

39118

SERVICE DATE – JUNE 20, 2008

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35128]

The Port of Seattle—Acquisition Exemption—Certain Assets of BNSF Railway
Company

The Port of Seattle (the Port), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31¹ to acquire from BNSF Railway Company (BNSF) approximately 14.45 miles of rail line (the Line), including right-of-way, track, and other property and physical assets, extending between approximately milepost 23.80 (north of Woodinville) and approximately milepost 38.25 (Snohomish), in King County and Snohomish County, WA.²

The Port states that it will not operate the Line but is acquiring it to preserve the Line as a rail and transportation corridor. BNSF, according to the Port, will retain an

¹ This notice was initially submitted on May 28, 2008, but was not docketed until June 4, 2008, when the filing fee was submitted. Because the notice could not be processed until the Board received the filing fee, June 4, 2008, is the official filing date.

² The Port will also acquire from BNSF the right-of-way, track, and other property and physical assets between the southern endpoint of the Line at milepost 23.8 and milepost 23.45 together with the Redmond Spur, which connects with the Line at milepost 23.80 and extends between milepost 0.00 and milepost 7.30 in Redmond, WA. Pursuant to a separate agreement, BNSF will donate to the Port the right-of-way, track, and other property and physical assets of the line that extends between milepost 23.45 and milepost 5.00 in Renton, WA. BNSF will file for Board approval or an exemption to abandon these rights-of-way and track before selling/donating them to the Port.

exclusive, permanent easement to conduct freight operations on the Line.

Simultaneously with the closing of the transaction, BNSF will convey the easement to a third party operator which will secure separate Board approval or an exemption to conduct freight common carrier service on the Line.³

Stating that it will not conduct any freight operations on the Line, the Port certifies that its projected annual revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier. The Port states that it plans to consummate the acquisition of the Line on or after September 30, 2008. The exemption is scheduled to become effective on July 4, 2008 (30 days after the exemption was deemed to have been filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Petitions for stay will be due no later than June 27, 2007 (at least 7 days before the effective date of the exemption).

An original and 10 copies of all pleadings referring to STB Finance Docket No. 35128 must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Kevin M. Sheys, 1601 K Street, NW, Washington, DC 20006.

³ In the same docket, the Port simultaneously filed a motion to dismiss its verified notice of exemption on jurisdictional grounds. That request will be considered in a separate Board decision.

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Decided: June 11, 2008.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Anne K. Quinlan

Acting Secretary