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SERVICE DATE – MARCH 19, 2015

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35911]

Portland & Western Railroad, Inc.—Acquisition and Operation Exemption—Port of
Tillamook Bay

Portland & Western Railroad, Inc. (PNWR), a Class III rail carrier, has filed a verified notice of exemption under 49 C.F.R. § 1150.41 to acquire and continue to operate approximately 3.5 miles of rail line (the Line) owned by Port of Tillamook Bay (POTB), between milepost 774.0, at Banks, and milepost 770.5, at Schefflin, in Washington County, Or.

PNWR is the current operator of the Line pursuant to a lease agreement dated May 6, 1999, between PNWR and POTB, subject to trackage rights over the Line retained by POTB.¹ PNWR states that the parties have entered into a purchase and sale agreement dated June 16, 2015. PNWR states that acquisition of the Line should allow PNWR to expand its rail network and establish a direct connection to its adjacent lines in the Willamette River Valley for a more cost efficient handling of traffic and will justify

¹ See Portland & W. R.R.—Lease & Operation Exemption—Port of Tillamook Bay R.R., FD 33734 (STB served May 14, 1999); Port of Tillamook Bay R.R.—Trackage Rights Exemption—Portland & W. R.R., FD 33741 (STB served May 14, 1999). The entity PNWR refers to here as Port of Tillamook Bay is referred to in those cases as Port of Tillamook Bay *Railroad*, but it appears to be the same entity.

PNWR's investments in the Line. As part of the transaction, POTB will discontinue its trackage rights over the Line.²

PNWR has certified that the transaction does not include an interchange commitment.

PNWR states that it projected annual revenues as a result of this transaction will not result in PNWR's becoming a Class II or Class I rail carrier, but that its projected annual revenues will exceed \$5 million. Accordingly, PNWR is required, at least 60 days before this exemption is to become effective, to send notice of the transaction to the national offices of the labor unions with employees on the affected line, post a copy of the notice at the workplace of the employees on the affected line, and certify to the Board that it has done so. 49 C.F.R. § 1150.42(e). PNWR's verified notice, however, includes a request to waive that requirement. PNWR states that: (1) no POTB employee will be affected because none have worked on the Line for more than five years; and (2) there will be no operational changes, and no PNWR employees will be affected. PNWR asserts that providing the 60-day notice would serve no useful purpose because PNWR is merely acquiring the Line that it has been leasing and operating since 1999. PNWR's waiver request will be addressed in a separate decision.

PNWR states that it expects to consummate the transaction on or shortly after the effective date of this exemption. The Board will establish in the decision on the waiver request the earliest date this transaction may be consummated.

² PNWR states that POTB's discontinuance is the subject of a separate notice to be filed by POTB.

If the verified notice 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 effectiveness of the exemption. Petitions to stay must be filed no later than March 26, 2015.

An original and 10 copies of all pleadings, referring to Docket No. FD 35911, 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 Eric M. Hocky, Clark Hill PLC, One Commerce Square, 2005 Market St., Suite 1000, Philadelphia, PA 19103.

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

Decided: March 16, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.