIA.

The July 2007 Public Open House was attended by 85 people, and 45 comments were received in response to the meeting. Of those comments, 13 supported the Project as proposed, two thought that the existing rail line should be refurbished and no new line constructed, and 26 requested that the Project team consider a route north of Wheeler Road (subsequently named "July Alternative") that would entirely bypass the existing developed area of the City of Moses Lake. The comments also indicated concerns about traffic delays at railroad crossings; the safety of students who attend Longview Elementary School, who may cross or trespass on the existing track (Segment 3); and incompatibility with an existing residential area near the Segment 3 existing track; noise; pedestrian and bicycle safety, aesthetics and community cohesion; economic impacts; and delays to emergency vehicle response times.

A comparison of the July Alternative and the Build Alternatives was presented at the October 2007 City Council and Port meetings. Following those meetings, a member of the public suggested an additional northern route (subsequently named "October Alternative").

On November 7, 2008, OEA and WSDOT issued a Preliminary EA with a 30-day public comment period to ensure that any STB authorization to construct and operate the Project complied with statutory NEPA requirements, CEQ guidelines, STB's environmental regulations, Executive Orders, the statutory requirements of the Washington State Environmental Policy Act, WSDOT environmental requirements, and other applicable federal and state rules and regulations.

The Preliminary EA analyzed the No Build and Build Alternatives in depth, including the July Alternative and the October Alternative. The July and October Alternatives were withdrawn from further consideration primarily because they did not meet the purpose and need of the Project. OEA and WSDOT held a Public Open House on November 20, 2008 to present the Preliminary EA, provide additional information about the Project, facilitate public involvement in the environmental review process, and receive comments. Approximately 38 people attended the Open House, and a total of 29 written comments from elected officials, organizations, agencies, companies and private citizens were received by the end of the public comment period on December 8, 2008.

The Final EA, issued in May 2009, responded to comments on the Preliminary EA; developed and analyzed five additional alternatives for Segment 1, including one alignment modification (Ecology Modification); corrected or added to information in the Preliminary EA; modified 10 of 57 measures contained in the Preliminary EA; and recommended one new measure. The additional Segment 1 alternatives in the Final EA differed in the track location and length, number of at-grade road crossings, impacts to wetlands, zoning of land within the right-of-way, number of structures affected, and engineering challenges (such as gradient, height of cut slopes, and radius of curves). The additional alternatives, except for the Ecology Modification, were rejected as not meeting the Project purpose and need or were determined to be unfeasible due to economic, technical, or constructability issues.

The environmentally preferred alternative selected in the Final EA, and subsequently authorized by the STB in a decision dated August 27, 2009, included the Segment 1 Alternative 1A crossing of Crab Creek and the option to use the Ecology Modification, the standard version of Segment 2 without Alternative 2A, and the acquisition¹⁹ and rehabilitation of Segment 3.²⁰ Further, STB's OEA determined that preparation of an Environmental Impact Statement (EIS) was not necessary because there would not be significant environmental impacts due to the avoidance and minimization measures imposed on the Port by the STB 2009 decision.²¹

Supplemental EA

As previously described in Section 1, following a period of economic downturn, the Project was selected to receive grant funding from the USDOT under the FASTLANE program in 2017 (administered by FRA), and the Port proposed minor modifications to the STB-authorized Segment 1 and Segment 2 alignments to minimize impacts to the built and natural environment and to better fulfill the Project purpose.

¹⁹ As noted in Footnote 1, the Port sought and obtained authority from the STB to acquire and rehabilitate Segment 3 which is an existing rail line. However, the Port may either acquire Segment 3 or enter into a long-term agreement with CBRW to cover rehabilitation, maintenance and operation of the segment.

²⁰ See, e.g., Authorization Decision (Aug. 27, 2009), slip op. at 5-7. See also Final EA (May 8, 2009) at pages ES-5 and ES-9, showing maps of the various alternatives.

²¹ Final EA at page ES-2. See also Authorization Decision (Aug. 27, 2009), slip op. at 6-7.

On November 2, 2018, the Port filed a Petition to Re-Open the STB proceeding in Docket No. 34936. To ensure compliance with NEPA for the proposed modifications, a Draft Supplemental EA (July 11, 2019) and Final Supplemental EA (November 5, 2019) were prepared by the STB as the lead federal agency. FRA is a cooperating agency. FRA used the Draft and Final Supplemental EAs to inform its NEPA compliance responsibilities regarding the Port's 2017 request and subsequent selection to receive a \$9.9 million USDOT FASTLANE grant. FRA separately considered the entire environmental record in issuing this FONSI.

9.1 Stakeholder Involvement

Prior EA

On April 2, 2007, STB's OEA and WSDOT initiated consultation with four federally recognized Native American tribes (Colville Confederated Tribes, Confederated Tribes and Bands of the Yakama Nation, and Confederated Tribes of the Warm Springs Reservation) and one unrecognized Native American tribe (Wanapum Tribe), via letters through mail, for information regarding the presence of sensitive Native American cultural resources or other sensitive resources within the Project area, consistent with Section 106.

OEA and WSDOT also sent letters on April 2, 2007 to the following Federal, state and local agencies to facilitate timely identification, evaluation, and resolution of environmental and regulatory issues related to the Project:

Federal Agencies

- U.S. Army Corps of Engineers
- U.S. Bureau of Reclamation
- U.S. Bureau of Land Management*
- U.S. Department of Agriculture, Natural Resources Conservation Service*
- U.S. Environmental Protection Agency
- U.S. Fish and Wildlife Service*
- NOAA Fisheries Service
- National Park Service
- Federal Railroad Administration
- Federal Aviation Administration*

State Agencies

- Washington State Department of Archaeology and Historic Preservation (DAHP) or State Historic Preservation Officer (SHPO)*
- Washington State Department of Community, Trade and Economic Development
- Washington State Department of Ecology

Washington State Department of Fish and Wildlife*
Washington State Department of Natural Resources
Washington State Department of Transportation, North Central Region*
Washington State Parks*
Washington State Utilities and Transportation Commission

Local Agencies

Grant County Community Development Department*
Grant County Economic Development Council*
Grant County Public Utility District
Port of Moses Lake*
City of Moses Lake Community Development Department*
Moses Lake Irrigation and Rehabilitation District
TransCo, via the Washington State Potato Commission*
Quad-County Regional Transportation Planning Organization

OEA and WSDOT also made presentations to the Moses Lake City Council and Port of Moses Lake on October 17, 2007. Of the agencies contacted regarding the Project, only those marked with an asterisk (*) on the previous list provided OEA and WSDOT with information, which was included in the Preliminary EA. The Grant County Fire District and Longview Elementary School/Moses Lake School District also provided information.

Supplemental EA

OEA initiated consultation with the four federally recognized Native American tribes and the one non-federally recognized Native American tribe noted previously, via letters through mail and email on September 21, November 9 and December 4, 2018, to verify the Modified APE for the proposed alignment modification. Consistent with Section 106 of the NHPA, OEA contacted the four tribes on May 23, 2019 via letters through mail and email to review and participate in the Amended PA associated with the overall Project.

Consistent with Section 106, OEA consulted with DAHP to verify the Modified APE, which the DAHP approved via letters on August 22, 2018 and November 6, 2018. OEA also consulted DAHP on April 25, 2019 to review and concur with findings of the cultural resources report and Section 4(f) analysis associated with the Project's Modified Alignment, which DAHP approved via letter on November 6, 2018. OEA also consulted DAHP on March 6, 2019, April 1, 2019 and May 21, 2019 to review and approve the Amended PA.

Jacobs' biologists also consulted the Washington Department of Fish & Wildlife on December 5, 6, and 10, 2018 and on April 1, 2019 to update the Fish, Wildlife, and Vegetation sections and the avoidance, minimization, and mitigation measures in the Supplemental EA. Jacobs' staff

also consulted with the U.S. Fish and Wildlife Service (USFWS) on October 24 and October 28, 2019 confirming that Endangered Species Act (ESA) Section 7 consultation regulations do not specifically provide a mechanism for the USFWS to concur with a “no effect” determination by the STB.

9.2 Public Involvement and Participation

Prior EA

Public outreach for the Preliminary EA included a Public Open House held on July 19, 2007. The public review period for the Preliminary EA began on November 7, 2008 and ended on December 8, 2008. Distribution letters were mailed to elected officials, Tribes, federal agencies, state agencies, local agencies, and other interested parties on November 7, 2008. The Preliminary EA was also available for review at the Moses Lake Public Library and on STB’s website. Written comments were collected during this time and a Public Open House was also held on November 20, 2008 to facilitate public involvement in the environmental review process.

A total of 29 comments were filed with STB by agencies and other interested parties and were considered in the Project’s Final EA. Please refer to the May 2009 Final EA for the comment letters and responses.

Supplemental EA

On July 11, 2019, STB issued the Draft Supplemental EA for public review and comment and published a Notice of Availability in the *Federal Register* (84 FR 33114). OEA provided notice of the Draft Supplemental EA to all parties of record for this proceeding, parties that submitted comments for the Prior EA, as well as to federal, state, and local agencies and officials, and Tribes served in 2007 for the Prior EA, in addition to those noted previously. The Draft Supplemental EA was made available on STB’s website and printed copies were made available for review at the City of Moses Lake Public Library and at the Port of Moses Lake office in Grant County, Washington.

STB encouraged the public and any interested parties to submit written comments on all aspects of the Draft Supplemental EA. The comment period closed on August 12, 2019. STB received six comments; five comments were received from state and federal agencies and one comment was received from the Port. Additionally, one letter with environmental comments was received from an individual before the DSEA was served. STB and FRA considered all comments received and responded to all substantive comments in the [Final Supplemental EA](#) in Chapters 3 and 4 of the document which was finalized on November 5, 2019 and is available by searching Environmental Reviews by state on the [Environment page of FRA’s website](#).

10. Conclusion

FRA finds that the Northern Columbia Basin Railroad Project as presented and assessed in the Prior EA and Supplemental EA satisfies the requirements of NEPA (42 U.S.C. §§ 4321 et seq.), the CEQ regulations (40 CFR parts 1500-1508), and FRA's *Procedures for Considering Environmental Impacts* (64 FR 28545, May 26, 1999, as updated in 78 FR 2713, January 14, 2013), and would have no foreseeable significant impact on the quality of the human or natural environment provided it is implemented in accordance with the commitments identified in this FONSI. This FONSI is based on the Prior and Supplemental EAs, which were independently evaluated by FRA and determined to adequately and accurately define the purpose and need, evaluate environmental impacts, and identify appropriate avoidance, minimization, and mitigation measures and commitments. As the Project sponsor, the Port of Moses Lake is responsible for implementing all environmental commitments identified in this FONSI. The Prior and Supplemental EAs provide sufficient evidence and analysis for FRA to determine that an Environmental Impact Statement is not required for the Northern Columbia Basin Railroad Project as presented.

JAMIE P. RENNERT

Digitally signed by JAMIE P.
RENNERT
Date: 2020.06.25 08:44:56 -04'00'

06/25/2020

Jamie P. Rennert
Director, Office of Program Delivery
Office of Railroad Policy and Development
Federal Railroad Administration

Date

FRA's Office of Railroad Policy and Development prepared this document in May 2020 in accordance with FRA's *Procedures for Considering Environmental Impacts* and NEPA. For further information regarding this FONSI contact:

Lydia Kachadoorian Environmental Protection Specialist
U.S. Department of Transportation
Federal Railroad Administration
Office of Railroad Policy and Development
1200 New Jersey Ave, SE Washington, DC 20590
Phone: (781) 227-0778

The following organization(s) assisted FRA's Office of Railroad Policy and Development in the preparation of the associated Supplemental EA:

Surface Transportation Board (STB), Office of Environmental Analysis (OEA)
Jacobs Engineering Inc.

References

- Surface Transportation Board (STB) Office of Environmental Analysis and the Federal Railroad Administration (FRA). 2019. *Northern Columbia Basin Railroad Project – Final Supplemental Environmental Assessment*. November 5, 2019.
- Surface Transportation Board (STB). 2009. Decision-STB Finance Docket No. 34936; Port of Moses Lake-Construction Exemption-Moses Lake, Washington; Port of Moses Lake-Acquisition Exemption-Moses Lake, Washington. August 21, 2009.
- Surface Transportation Board (STB) Section of Environmental Analysis and the Washington State Department of Transportation (WSDOT). 2009. *Northern Columbia Basin Railroad Project – Final Environmental Assessment*. May 2009.
- Surface Transportation Board (STB). 2008. *Northern Columbia Basin Railroad Project – Preliminary Environmental Assessment*. November 7, 2008.
- Surface Transportation Board (STB). 2019. *Northern Columbia Basin Railroad Project – Draft Supplemental Environmental Assessment*. July 11, 2019.

APPENDIX A

AMENDED PROGRAMMATIC AGREEMENT

NORTHERN COLUMBIA BASIN RAILROAD PROJECT

AMENDED PROGRAMMATIC AGREEMENT

AMONG

THE SURFACE TRANSPORTATION BOARD,

THE FEDERAL RAILROAD ADMINISTRATION,

**THE WASHINGTON DEPARTMENT OF ARCHAEOLOGY AND HISTORIC
PRESERVATION, AND**

THE PORT OF MOSES LAKE

REGARDING STB FINANCE DOCKET NO. 34936, PORT OF MOSES LAKE —
CONSTRUCTION EXEMPTION — MOSES LAKE, WASHINGTON

AND

STB FINANCE DOCKET NO. 34936 (SUB-NO. 1), PORT OF MOSES LAKE —
ACQUISITION EXEMPTION — MOSES LAKE, WASHINGTON

AND

STB FINANCE DOCKET NO. 34936 (SUB-NO. 2), NORTHERN COLUMBIA BASIN
RAILROAD — OPERATION EXEMPTION — MOSES LAKE, WASHINGTON

AND

FRA'S ADMINISTRATION OF FY17 INFRASTRUCTURE FOR REBUILDING
AMERICA GRANT FUNDS

WHEREAS, the Port of Moses Lake (Port) is proposing the Northern Columbia Basin Rail Project located in Grant County, Washington (hereinafter, "the Project"), which is an undertaking as defined in 36 C.F.R. § 800.16(y) with the potential to adversely affect historic properties; and

WHEREAS, on August 27, 2009, the Surface Transportation Board (STB) issued a decision authorizing construction of two segments of rail line and acquisition of a third segment of rail for the Project that was then proposed by the Port, subject to environmental mitigation measures, including compliance with Section 106 of the National Historic Preservation Act (NHPA), 54 U.S.C § 306108; and

WHEREAS, the Port is now seeking authorization from STB for modifications to the route of the rail construction previously authorized as part of the Project; and

WHEREAS, the Port applied for and is receiving funding from the US Department of Transportation under its Fiscal Year 2017 Infrastructure for Rebuilding America (INFRA) Grant Program for the Project and the USDOT's Federal Railroad Administration (FRA) is administering the INFRA grant and the Port intends to use INFRA funds to pay for right-of-way (ROW) acquisition, final design, and construction of the Project; and

WHEREAS, STB is preparing a Supplemental Environmental Assessment (Supplemental EA) in accordance with the National Environmental Policy Act (NEPA) for the proposed modified route for the Project and FRA is participating in the preparation of the Supplemental EA as a cooperating agency; and

WHEREAS, a Programmatic Agreement (hereinafter Agreement) to govern compliance with Section 106 of the NHPA for the Project was previously executed among STB, the Washington Department of Archaeology and Historic Preservation (which serves as the State Historic Preservation Officer (SHPO)), the Port, the Washington State Department of Transportation (WSDOT), and the Columbia Basin Railroad Company, Inc. (CBRW) on June 10, 2009 and due to modifications to the Project, the Agreement is being amended to (1) extend the time period set forth in the Duration Clause (Section X), (2) to add FRA as a Signatory, (3) to update the Agreement to align with guidance and policies issued by the Advisory Council on Historic Preservation (ACHP) since 2014, and (4) address additional Section 106 compliance requirements that are necessary as a result of the proposed route modifications. This executed version shall supersede the June 10, 2009 version; and

WHEREAS, the Project, with the proposed modifications and as illustrated in Appendix A, consists of the following three segments and associated activities: acquire ROW through purchase, design, and construct approximately 4.5 miles of new rail line along the Wheeler Industrial Corridor, between the area known as Wheeler and Parker Horn, and reroute rail traffic from the existing aging rail infrastructure to this new route (Segment 1); acquire ROW through purchase, design, and construct approximately 3.1 miles of new rail line to access industrial lands adjacent to the Grant County International Airport (Segment 2); and acquire existing rail line through donation from CBRW and rehabilitate approximately three miles of existing track between Parker Horn and the Airport, restoring rail service to the Port and Airport and connecting Segments 1 and 2 (Segment 3); and

WHEREAS, STB, as the lead federal agency responsible for compliance with Section 106 for the Project, has consulted with SHPO, pursuant to 36 C.F.R. Part 800; and

WHEREAS, pursuant to 36 C.F.R. § 800.2(a)(2), FRA, in correspondence dated July 25, 2018, designated STB to serve as the lead federal agency to fulfill the agencies' collective Section 106 compliance responsibilities and participated in the preparation of this Agreement and is a Signatory; and

WHEREAS, the Port as the Project Applicant is an Invited Signatory to this Agreement; and

WHEREAS, STB consulted with the following federally-recognized Native American tribes and invited them to participate in this Agreement: the Confederated Tribes and Bands of the Yakama Nation; the Colville Confederated Tribes; and the Confederated Tribes of the Warm Springs Reservation of Oregon. However, those Tribes have not elected to participate; and

WHEREAS, STB consulted with the non-federally recognized Wanapum Tribe and invited it to participate in this Agreement, and the Wanapum Tribe has not elected to participate; and

WHEREAS, STB has consulted with the WSDOT Rail, Freight, and Ports Division and invited WSDOT to sign this Agreement as a concurring party, and WSDOT has agreed; and

WHEREAS, once the Project has been constructed, CBRW shall operate service over the line, and was invited by STB to sign this Agreement as a concurring party, and CBRW has agreed; and

WHEREAS, on December 8, 2008, STB invited the ACHP to participate in the development of this Agreement, and the ACHP declined to participate; and

WHEREAS, STB, pursuant to 36 C.F.R. § 800.4(a)(1), established the Area of Potential Effects (APE) for the Project as it was originally proposed by the Port in 2009 (Original APE), which encompassed a 200-acre area extending 50 feet on either side of the proposed rail corridor centerline. Analysis of potential noise and vibration impacts considered historic buildings or structures within this 100-foot-wide corridor. SHPO concurred with the Original APE in a November 2, 2007 letter; and

WHEREAS, the APE has been adjusted to cover the proposed modified route for the Project (Modified APE). Generally, the Modified APE for the proposed alignment modifications is 100-feet-wide (50 feet on either side of the proposed track centerline). The Modified APE for Segment 1 has been expanded at certain locations, ranging from 90 feet to 120 feet on either side of the modified track centerline, to accommodate construction, staging, and/or laydown areas. Likewise, the Modified APE for Segment 2 has been expanded to include review of two alternative modifications to the originally proposed route, and ranges from 100 feet wide to approximately 325 feet wide, including a staging area at the north end of the alignment. STB's Office of Environmental Assessment (OEA), FRA, and SHPO approved the Modified APE in August 2018¹ and November 2018²; and

¹ August 22, 2018 letter from SHPO to OEA

² November 6, 2018 letter from SHPO to OEA

WHEREAS, a cultural resource survey to identify historic properties in the APE and evaluate whether the historic properties are eligible for listing in the National Register of Historic Places (NRHP) was conducted in 2008³; and

WHEREAS, a supplemental resource survey was conducted in 2019 to investigate the surface and subsurface of the Modified APE that included previously unsurveyed parcels⁴; and

WHEREAS, STB has determined that some areas within the APE are not currently accessible and cannot be adequately investigated prior to the Port's acquisition of the ROW, and may contain NRHP-eligible historic properties; and

WHEREAS, a phased process for compliance with Section 106, as provided for in 36 C.F.R. § 800.4(b)(2), is appropriate because historic and archaeological investigations are still in process and cannot be completed on all land within the APE until the Port acquires the property for the Project; and

NOW, THEREFORE, STB, FRA, the Port, and SHPO (collectively referred to as the Signatory Parties or Signatories) agree that the Project is subject to the following stipulations in order to take into account the effects of the Project on historic properties and further agree that these stipulations shall govern the Undertaking and all of its parts until this Agreement expires or is terminated.

STIPULATIONS

I. GENERAL REQUIREMENTS AND STANDARDS

A. All work carried out under this Agreement shall be conducted by or under the direct supervision of a person or persons meeting, at a minimum, the *Secretary of the Interior's Professional Qualification Standards* (36 C.F.R. Part 61).

B. All work carried out under this Agreement shall meet the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation (48 Fed. Reg. 44716) as well as standards and guidelines for historic preservation activities as established by SHPO.

C. Timeframes and Notification

1. All time designations in this Agreement are in calendar days unless otherwise stipulated. If a review period ends on a Saturday, Sunday or Federal holiday,

³ HDR Engineering, Inc. 2008. Northern Columbia Basin Railroad Project Draft Cultural Resources Report

⁴ Jacobs. 2019. Port of Moses Lake Northern Columbia Basin Railroad Project Supplemental Cultural Resources Investigations for Draft Supplemental Environmental Assessment. Historic canals in the original and modified APE were also looked at further and are discussed in Jacobs. 2017. Historic Canals Effects Assessment for the Northern Columbia Basin Railroad Project.

the review period shall be extended until the first business day following the Saturday, Sunday, or Federal holiday.

2. All review periods stipulated by this Agreement start on the day the documents are sent to the relevant parties which constitutes notification unless otherwise stipulated in this Agreement.
3. All notifications required by this Agreement shall be sent by email and/or other electronic means unless a recipient requests a hard copy notification.

D. Document Review

1. Where required under this Agreement, STB, in coordination with the Port, shall submit documentation to the Signatory Parties, any interested or affected Native American tribes, and other consulting parties for review, comment and/or concurrence.
2. If the appropriate parties do not provide written comments to STB as specified during the specified review period, it is understood that the non-responding parties have no comments on the submittal, and STB shall proceed to the next step of the consultation process.
3. If the Signatory Parties, any interested or affected Native American tribes, or other consulting party objects or recommends extensive revisions to submissions, STB, in coordination with the Port, shall work expeditiously to respond to objections and resolve disputes. STB may elect to follow the dispute resolution process identified in Stipulation VI to resolve any such dispute.

II. **ADDITIONAL MODIFICATIONS TO THE APPROVED APE**

- A. The Port shall notify STB of any changes in Project plans and the following shall occur if those changes are not major changes to the Project that require reopening F.D. 34936 for new or additional authorization from STB:
 1. STB, in consultation with FRA, shall review the changes in Project plans to determine if they necessitate revisions to the approved APE.
 2. If the APE requires revision, the Port, in coordination with STB, shall prepare a written justification with accompanying graphics, as appropriate, for the proposed revised APE, which STB shall submit to SHPO for review.
 3. Following SHPO concurrence on the revised APE, STB shall promptly notify the Signatories, any interested or affected Native American tribes, and other consulting parties of the revised APE.

4. As appropriate, the Port shall update or perform additional cultural resources work in accordance with Stipulation III or IV of this Agreement. The Port shall not commence ground disturbing and/or construction activities within the revised APE prior to the completion of the Section 106 process required by this Agreement until such time as Approval to Proceed is received in accordance with Stipulation V.

III. PHASED SECTION 106 IDENTIFICATION, EVALUATION, AND ASSESSMENT OF EFFECTS

- A. The Port shall conduct cultural resource survey work on parcels contained within the Modified APE that were not part of previous investigations, and any previously inaccessible parcels that are included in the Supplemental EA.
- B. Once access to a previously inaccessible area within the Modified APE has been obtained, the Port shall:
 1. Provide written notification to STB, Signatories, interested and affected Native American tribes, and other consulting parties of the survey methodology and Project schedule at least fourteen (14) calendar days prior to initiating the cultural resources survey.
 2. Conduct a cultural resources survey and produce a Draft Survey Report with associated Historic Property Inventory (HPI) forms to identify archaeological resources and historic structures that are 45 years old or older. Any identified resources shall be inventoried per Stipulation I.B and evaluated for their eligibility for inclusion in the National Register of Historic Places (NRHP). The Draft Survey Report shall: a) summarize the findings; b) make recommendations regarding any resources' eligibility for listing in the NRHP; and c) assess effects to historic properties applying the criteria for adverse effects (36 C.F.R. §§ 800.5 (a)(1) and (2)) as a result of the Project.
 3. Specify any resources within the Draft Survey Report that were not fully identified, evaluated, and/or assessed for effects and the reasons why, and provide recommended actions for further investigation of those resources.
- C. The Port shall provide the Draft Survey Report and any associated HPI forms to STB. The STB shall review and provide written comment to the Port on the Draft Survey Report and HPI forms within fourteen (14) calendar days. The Port shall revise the Draft Survey Report consistent with STB's comments and submit the revised Draft Survey Report to STB within fourteen (14) calendar days of the receipt of comments for finalization.
- D. The STB shall consult with the Signatories, any interested or affected Native American tribe, and other consulting parties on the findings by providing the Draft

Survey Report to them for review and comment. All parties shall review and provide written comments within thirty (30) calendar days.

- E. Once STB receives concurrence from SHPO and FRA on the Draft Survey Report's sufficiency, the Survey Report shall be finalized by the Port, taking any comments received into account, and submitted to STB, SHPO, FRA, and any interested or affective Native American tribe and/or consulting parties that requested a copy during the comment period.
- F. The STB, in consultation with the Signatories, any interested or affected Native American tribes, and other consulting parties, may determine that further investigation is necessary. The STB may require the Port to conduct additional fieldwork, including a pedestrian survey and/or subsurface testing, as necessary. All subsequent work shall be reported in additional Survey Reports following the processes outlined in this Stipulation.

IV. RESOLUTION OF ADVERSE EFFECTS - TREATMENT OF HISTORIC PROPERTIES

- A. If STB determines, through the process laid out in Stipulation III, that the Project shall adversely affect a historic property(ies), it shall address the effects through the development of a treatment plan(s), rather than through the development of a Memorandum of Agreement or other Section 106 agreement document. A treatment plan may address one or multiple historic properties in the same plan.
- B. After taking into consideration the significance of the historic property(ies) affected and the severity of the adverse effect(s), STB shall develop a treatment plan that proposes to avoid, minimize, or mitigate adverse effects to the historic property(ies). The treatment plan shall include a curation plan for any artifacts that are recovered, as applicable.
- C. The treatment plan, and all associated treatment measures, shall be developed and implemented by cultural resource professionals that meet the Secretary of the Interior's Standards as referenced in Stipulation I.A.
- D. The STB shall submit the proposed treatment plan to the Signatories, any interested or affected Native American tribe, and other consulting parties in writing for review and comment. All parties shall review and provide written comments within thirty (30) calendar days.
- E. If STB receives an objection to the proposed treatment plan, it shall notify all the Signatories, any interested or affective Native American tribe, and other consulting parties within fifteen (15) calendar days. STB, in consultation with SHPO and the objecting party, shall work expeditiously to address the objection. The final version of the treatment plan requires SHPO concurrence prior to implementation.

- F. Unless SHPO, the Signatories, any interested or affected Native American tribe, or another consulting party objects within thirty (30) calendar days of receipt of the proposed treatment plan, STB shall take into account any comments timely submitted. STB shall summarize the comments, provide written notification to the Signatories, any interested or affected Native American tribe, or other consulting parties, and proceed with the implementation of the treatment plan.
- G. The Port shall implement the treatment plan.

V. APPROVAL TO PROCEED

The Port shall not proceed with construction of any portion or segment of the Project until notified in writing by STB's OEA that all Section 106 requirements are satisfied for that specific segment of the Project. This includes all identification, evaluation, assessment of effects, and resolution of adverse effects to any identified historic properties within the Modified APE for each segment.

VI. DISPUTE RESOLUTION

- A. Any party to this Agreement or any tribe or other consulting party may object to any proposed action(s) or the manner in which the terms of this Agreement are implemented by submitting its objection in writing to STB. If STB receives an objection, it shall notify the Signatories of the objection and consult with the Signatories and objecting party to resolve the objection. If STB determines that the objection cannot be resolved through consultation, STB shall:
 - 1. Forward all documentation relevant to the dispute to the ACHP (with a copy to the Signatories). Such documentation shall include STB's proposed resolution to the objection. STB shall request that the ACHP provide STB with its comment on the resolution of the objection within thirty (30) calendar days of receiving documentation. STB shall take into account any timely comments received regarding the dispute from the ACHP and the Signatories when making its final decision on the dispute.
 - 2. If the ACHP does not provide comment regarding the dispute within thirty (30) calendar days, STB shall make the final decision on the dispute and proceed accordingly.
 - 3. STB shall document this decision in a written response that and provide ACHP and the Signatories with a copy of the response.
 - 4. STB shall then proceed according to its final decision.
- B. Any recommendation or comment provided by the ACHP shall be understood to pertain only to the subject of the dispute, and STB's responsibility regarding

actions outside the dispute shall remain unchanged. The parties may continue all actions under this Agreement that are not the subject of the dispute.

- C. Each party reserves any and all rights it may otherwise have to enforce its rights or seek resolution of the dispute under applicable law.

VII. AMENDMENTS

Any signatory to this Agreement may propose that it be amended, whereupon the parties shall confer and consider the amendment. Any resulting amendment requires the agreement of all Signatory Parties and shall be executed in writing.

VIII. UNANTICIPATED DISCOVERIES

In the event that any unanticipated historic or cultural properties, archaeological sites, human remains, funerary items, or assorted artifacts are discovered during Project construction, the Port shall immediately cease all work and notify STB, the Signatories, interested federally-recognized Indian tribes, and other consulting parties, to determine if additional consultation and/or mitigation is necessary. In the event that human remains are discovered, the Port shall also notify appropriate law enforcement agencies. (See the Plan and Procedures for the Unanticipated Discovery of Cultural Resources and Human Skeletal Remains in Appendix B).

IX. TERMINATION AND WITHDRAWAL

- A. Should STB find that the terms of this Agreement shall not or cannot be carried out, STB shall immediately consult with the other Signatories to develop an amendment per Stipulation VII. If within thirty (30) calendar days (or another time period agreed upon by all Signatories) an amendment cannot be reached, any Signatory may terminate this Agreement upon written notification to the other Signatories.
 - 1. Any discovery of historic or cultural properties, archaeological sites, human remains, funerary items, or assorted artifacts in process under the terms of this Agreement at the time of the termination shall be processed to its completion by the Port.
- B. If at any time, FRA disagrees with the manner in which the terms of the Agreement are carried out, FRA may object in writing to STB. STB shall follow Stipulation VI in resolving the objection. If STB and FRA are unable to come to agreement, FRA may withdraw its participation in this Agreement entirely upon 30-days written notification to all Signatories, leaving the Agreement in full force and effect with respect to STB's Section 106 compliance responsibilities. If FRA withdraws from this Agreement, FRA shall be responsible for satisfying its own Section 106 compliance responsibilities.

- C. In the event of termination of this Agreement or FRA withdrawal under paragraph B of this stipulation, the Port cannot continue work on the Project until STB and/or FRA, as appropriate, executes a new agreement pursuant to 36 C.F.R. § 800.14(b); requests, takes into account, and responds to comments of the ACHP under 36 C.F.R. § 800.7; or otherwise complies with Section 106 per 36 C.F.R. Part 800. The STB and FRA shall provide written notice to the other Signatories as to the course of action pursued.
- D. If the Port withdraws from participation in this Agreement, then the Agreement is terminated.

X. DURATION

Unless terminated pursuant to Stipulation IX, this Agreement shall terminate automatically within ten (10) years after the date of any STB decision authorizing or declining to authorize the proposed modifications to the Project in Grant County, Washington.

XI. EFFECTIVE DATE

This Agreement shall be effective on the date of the last signature by the Signatories. Pursuant to 36 C.F.R. § 800.6(c)(2), the effective date of this document is not contingent upon the signature of Concurring Parties.

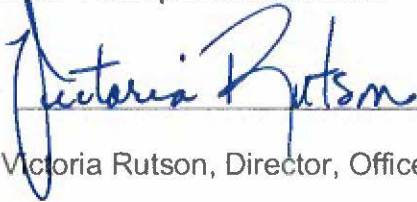
XII. EXECUTION AND IMPLEMENTATION

Execution and implementation of this Agreement evidences that STB and FRA have taken into account the effects of this undertaking on historic properties, have afforded the ACHP a reasonable opportunity to comment, and STB and FRA have satisfied their responsibilities under Section 106 of the NHPA and its implementing regulations.

ACCEPTED AND AGREED

SIGNATORY PARTIES

Surface Transportation Board

By: 

Date: July 3, 2019

Victoria Rutson, Director, Office of Environmental Analysis

Federal Railroad Administration

By: *Debra A. Smith*

Date: *July 3, 2019*

for

Marlys Osterhues, Chief, Environment and Project Engineering Division, Office of
Railroad Policy and Development

Washington Department of Archaeology and Historic Preservation

By:  _____

Date: 6/25/19

Dr. Allyson Brooks, Washington State Historic Preservation Officer

The Port of Moses Lake

By:  _____

Jeffrey Bishop, Executive Director

Date: 07/03/19

CONCURRING PARTIES


Washington State Department of Transportation

By: *Ron Pate*

Date: *7-23-2019*

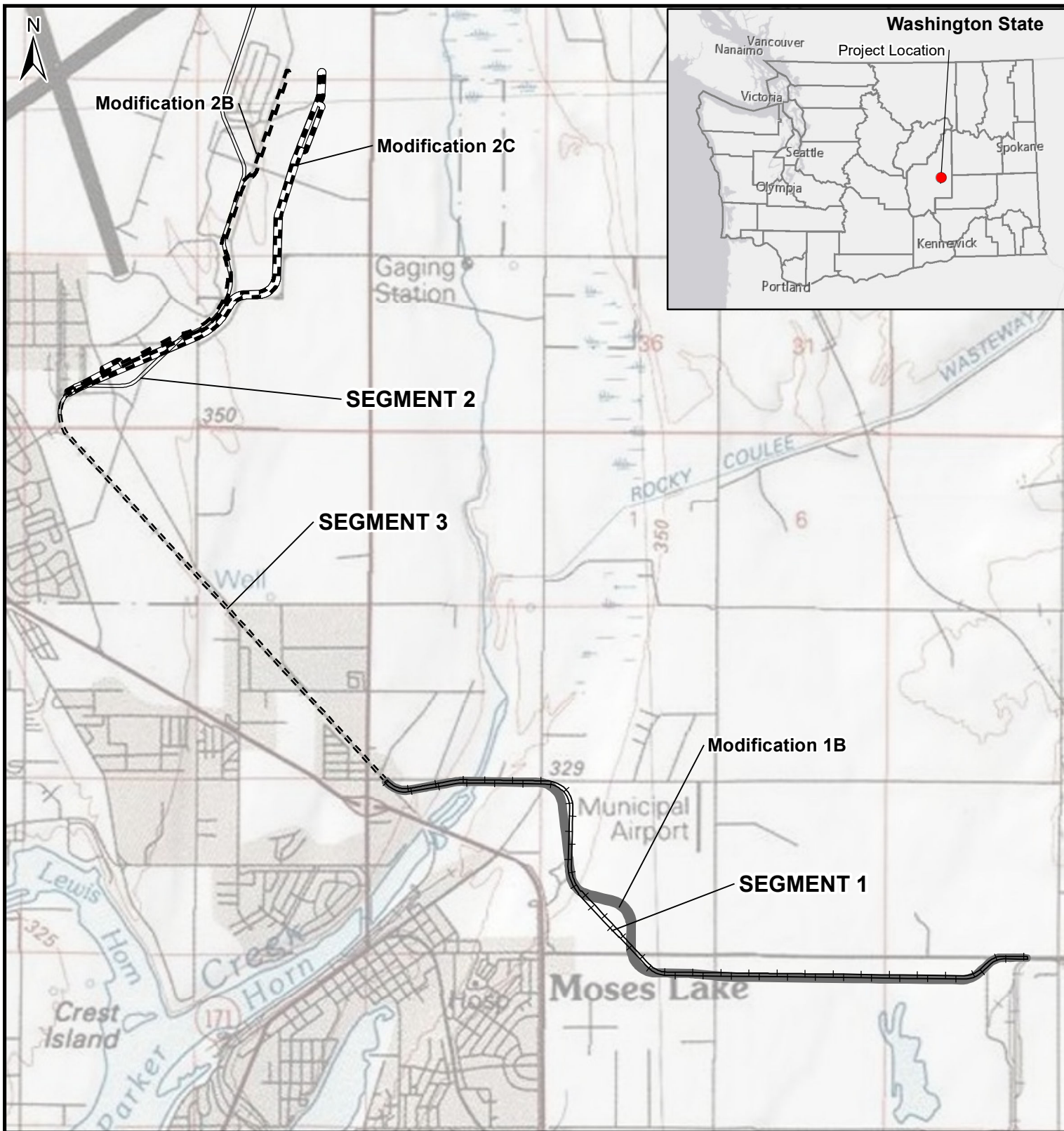
Ron Pate, Director, Rail, Freight, and Ports Division

Columbia Basin Railroad Company, Inc.

By: 
Brig Temple, President

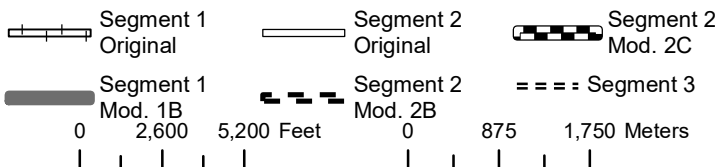
Date: 6/23/19

APPENDIX A



VICINITY MAP

Legend



PROJECT: Northern Columbia Basin Railroad Project
CLIENT: Port of Moses Lake (POML)
LOCATION: Moses Lake, Washington
COUNTY: Grant
PLSS: Segment 1: T19N R28E S14, 13, 24 and T19N R29 E S19, 20
 Segment 2: T20N R38E S 22, 27, 33, 34
QUADRANGLE: Moses Lake North and Wheeler
BASE MAP: ESRI USA Topo Maps 2018
DATE OF FIGURE: 4/24/19; rev 6/17/20
FIGURE BY: M. Indrebo





Segment 1 APE Overview

-  Original Alignment APE
-  Historic Canal Segments
-  Modification 1B APE
-  Segment 3

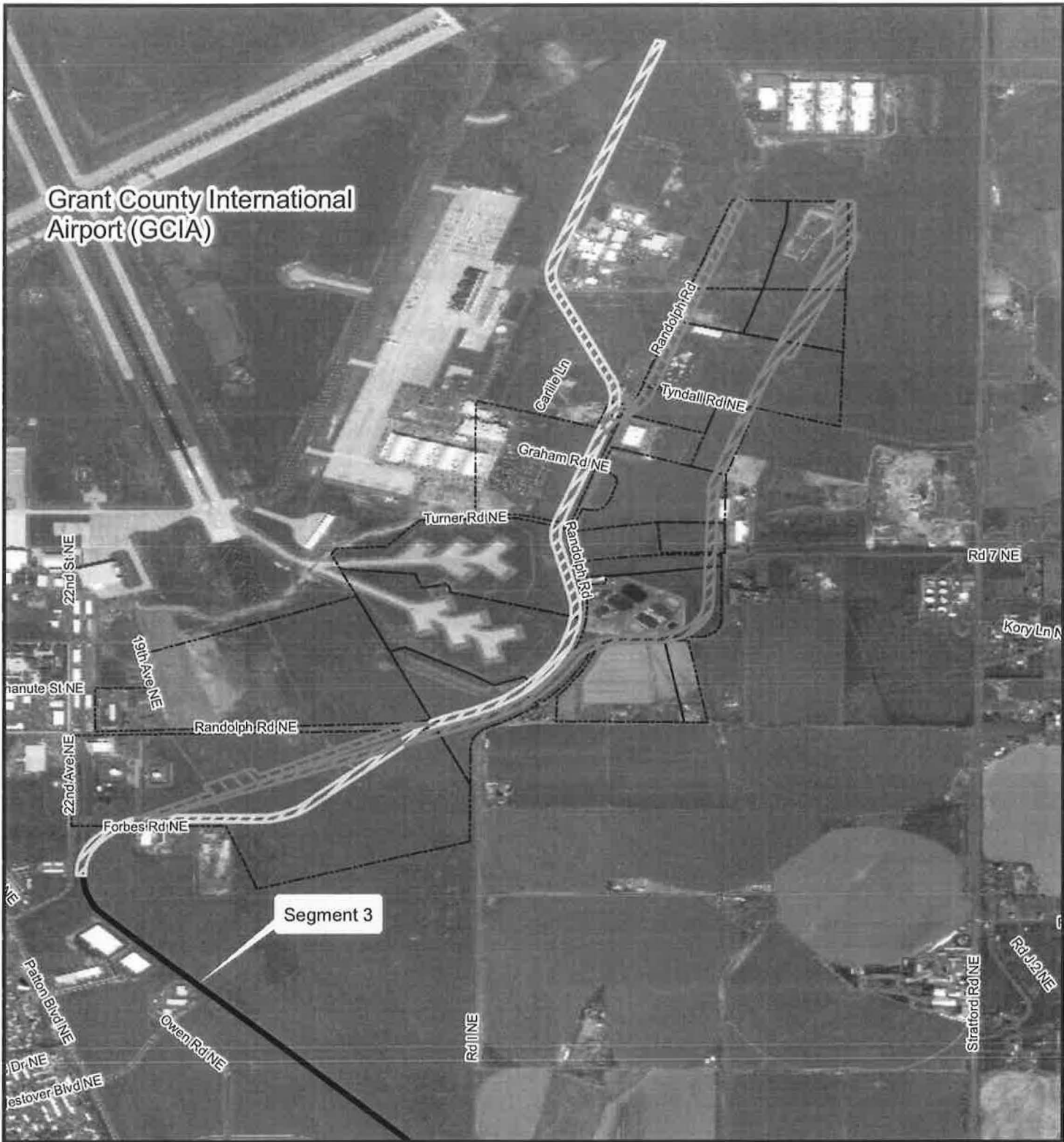
PROJECT: Northern Columbia Basin Railroad Project
 CLIENT: Port of Moses Lake (POML)
 LOCATION: Moses Lake
 STATE: Washington
 COUNTY: Grant
 PLSS: T19N R28E S14, 13, 24 and T19N R29 E S19, 20
 QUADRANGLE: Moses Lake North and Wheeler
 BASE MAP: ESRI Digital Globe 2018
 DATE OF FIGURE: 4/10/19
 FIGURE BY: M. Indrebo







0 1,300 2,600 5,200 Feet

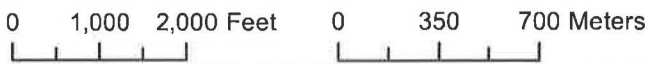
0 375 750 1,500 Meters

JACOBS



Segment 2 - APE Overview

-  Original Alignment APE
-  Modification 2B APE
-  Modification 2C APE
-  Segment 3



PROJECT: Northern Columbia Basin Railroad Project
CLIENT: Port of Moses Lake (POML)
LOCATION: Moses Lake
STATE: Washington
COUNTY: Grant
PLSS: T20N R38E S 22, 27, 33, 34
QUADRANGLE: Moses Lake North
BASE MAP: ESRI Digital Globe 2018
DATE OF FIGURE: 4/30/19
FIGURE BY: M. Indrebo



APPENDIX B

PLAN AND PROCEDURES FOR THE UNANTICIPATED DISCOVERY OF CULTURAL RESOURCES AND HUMAN SKELETAL REMAINS

NORTHERN COLUMBIA BASIN RAILROAD PROJECT, IN GRANT COUNTY, WASHINGTON

1. INTRODUCTION

The following Unanticipated Discovery Plan (UDP) outlines procedures for the Port of Moses Lake (Port) to follow, in accordance with state and federal laws, if archaeological materials or human remains are discovered.

2. RECOGNIZING CULTURAL RESOURCES

A cultural resource discovery could be prehistoric or historic. Examples include:

- An accumulation of shell, burned rocks, or other food related materials,
- Bones or small pieces of bone,
- An area of charcoal or very dark stained soil with artifacts,
- Stone tools or waste flakes (i.e. an arrowhead, or stone chips),
- Clusters of tin cans or bottles, logging or agricultural equipment that appears to be older than 50 years,
- Buried railroad tracks, decking, or other industrial materials.

When in doubt, assume the material is a cultural resource.

3. ON-SITE RESPONSIBILITIES

STEP 1: STOP WORK. If any Port employee, contractor, or subcontractor conducting ground-disturbing activities encounters human skeletal remains during construction, then all activity will cease that may cause further disturbance to those remains. The area of the find will be secured and protected from further disturbance until the State Historic Preservation Officer (SHPO) provides notice to proceed. If human remains are encountered, treat them with dignity and respect at all times. Cover the remains with a tarp or other materials (not soil or rocks) for temporary protection in place and to shield them from being photographed. Do not speak with the media.

STEP 2: NOTIFY ON-SITE RESPONSIBLE PARTY. If there is an archaeological monitor for the project on-site, notify that person, otherwise notify the Project Manager, Foreman, Chief Engineer, or whomever is supervising on-site activities. The finding of human skeletal remains will be reported to the county medical examiner/coroner and local law enforcement in the most expeditious manner possible. The remains will not be touched, moved, or further disturbed. The county medical examiner/coroner will assume jurisdiction over the human skeletal remains and make a determination of whether those remains are forensic or non-forensic. If the county medical examiner/coroner determines the remains are non-forensic, then they will report that

finding to the Department of Archaeology and Historic Preservation (DAHP) who will then take jurisdiction over the remains. The DAHP will notify any appropriate cemeteries and all affected tribes of the find. The State Physical Anthropologist will make a determination of whether the remains are Indian or Non-Indian and report that finding to any appropriate cemeteries and the affected tribes. The DAHP will then handle all consultation with the affected parties as to the future preservation, excavation, and disposition of the remains."

STEP 3: NOTIFY THE FEDERAL AGENCY. Contact the Surface Transportation Board's Office of Environmental Analysis (OEA) and the Federal Railroad Administration (FRA).

Contact Information for OEA:

Victoria Rutson
Director, Office of Environmental Protection
Federal Preservation Officer
202-245-0295

Adam Assenza
Environmental Protection Specialist
202-245-0301
Adam.Assenza@STB.gov

Contact Information for FRA:

Katherine Zeringue, FRA Federal Preservation Officer
202-578-4115
katherine.zeringue@dot.gov

4. FURTHER CONTACTS AND CONSULTATION

A. Project Manager's Responsibilities: Stop Work In the Area of the Discovery

- **Protect Find:** The Port is responsible for taking appropriate steps to protect the discovery site. All work will stop in an area adequate to provide for the total security, protection, and integrity of the resource. Vehicles, equipment, and unauthorized personnel will not be permitted to traverse the discovery site. Work in the immediate area will not resume until treatment of the discovery has been completed following provisions for treating archaeological/cultural material as set forth in this document.
- **Direct Construction Elsewhere On-site:** The Port may direct construction away from cultural resources to work in other areas prior to contacting the concerned parties.

B. Identification and Consultation

- **Identify Find:** The Port will ensure that a qualified professional archaeologist examines the find to determine if it is archaeological and will provide findings to SEA.
 - If it is determined not to be archaeological, work may proceed with no further delay.

- If it is determined to be archaeological, the Port and OEA will continue with notification.
- If the find may be human remains or funerary objects, the Port will ensure that a qualified physical anthropologist examines the find. If it is determined to be human remains, the procedure described in Section 5 will be followed.
- Notify DAHP: OEA will contact the Department of Archaeology and Historic Preservation (DAHP).
- Notify Tribes: If the discovery may relate to Native American interests, OEA will also contact any federally-recognized tribes with ancestral connection to the area.

Contact Information for DAHP:

Dr. Allyson Brooks
State Historic Preservation Officer
360-586-3066 or

Dennis Wardlaw
Transportation Archaeologist
360-586-3085
Dennis.Wardlaw@DAHP.WA.GOV

C. Further Activities

- Archaeological discoveries will be documented as described in Section 6.
- Construction in the discovery area may resume as described in Section 7.

5. SPECIAL PROCEDURES FOR THE DISCOVERY OF HUMAN SKELETAL MATERIAL

Any human skeletal remains, regardless of antiquity or ethnic origin, will at all times be treated with dignity and respect.

The Port will comply with applicable state and federal laws, and the following procedure:

A. Notify Law Enforcement Agency or Coroner's Office:

In addition to the actions described in Sections 3 and 4, the Port will immediately notify the local law enforcement agency or coroner's office.

The coroner (with assistance of law enforcement personnel) will determine if the remains are human, whether the discovery site constitutes a crime scene, and will notify DAHP of its determination.

B. Participate in Consultation:

Per RCW 27.53.030, RCW 68.50, and RCW 68.60, DAHP will have jurisdiction over non-forensic human remains. Port personnel, as well as OEA and the Federal Railroad Administration (FRA), will participate in consultation.

C. Further Activities:

- Documentation of human skeletal remains and funerary objects will be agreed upon through the consultation process described in RCW 27.53.030, RCW 68.50, and RCW 68.60.
- When consultation and documentation activities are complete, construction in the discovery area may resume as described in Section 7.

6. DOCUMENTATION OF ARCHAEOLOGICAL MATERIALS

Archaeological deposits discovered during construction will be assumed eligible for inclusion in the National Register of Historic Places under Criterion D.

The Port will ensure the proper documentation and assessment of any discovered cultural resources in cooperation with OEA, DAHP, affected tribes, and a contracted consultant (if any).

All prehistoric and historic cultural material discovered during project construction will be recorded by a professional archaeologist using standard techniques. Site overviews, features, and artifacts will be photographed; stratigraphic profiles and soil/sediment descriptions will be prepared for subsurface exposures. Discovery locations will be documented on scaled site plans and site location maps.

Cultural features, horizons and artifacts detected in buried sediments may require further evaluation using hand-dug test units. Units may be dug in controlled fashion to expose features, collect samples from undisturbed contexts, or interpret complex stratigraphy. A test excavation unit or small trench might also be used to determine if an intact occupation surface is present. Test units will be used only when necessary to gather information on the nature, extent, and integrity of subsurface cultural deposits to evaluate the site's significance. Excavations will be conducted using state-of-the-art techniques for controlling provenience.

Spatial information, depth of excavation levels, natural and cultural stratigraphy, presence or absence of cultural material, and depth to sterile soil, regolith, or bedrock will be recorded for each probe on a standard form. Test excavation units will be recorded on unit-level forms, which include plan maps for each excavated level, and material type, number, and vertical provenience (depth below surface and stratum association where applicable) for all artifacts recovered from the level. A stratigraphic profile will be drawn for at least one wall of each test excavation unit.

Sediments excavated for purposes of cultural resources investigation will be screened through 1/8-inch mesh, unless soil conditions warrant 1/4-inch mesh.

All prehistoric and historic artifacts collected from the surface and from probes and excavation units will be analyzed, catalogued, and temporarily curated. Ultimate disposition of cultural materials will be determined in consultation with OEA, DAHP, and any affected tribes.

Within 90 days of concluding fieldwork, a technical report describing any and all resultant archaeological excavations will be provided to OEA, DAHP, and any affected tribes.

If assessment activity exposes human remains (burials, isolated teeth, or bones), the process described in Section 5 above will be followed.

7. PROCEEDING WITH CONSTRUCTION

Project construction outside the discovery location may continue while documentation and assessment of the cultural resources proceed. A qualified professional, or a person who meets, at a minimum, the *Secretary of the Interior's Professional Qualification Standards* (36 C.F.R. Part 61), must determine the boundaries of the discovery location. In consultation with DAHP, FRA, and any affected tribes, OEA will determine the appropriate level of documentation and treatment of the resource. OEA will make the final determinations about treatment and documentation. Construction may continue at the discovery location only after the process outlined in this plan is followed and OEA and FRA determine that compliance with state and federal laws is complete.

APPENDIX B
SECTION 106 FINDING OF EFFECT AND DAHP CONCURRENCE



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

June 17, 2019

Allyson Brooks, Ph.D.
State Historic Preservation Officer / Director
Washington State Department of Archaeology and Historic Preservation
P.O. Box 48343
Olympia, WA 98504-8343

Subject: Northern Columbia Basin Railway Project, Docket No. FD 34936
Determination of No Adverse Effect
DAHP Log # 041007-02-STB

Dear Dr. Brooks:

As you know, the Surface Transportation Board (STB) previously made a determination of No Adverse Effect for the Northern Columbia Basin Railway Project (NCBRP) in 2009. Your office, the Washington State Department of Archeology and Historic Preservation (DAHP), concurred with that determination on April 7, 2009. In May and June 2009, STB, DAHP, the Washington State Department of Transportation (WSDOT) and the Port of Moses Lake Port finalized the NCBRP Programmatic Agreement (PA), which, in part, required archaeological inventory of parcels not yet surveyed in 2009 due to lack of access.

STB, as lead federal agency, is currently preparing a Draft Supplemental Environmental Assessment (DSEA) for the project due to modifications to the rail alignment and design changes at the two historic canals proposed by the Port. The STB's Office of Environmental Analysis (OEA) is managing the environmental and historic review, and the Federal Railroad Administration (FRA) has joined as a cooperating agency. As part of the historic review, the PA is currently in the process of being updated.

Jacobs Engineering, Inc. (Jacobs) has completed a new cultural resources survey report for the NCBRP. The report titled *Port of Moses Lake Northern Columbia Basin Railroad Project Supplemental Cultural Resources Investigations for Draft Supplemental Environmental Assessment*, dated January 2019, was electronically submitted to DAHP via WISSARD on April 25, 2019.

Jacobs' 2019 cultural resources survey report provides the results of an inventory for a previously un-accessed property and for adjustments to the route alignment/design that were not reflected in the 2009 determination. The 2019 inventory consists of a modified Area of Potential Effects for Segments 1 and 2 of the NCBRP, with which DAHP concurred in November of 2018. No new cultural resources were identified during the 2019 survey. Of note, an additional design change is proposed for crossings of two NRHP-eligible canals (EL20 and RCD 180+182); the Port is proposing to change from the previously approved bridge crossings to culvert/reverse siphon crossings. Overall, the report concludes that a finding of "No Adverse Effect" to historic properties continues to be appropriate for the project.

After reviewing all project-related surveys and available resources, OEA has determined that the project, with the proposed modifications, would continue to have No Adverse Effect to historic properties in accordance with 36 C.F.R. §800.5(b). OEA is seeking DAHP's comments and concurrence with this determination. If your office concurs with OEA's "No Adverse Effect" determination, FRA intends to make a *de minimis* impact finding to comply with Section 4(f) of the U.S. Department of Transportation Act of 1966. OEA intends to include DAHP's comments and concurrence in the DSEA prior to its release for public comment expected this July.

Thank you for your continued participation in the historic review process for the NCBRP project. If you have any questions, please feel free to contact Adam Assenza of my staff at (202) 245-0301 or adam.assenza@stb.gov.

Sincerely,



Victoria Rutson
Director
Office of Environmental Analysis

cc: Laura Shick, FRA
Valarie Kniss, FRA
Katherine Zeringue, FRA
Lydia Kachadoorian, FRA
Dennis Wardlaw, DAHP
Sandy Brown, Thompson Hine LLP
Jeannie Beckett, The Beckett Group



Allyson Brooks Ph.D., Director
State Historic Preservation Officer

June 18, 2019

Ms. Victoria Rutson
Environmental Section Chief
Surface Transportation Board
395 E Street S.W. Room 1110
Washington, DC. 20423-0001

In future correspondence please refer to:
Project Tracking Code: 041007-02-STB
Property: STB Docket No. 34936, Northern Columbia Basin Railway Project
Re: NO Adverse Effect

Dear Ms. Rutson:

Thank you for contacting the State Historic Preservation Officer (SHPO) and Department of Archaeology and Historic Preservation (DAHP) regarding the above referenced proposal. This action has been reviewed on behalf of the SHPO under provisions of Section 106 of the National Historic Preservation Act of 1966 (as amended) and 36 CFR Part 800. Our review is based upon documentation contained in your communication.

First, we agree with the Area of Potential Effect (APE) as mapped in the survey report. We also concur that the current project as proposed will have "NO ADVERSE EFFECT" on historic properties within the APE that are listed in, or determined eligible for listing in, the National Register of Historic Places. As a result of our concurrence, further contact with DAHP on this proposal is not necessary.

However, if new information about affected resources becomes available and/or the project scope of work changes significantly, please resume consultation as our assessment may be revised. Also, if any archaeological resources are uncovered during construction, please halt work immediately in the area of discovery and contact the appropriate Native American Tribes and DAHP for further consultation.

Thank you for the opportunity to review and comment. If you have any questions, please feel free to contact me.

Sincerely,

Dennis Wardlaw
Transportation Archaeologist
(360) 586-3085
dennis.wardlaw@dahp.wa.gov

