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SEC

SERVICE DATE - AUGUST 25, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33561

PORT OF PEND OREILLE D/B/A PEND OREILLE VALLEY RAILROAD—ACQUISITION  
AND OPERATION EXEMPTION—THE BURLINGTON NORTHERN AND SANTA FE  
RAILWAY COMPANY

Decided: August 24, 1998

On February 20, 1998, Port of Pend Oreille d/b/a Pend Oreille Valley Railroad (POVA) filed a verified notice of exemption under 49 CFR 1150.41 from the provisions of 49 U.S.C. 10902 to acquire the exclusive rail freight easement and all track structures on a 24.9-mile rail line of The Burlington Northern and Santa Fe Railway Company (BNSF).<sup>1</sup> Notice of the exemption was served and published in the Federal Register (63 FR 11707) on March 10, 1998.

John D. Fitzgerald, for and on behalf of United Transportation Union-General Committee of Adjustment GO 386 (Fitzgerald), filed a petition to reject or revoke and a petition for discovery in this proceeding on April 9, 1998. Upon completion of discovery, Fitzgerald filed a supplemental petition to reject or revoke on May 26, 1998.<sup>2</sup>

On June 10, 1998, POVA filed a reply to the petition to reject or revoke.

The petition to reject or revoke raises issues that require further consideration by the Board. By this decision, the Board is instituting a proceeding under 49 U.S.C. 10502(d) to consider Fitzgerald's petition to reject or revoke. At this time, there does not appear to be a need for the parties to submit additional evidence.

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<sup>1</sup> The rail line is located between milepost 1433.0, at Newport, WA, and milepost 1408.1, at Dover, ID (Newport/Dover line). In conjunction with the acquisition of the rail freight easement and track structures, POVA also acquired incidental overhead trackage rights over BNSF's 6.9-mile rail line between milepost 1408.1, at Dover, ID, and milepost 1401.2, at North Sandpoint, ID.

<sup>2</sup> The petition superseded and was submitted in lieu of the April 9 petition to reject or revoke.

It is ordered:

1. Under 49 U.S.C. 10502(d), a proceeding is instituted to consider Fitzgerald's petition to reject or revoke the notice of exemption.
2. The proceeding will be completed by May 26, 1999.
3. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams  
Secretary