

**EMERGENCY ORDER
No. 22**

**DEPARTMENT OF TRANSPORTATION
Federal Railroad Administration**

**[FRA Emergency Order No. 22,
Notice No. 2]**

Oregon Pacific Railroad; Notice of Relief from Emergency Order No. 22

AGENCY: Federal Railroad Administration, Department of Transportation

ACTION: Notice of Relief

SUMMARY: This notice provides relief for the Oregon Pacific Railroad from the limitations of Federal Railroad Administration (FRA) Emergency Order No. 22, issued December 16, 1999. The relief allows the Oregon Pacific Railroad to recommence operation of trains and other railroad on-track equipment on a railroad bridge it owns spanning Johnson Creek (hereinafter designated as the "Johnson Creek Bridge") in the City of Milwaukie, Oregon.

Authority

FRA is authorized to issue emergency orders where an unsafe condition or practice "causes an emergency situation involving a hazard of death or personal injury." 49 U.S.C. § 20104. These orders may impose such "restrictions and prohibitions . . . that may be necessary to abate the situation." (*Ibid.*) Likewise, FRA is authorized to grant relief from an emergency order when the agency deems that the unsafe condition or practice which gave rise to the emergency order no longer exists.

Background

The Oregon Pacific Railroad Company, a common carrier, is a part of the general railroad system of transportation and operates two principal segments of track. One of the segments

crosses Johnson Creek in Milwaukie, Oregon, on a timber trestle bridge not identified by number and located approximately one-half mile upstream from the point where Johnson Creek empties into the Willamette River. In December, 1999, based on detailed inspections of the bridge, FRA determined that the Johnson Creek Bridge was in danger of imminent, catastrophic failure at any time that a railroad load passes over the bridge.

Failure of the bridge under load could have had very serious consequences. The bridge failure could have caused a train to fall into Johnson Creek, killing or injuring any railroad crew members operating rolling stock, killing or injuring any innocent bystanders using Johnson Creek or its banks, and possibly blocking the creek resulting in widespread flooding in the immediate area. Locomotive diesel fuel and/or fuel and contents of a mechanical refrigerator car could have caused severe environmental damage to Johnson Creek and the nearby Willamette River.

FRA therefore concluded that any railroad use of the Johnson Creek Bridge on the Oregon Pacific Railroad posed an imminent and unacceptable threat to public and employee safety involving a hazard of death or injury to persons. On December 16, 1999, the Federal Railroad Administrator issued Emergency Order No. 22 which prohibited all operations of trains and other railroad on-track equipment on the Johnson Creek Bridge until repairs were made and certified as sufficient by a licensed bridge engineer and approved by FRA.

Following the issuance of Emergency Order No. 22, the Oregon Pacific Railroad made repairs to the Johnson Creek Bridge under the guidance of a professional engineer licensed to practice in the State of Oregon. On January 17, 2000, FRA's professional bridge engineer inspected the Johnson Creek Bridge and found that the repairs made to the bridge since the

issuance of Emergency Order No. 22 are sufficient to restore immediate safety to the bridge structure.

The termination of Emergency Order No. 22 does not indicate that FRA has made any determination regarding the capacity of the bridge in addition to the work performed by the professional engineer guiding the repairs on behalf of the Oregon Pacific Railroad. Relief from Emergency Order No. 22 simply means that FRA finds that the bridge no longer presents an imminent hazard of death or injury to persons. The Oregon Pacific Railroad continues to be fully responsible for the structural integrity and safe operation of the Johnson Creek Bridge. FRA strongly recommends that the Oregon Pacific Railroad follow a regular program of inspection and maintenance of all railroad bridges owned and operated by the railroad.

Relief

In light of the foregoing, I grant the Oregon Pacific Railroad relief from Emergency Order No. 22. The railroad may immediately recommence operation of trains and other railroad on-track equipment on the Johnson Creek Bridge in the City of Milwaukie, Oregon. The

issuance of this Notice does not preclude imposition of another emergency order governing the condition of the bridge should that condition again deteriorate to the extent that I believe it poses an imminent and unacceptable threat to public safety.

Issued in Washington on *January 20, 2002*

Jolene M. Molitoris

Jolene M. Molitoris
Administrator