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SERVICE DATE – NOVEMBER 22, 2006

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34951]

Portland & Western Railroad, Inc.—Trackage Rights Exemption—BNSF

Railway Company

Pursuant to a trackage rights agreement dated October 30, 2006, between Portland & Western Railroad, Inc. (PNWR), and BNSF Railway Company (BNSF), BNSF has agreed to grant PNWR overhead trackage rights: (a) between milepost 10.0 in Vancouver, WA, on the BNSF Fallbridge Subdivision, and milepost 0.69 (Main Track 1) and milepost 0.91 (Main Track 2) in Portland, OR; and (b) between milepost 132.5 and milepost 136.5 in Vancouver, WA, on the BNSF Seattle Subdivision, a total distance of approximately 13.31 miles.¹

The transaction was scheduled to be consummated on or after November 13, 2006. On November 13, 2006, PNWR filed a petition for partial revocation to permit the expiration of the trackage rights on May 30, 2016, the termination date agreed to by the

¹ A redacted version of the trackage rights agreement between PNWR and BNSF was filed with the notice of exemption. The full version of the agreement, as required by 49 CFR 1180.6(a)(7)(ii), was concurrently filed under seal along with a motion for protective order. The request for a protective order is being addressed in a separate decision.

parties.² The purpose of the trackage rights is to allow PNWR and BNSF to shift their interchange from Salem or Albany, OR, to Vancouver, WA.³

As a condition to this exemption, any employee affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void ab initio. Petitions 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.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34951, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Eric M. Hocky, Gollatz, Griffin & Ewing, P.C., Four Penn Center Plaza, Suite 200, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103-2808.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

Decided: November 17, 2006.

² The petition for partial revocation will be handled in a separate Sub-No. 1 docket in this proceeding.

³ To accomplish this shift, PNWR will also use trackage rights between Labish, OR, and Portland, OR. See Portland & Western Railroad, Inc.—Trackage Rights Exemption—Union Pacific Railroad Company, STB Finance Docket No. 34883 (STB served July 19, 2006).

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams

Secretary