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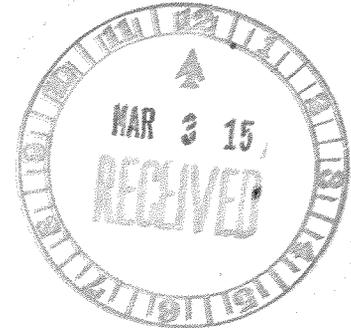
March 3, 2015
Part of
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March 2, 2015



VIA FEDEX

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: Portland & Western Railroad, Inc. -
Acquisition and Operation Exemption -
Port of Tillamook Bay
STB Docket No. FD 35911

Dear Ms. Brown:

Enclosed for filing are the original and 10 copies of a Notice of Exemption being filed on behalf of Portland & Western Railroad, Inc. Also enclosed is a check in the amount of \$1,800.00 representing the filing fee for this Notice.

Because the Notice of Exemption includes a request for waiver of the labor notice requirements set forth in 49 CFR 1150.42(e), we are also enclosing an additional check in the amount of \$300 to cover the filing for this request ("adjudicatory services not otherwise covered") to the extent an additional fee is required. If no additional fee is required, please return the check to the undersigned.

Please time stamp the extra copy of the Notice of Exemption provided herewith to indicate receipt, and return it to me in the stamped, self-addressed envelope provided for your convenience.

FEE RECEIVED
March 3, 2015
SURFACE
TRANSPORTATION BOARD

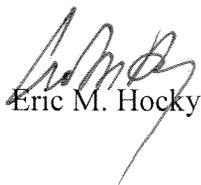
FILED
March 3, 2015
SURFACE
TRANSPORTATION BOARD

March 2, 2015
Page 2

Please let me know if there are any questions regarding this filing.

Respectfully,

CLARK HILL PLC



Eric M. Hocky

EMH/e
Encls.

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35911

**PORTLAND & WESTERN RAILROAD, INC.
--ACQUISITION AND OPERATION EXEMPTION--
PORT OF TILLAMOOK BAY**

VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. §1150.41, Et. Seq.

ERIC M. HOCKY
CLARK HILL, PLC
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
(215) 640-8500

Attorney for:
Portland & Western Railroad, Inc.

Dated: March 2, 2015

Before the
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. FD 35911

**PORTLAND & WESTERN RAILROAD, INC.
--ACQUISITION AND OPERATION EXEMPTION--
PORT OF TILLAMOOK BAY**

**VERIFIED NOTICE OF EXEMPTION
Pursuant to 49 C.F.R. §1150.41, Et. Seq.**

Portland & Western Railroad, Inc. (“PNWR”), a Class III rail carrier, files this Notice of Exemption pursuant to 49 C.F.R. Part 1150, Subpart E—Exempt Transactions Under 49 U.S.C. 10902, to permit PNWR to acquire from Port of Tillamook Bay (“POTB”), and continue to operate approximately 3.5 miles of rail line currently owned by POTB, but leased and operated by PNWR, located between Banks (milepost 774.0) and Schefflin (milepost 560.57) in Washington County, Oregon (the “Line”).

NOTICE

In support of this Notice of Exemption, PNWR submits the following information as required by 49 C.F.R. §1150.43:

- (a) Full name and address of applicant:

PORTLAND & WESTERN RAILROAD, INC.
3220 State Street
Suite 200
Salem, OR 97301

- (b) Name, address and telephone number of Applicant's Representative:

ERIC M. HOCKY
CLARK HILL, PLC
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
(215) 640-8500

- (c) Statement of Agreement.

The parties have entered into a Purchase and Sale Agreement dated January 16, 2015 (the "Purchase and Sale Agreement").

- (d) The operator of the property:

PNWR is the current operator of the Line pursuant to a Lease Agreement dated as of May 6, 1999, by and between PNWR and POTB (the "Lease"), subject to trackage rights retained by POTB over the Line. See Portland & Western Railroad, Inc.—Lease and Operation Exemption – Port of Tillamook Bay Railroad, STB Finance Docket No. 33734 (served May 14, 1999); Port of Tillamook Bay Railroad—Trackage Rights Exemption—Portland & Western Railroad, Inc., STB Finance Docket No. 33741 (May 14, 1999). After the consummation of the transactions contemplated in the Purchase and Sale Agreement, PNWR will continue to operate the Line. POTB will be discontinuing its trackage rights.

- (e) Summary of proposed transaction:

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 that is moved by PNWR, and will justify PNWR making investments in the Line. As part of the transaction, POTB has also agreed to discontinue its retained trackage

rights over the Line.¹

- (1) Full name and address of the railroad transferring the Line:

PORT OF TILLAMOOK BAY
400 Blimp Blvd., Suite 100
Tillamook, OR 97141

- (2) The involved transaction is expected to be consummated on or shortly after the effective date of this notice of exemption.

- (3) The Line is located between Banks (milepost 774.0) and Schefflin (milepost 770.5) in Washington County, Oregon.

- (4) The length of the rail line to be acquired is approximately 3.5 miles.

- (f) A map of the Line is attached as Exhibit A.

(g) PNWR hereby certifies that PNWR's projected revenues will not as a result of the acquisition exceed those that would qualify it as a Class III carrier.

- (h) PNWR certifies that the transaction does not include an interchange commitment.

In addition to the information set forth above, PNWR certifies that its total annual revenues after the transaction will exceed \$5,000,000. However, since PNWR will continue to be the operator of the Line both before and after the transaction, PNWR is requesting a waiver of the labor notice requirements under 49 C.F.R. §1150.42(e). See request for waiver set forth below.

LABOR PROTECTION

PNWR is a Class III carrier, and pursuant to 49 U.S.C. §10902(d), approval of this transaction may not be subjected to labor protection conditions. Additionally, since POTB has

¹ The discontinuance is the subject of a separate notice being filed by POTB.

not been operating over the Line, PNWR does not believe that any employees of POTB will be adversely affected by the transaction.²

ENVIRONMENTAL AND HISTORIC IMPACTS

PNWR will acquire the Line from POTB for continued rail operations. Further Board approval is required for PNWR to discontinue or abandon any service and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. §1105.8(b)(1).

The acquisition of the Line contemplated in the Purchase and Sale Agreement will not result in any changes in carrier operations. There will not be a diversion of (1) more than 1,000 rail carloads a year to motor carriage; or (2) an average of 50 carloads per mile per year for any part of this line to motor carriage. This transaction will not result in: (1) an increase in local rail traffic of at least 100 percent, or an increase of at least eight trains a day on any segment of the Line; (2) an increase of rail yard activity of at least 100 percent; or (3) an average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day. PNWR's acquisition of the Line will not affect a Class I or nonattainment area under the Clean Air Act. In any event, the thresholds of 49 C.F.R. §1105.7(e)(5)(ii) will not be exceeded. Finally, the transportation of ozone depleting materials is not contemplated. Therefore, no environmental documentation is required under 49 C.F.R. §1105.6(c)(2).

This action will not significantly affect either the quality of the human environment or

² Any employees of POTB affected by the discontinuance of trackage rights will be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 ICC 91 (1979).

energy conservation.

CAPTION SUMMARY

A caption summary, as required by 49 C.F.R. §1150.44 is attached as Exhibit B.

REQUEST FOR WAIVER OF NOTICE REQUIREMENTS OF 49 C.F.R. §1150.42(e)

PNWR is a Class III carrier with annual revenues in excess of \$5,000,000. Under the Board's regulations at 49 C.F.R. §1150.42(e), PNWR would be required to give sixty days' notice to employees working on the Line (and if they were represented, to the national offices of their collective bargaining representatives). However, the Board has held: "The purpose of 49 CFR 1150.42(e) is to ensure that rail labor unions and employees who would be affected by the transfer of a line are given sufficient notice of the transaction before consummation." Belt Line Division of Tacoma Public Utilities – Operation Exemption – In Pierce, Thurston and Lewis Counties, WA, STB Finance Docket No. 33666 (served October 30, 1998) at 2. See also Acquisition of Leased Lines under 49 USC 10901 and 10902 – Advance Notice of Proposed Transactions ("Advanced Notice of proposed Transactions"), 2 STB 592 (1997). In adopting the notice requirement, the Board specifically recognized that "exceptional situations may occur necessitating acquirer requests for waiver of the 60 day notice provision ..." Advanced Notice of Proposed Transactions, *supra* at 601.

In this instance PNWR should not be required to comply with the requirements of Section 1150.42(e) because there will be no changes for any employees working on the Line. PNWR is merely acquiring the Line that it has been leasing and operating since 1999. No employees of the transferring carrier POTB have worked on the Line for more than five years (while POTB

has trackage rights over the Line, it has not used the rights for more than five years), and there are no employees of POTB who will be affected or have to make any career choices as a result of the sale. Posting notices on the Line would not provide notice to any POTB employees since none have been working on the Line. Further, there will be no operational changes and no employees of PNWR will be affected. Thus, under the circumstances of this transaction, compliance with the notice requirements will not further the purposes of the rule and should be waived. Granting POTB a waiver would be consistent with other circumstances in which the Board has granted waivers from the labor notice requirements when a common carrier has filed to continue operating a line it was previously operating as the common carrier. Southwestern Railroad, Inc. – Lease and Operations Exemption – BNSF Railway Company, STB Docket No. FD 35855 (served October 15, 2014); Piedmont & Atlantic Railroad Co., Inc., d/b/a Yadkin Valley Railroad Company - Lease Exemption Containing Interchange Commitment - Norfolk Southern Railway Company, STB Docket No. FD 35841 (served July 11, 2014); New Orleans & Gulf Coast Railway Company, Inc. - Lease Exemption Containing Interchange Commitment - Union Pacific Railroad Company, STB Docket No. FD 35777 (served December 12, 2013); Puget Sound & Pacific Railroad Company - Lease Exemption - The United States of America, STB Docket No. FD 35714 (served February 22, 2013).

Because the employees of POTB are not represented, POTB is not providing a copy of this Notice of Exemption to the national offices of any railroad unions.

PNWR asks that the waiver of the labor notice requirements be granted expeditiously so that this Notice of Exemption can become effective as scheduled 30 days after it is filed.

CONCLUSION

Based on the foregoing, PNWR requests that the Board grant the waiver, and permit the transaction to close at any time after 30 days from the filing of this Notice of Exemption.

Respectfully submitted,



ERIC M. HOCKY
CLARK HILL, PLC
One Commerce Square
2005 Market Street, Suite 1000
Philadelphia, PA 19103
(215) 640-8500

Attorney for:
Portland & Western Railroad, Inc.

Dated: March 2, 2015

VERIFICATION

I hereby verify on behalf of Portland & Western Railroad, Inc., under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

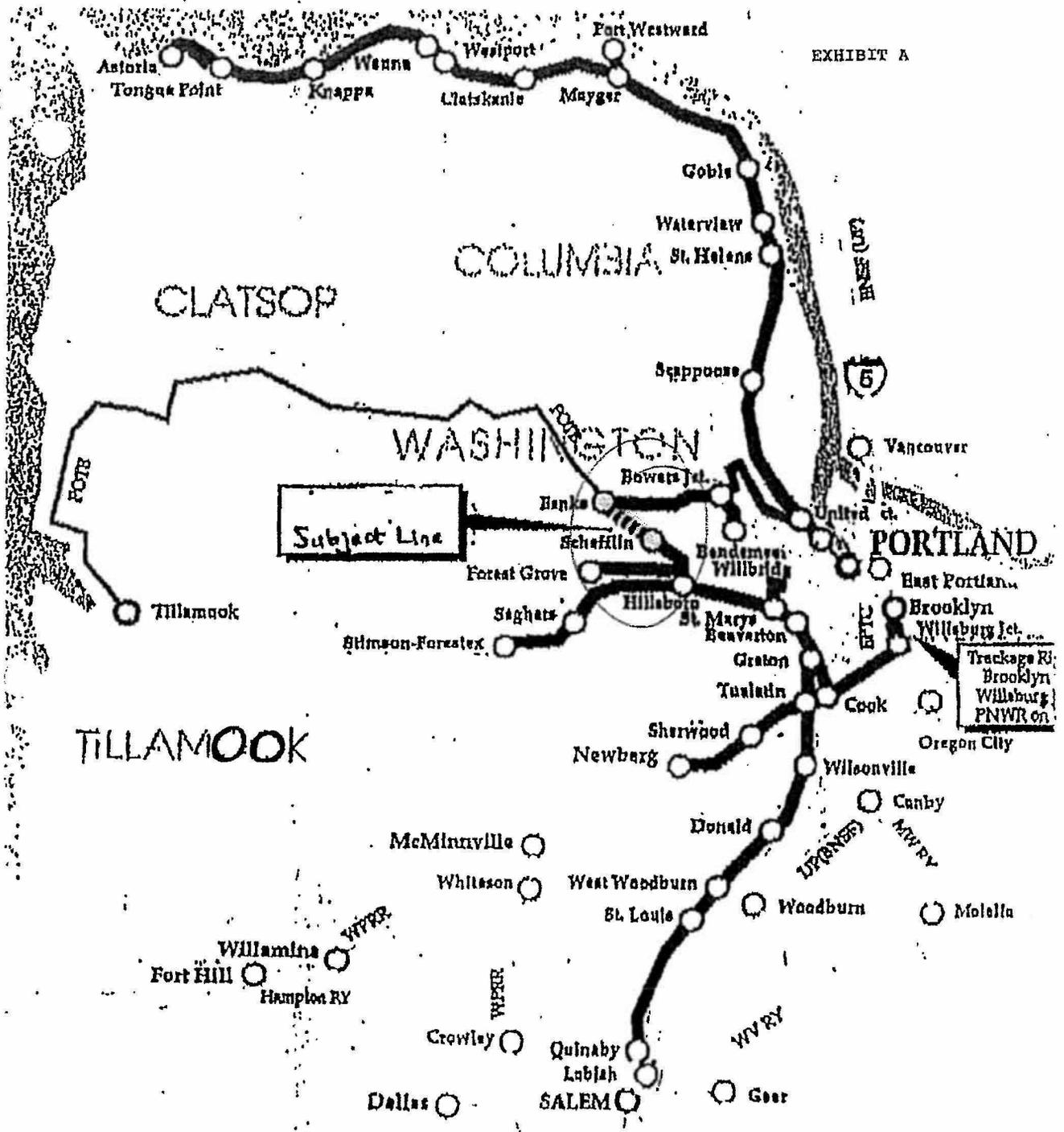
Executed on ~~February~~^{March 2}, 2015.



Christopher S. Nagle, Assistant Treasurer

EXHIBIT A

MAP



- PORT OF TILLAMOOK BAY RAILROAD
- PORTLAND & WESTERN RAILROAD
- - - - - SUBJECT LINE

EXHIBIT B

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

NOTICE OF EXEMPTION

Docket No. FD 35911

**PORTLAND & WESTERN RAILROAD, INC.
--ACQUISITION AND OPERATION EXEMPTION--
PORT OF TILAMOOK 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 from Port of Tillamook Bay, and operate, the rail line located between Banks (milepost 774.0) and Schefflin (milepost 770.5) in Washington County, Oregon. PNWR currently leases and operates the rail line.

Comments must be filed with the Board and served on ERIC M. HOCKY, CLARK HILL, PLC, One Commerce Square, 2005 Market Street, Suite 1000, Philadelphia, PA 19103, (215) 640-8500.

This notice is filed under 49 C.F.R. §1150.41. If the notice contains false or misleading information, the exemption is void ab initio. The filing of a petition to revoke will not automatically stay the transaction.