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SERVICE DATE - MAY 14, 1999

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33741]

Port of Tillamook Bay Railroad—Trackage Rights Exemption—Portland & Western Railroad, Inc.

Portland & Western Railroad, Inc. (PNWR) has agreed to grant trackage rights to Port of Tillamook Bay Railroad (POTB) over 3.5 miles of rail line between Banks (milepost 774.0) and Schefflin (milepost 770.5), in Washington County, OR (subject line).<sup>1</sup>

The parties report that they intend to consummate the transaction on or after May 6, 1999, or upon the authorization of PNWR's lease of the subject line, whichever is later. The earliest the transaction can be consummated is May 10, 1999, the effective date of the exemption (7 days after the exemption was filed).

The purpose of the trackage rights is to permit POTB to continue its existing service.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

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<sup>1</sup> This transaction is related to Portland & Western Railroad, Inc.—Lease and Operation Exemption—Port of Tillamook Bay Railroad, STB Finance Docket No. 33734 (STB served May 14, 1999), wherein the subject line is being leased by POTB to PNWR to permit rehabilitation of the line by PNWR. The effective date of the exemption in STB Finance Docket No. 33734 is May 10, 1999.

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. 33741, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on E. Andrew Jordan, Esq., Tarlow, Jordan & Schrader, P.O. Box 230669, Portland, OR 97281-0669.

Board decisions and notices are available on our website at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: May 10, 1999.

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

Vernon A. Williams

Secretary