

37163

SERVICE DATE – JULY 19, 2006

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34883]

Portland and Western Railroad, Inc. – Trackage Rights Exemption – Union
Pacific Railroad Company

BNSF Railway Company has agreed to assign overhead trackage rights to the Portland and Western Railroad, Inc. (PNWR), over: (1) the rail line owned by Union Pacific Railroad Company (UP) between East Portland, OR, in the vicinity of Milepost 770.3 and Labish, OR, in the vicinity of Milepost 720.9, a distance of approximately 49.4 miles (Joint Trackage); (2) the rail line owned by Portland Terminal Railroad Company (PTR) between PTR Milepost 0.0 and BNSF Mileposts 0.69 and 0.91 in Portland, OR; and (3) the railroad portion of UP's Willamette River Bridge in Portland.

The transaction was scheduled to be consummated on or after July 6, 2006, the effective date of the exemption.¹

The purpose of the trackage rights is to allow PNWR the right to serve as BNSF's agent over the Joint Trackage, including the right to access the Joint Trackage via PTR's rail line and UP's Willamette River Bridge.

¹ A decision served on July 13, 2006, denied a petition to stay the operation of the notice of exemption filed by John D. Fitzgerald, for and on behalf of the United Transportation Union-General Committee of Adjustment.

As a condition to this exemption, any employees affected by 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. 34883, must be filed with the Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: Sidney L. Strickland Jr., Sidney Strickland and Associates, PLLC, 3050 K Street, N.W., Suite 101, Washington, DC 20007.

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

Decided: July 13, 2006.

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

Vernon A. Williams

Secretary