



# Oregon

John A. Kitzhaber, M.D., Governor

December 20, 2002

Vernon A. Williams  
Office of the Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K Street NW  
Washington DC 20423-0001

206910

## Department of Transportation

Rail Division

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Salem, OR 97301-4179

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File Code:

RE: Surface Transportation Board Finance Docket No. 34255

Dear Secretary Williams:

The original and 10 copies of comments in the above-captioned proceeding from the Oregon Department of Transportation are being sent by mail. In accordance with prior Board requirements, we have also enclosed a disk in Word format.

Sincerely,

Claudia L. Howells  
Manager

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Public Record

**SURFACE TRANSPORTATION BOARD**  
**UNITED STATES DEPARTMENT OF TRANSPORTATION**

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**FINANCE DOCKET NO. 34255**

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**WRITTEN COMMENTS SUBMITTED BY**  
**THE STATE OF OREGON**  
**THROUGH ITS**  
**DEPARTMENT OF TRANSPORTATION**

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**Communications with respect  
to this document should be  
addressed to:**

**Claudia L. Howells, Administrator**  
**Rail Division**  
**Oregon Department of Transportation**  
**555 13th St. NE**  
**Salem OR 97310-1333**

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**Office of Proceedings**

**DEC 23 2002**

**Part of**  
**Public Record**

**SURFACE TRANSPORTATION BOARD**  
**UNITED STATES DEPARTMENT OF TRANSPORTATION**

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**FINANCE DOCKET NO. 34255**

**PORTLAND & WESTERN RAILROAD, INC.**  
**--LEASE AND OPERATION EXEMPTION--**  
**THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY**

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**WRITTEN COMMENTS SUBMITTED BY**  
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**THROUGH ITS**  
**DEPARTMENT OF TRANSPORTATION**

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**INTRODUCTION**

My name is Claudia L. Howells, Administrator of the Oregon Department of Transportation's Rail Division. I am authorized to submit this Verified Statement on behalf of the State of Oregon (Oregon) and the Oregon Department of Transportation (ODOT). John Kitzhaber, M.D., Governor of Oregon, and Oregon Statute have designated ODOT to represent shippers, port districts, local governments and the public generally in this proceeding.

I have been employed by ODOT since January 1, 1996. I was previously employed, with the same responsibilities, by the Oregon Public Utility Commission for 11 years. I have participated in numerous proceedings before the Interstate Commerce Commission and the Surface Transportation Board, including many rail mergers.

ODOT's Rail Division is responsible for both the railroad safety regulations consistent with federal law, railroad crossing safety and the planning and implementation of freight and passenger rail programs.

### **BACKGROUND**

Oregon has been involved in and generally supportive of the efforts of its Class I railroads to transfer ownership and operations to short line railroad companies. Oregon provides limited funds for short line infrastructure improvements and works closely with all of the state's 19 short line railroads to retain rail service to Oregon shippers. Today, Oregon has over half of its operating railroad route miles in short line operation, making short line railroads an essential part of the state's rail system. We believe that this fairly recent transition has been generally beneficial to the Oregon economy

On behalf of the state, ODOT Rail Division staff has reviewed the above-captioned submittal and has also met with both railroads to better understand the proposed transaction. ODOT Rail Division has also requested comments from affected governmental jurisdictions and shippers.

### **COMMENTS**

ODOT Rail has regular interaction with both the Portland & Western Railroad (PNWR), its sibling railroad, the Willamette & Pacific (WPRR), and its parent company, Genesee & Wyoming. In all aspects, PNWR is a high-quality railroad operation. It has an excellent safety record, offers very good service and consistently demonstrates the kind of entrepreneurial initiative that is the hallmark of the short line railroad industry.

Our relationship with the Burlington Northern and Santa Fe Railway (BNSF) is equally positive. We have worked well with BNSF in finding creative ways to preserve the most vulnerable parts of the state's rail system. Railroads must find creative solutions

to survive in a highly competitive business, and Oregon has historically supported those efforts.

This transaction offers many of the benefits typical of short line spin-offs and in general we can support the application of PNWR. However, this transaction presents certain challenges to the public and deserves further explanation from both carriers about certain aspects of proposed operation.

### **Description of Operational Changes**

This transaction entails a 15-year operational lease of BNSF's 77-mile Oregon Electric Subdivision (the Subject Line) between Eugene and Quinaby, Oregon to PNWR. At Quinaby the Subject Line is contiguous to a PNWR line of railroad acquired earlier from BNSF that extends northerly up the Willamette Valley into west metropolitan Portland. Simultaneous with Board approval of this transaction, PNWR proposes granting trackage rights to BNSF between Salem and Albany, and to Central Oregon & Pacific Railroad (CORP), between Eugene and Albany.

According to the parties, PNWR will assume managerial and maintenance responsibility for the Subject Line. BNSF employees and locomotives will continue to operate between Salem and Albany moving carload freight between its main lines in Vancouver, Washington, and Salem and Albany, Oregon<sup>1</sup>. PNWR will sort the BNSF traffic received at Salem and Albany and deliver it to local customers at all points served by the Subject Line and also to points north of the Subject Line already served by PNWR between Quinaby and Beaverton<sup>2</sup>. From this expanded 100-mile long service territory (Eugene-Beaverton) PNWR will gather at Albany and Salem outbound cars for BNSF to handle back to Vancouver. BNSF and PNWR presently exchange Quinaby-Beaverton traffic at Willbridge in Portland and the planned rerouting via Salem, according to the parties, will add about 5,000 loaded cars and 5,000 empty cars yearly to Salem rail

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<sup>1</sup> In this regard, BNSF plans to perpetuate existing operation of Trains 663 and 664 between Vancouver, WA and Albany, OR; between Salem and Portland BNSF utilizes trackage rights over Union Pacific.

<sup>2</sup> Beaverton is a suburban community in the greater Portland metropolitan area.

volumes. Coincidental to rerouting Quinaby-Beaverton traffic through Salem, PNWR plans to move from Beaverton to Salem the headquarters of the local freight crew serving the Beaverton-Quinaby territory.

PNWR together with WPRR now operates a line of railroad between Albany and west metro Portland that has heavy grades and sharp curvature associated with a geographic feature known as Rex Hill. Subsequent to this transaction PNWR plans to reroute to the Subject Line traffic currently being hauled over Rex Hill, resulting in daily operation of one PNWR train in each direction between Albany and Beaverton via Salem. Between Albany and Salem, the two new PNWR trains will be in addition to the indigenous pair of BNSF trains.

A critical component of the parties' operating plan is the ability to interchange traffic at Albany and Salem. The proposed Albany interchange point is BNSF's existing Albany yard, a facility well suited for this activity. At Salem the situation is different. Because the Subject Line lacks track capacity suitably situated for a through train to pick up and set out cars for interchange, the parties plan to do this at Minto, a siding about 5,600 feet in length approximately 1.5 miles south of downtown Salem. However, the preponderance of traffic to be exchanged at Minto will belong to shippers and receivers located north of downtown Salem, resulting in multiple handling through the city's core as cars are shuttled back and forth between Minto and support trackage in north Salem. As an example, the 10,000 loaded and empty cars comprising the Quinaby-Beaverton traffic annually will generate 20,000 car movements along the downtown waterfront of Oregon's capitol city and nearby residential districts.

Minto siding is at the base of a cliff rising above the Willamette River, and in years past when switching was more active at this location, the Rail Division received frequent noise complaints from neighbors. We expect that the increase in activity will generate complaints again. Unfortunately, there is no easy way to mitigate the impact.

Other anticipated changes in train frequency upon the Subject Line deriving from PNWR acquisition will vary depending upon location. For the City of Eugene and its immediate outlying area, the activity level is not expected to change. However, beyond the Eugene metropolitan area PNWR proposes to add additional service as far north as American, site of a Georgia-Pacific paper mill near Halsey in Linn County. This will increase daily train movements from two to four on this segment, which includes portions of Lane and Linn Counties and the Cities of Junction City and Harrisburg. Between American and Albany, activity is predicted to not change. PNWR's plan to circumvent the Rex Hill route in favor of the easier gradient offered by the Subject Line will increase from two to four the number of daily trains between Albany and Minto, the siding south of downtown Salem.

It is the nine miles of Subject Line north of Minto where the greatest growth in frequency will occur. Most of this distance lies with the Cities of Salem and Keizer. Here, the increase is not likely to go unnoticed, presenting the biggest challenges to nearby residents, neighborhoods and local government. With full implementation of PNWR's plan we believe the number of train movements between Minto and the Bush district of Salem, a 4.2-mile segment that incorporates passage through Salem's downtown riverfront area, could range between six and eight per day or more compared to around four per day now. Driving this increase will be the need for PNWR shuttle movements back and forth between Bush and Minto, the point of car exchange between the two carriers, plus higher volume resulting from substitution of Salem for Portland as gateway for north valley traffic. The 4.5-mile segment from Bush to Quinaby has been devoid of regular train movements for more than seven years. PNWR's plan to operate four trains per day over this track will constitute a significant variation for a public that has grown content living near a non-operating railroad. Some negative community comments are anticipated.

#### **Community Safety Concerns**

The marked changes in operation on segments of the system cause us concern, primarily because of the short time before the new operations commence. Because this

line has been a very low-density line for many years, there has been little invested to improve the many at-grade crossings. As noted above, four miles of the system have been completely devoid of trains for more than seven years. Another segment where trains run at 10 MPH meanders through a densely populated residential area and passes an elementary school. In four cities portions of the Subject Line are located longitudinally in streets serving residential and business districts.

We have every reason to believe that these issues can be addressed. Our concern is timing to provide adequate notification and to schedule Operation Lifesaver presentations, and funding to support the extra educational effort. Moreover, the state's limited funding for highway-railroad grade crossing improvements is not adequate to address our concerns about particular crossings on the Subject Line.

#### **Rail Safety Concerns**

The safety record of PNWR and its sibling, WPRR causes us no concern at all. We have no reason to believe that railroad safety will be adversely affected through this transaction. This short line railroad demonstrates a high level of sophistication in all of its operating practices.

#### **Shipper Comments**

ODOT encouraged comments from all affected shippers, including a number not served by the Applicant. Comments have been mixed. Our general experience with PNWR and WPRR has been that shippers are served well by both railroads. We suggest that PNWR contact all affected customers to allay fears that service will be diminished because of the significant reduction in work force.

#### **Local Government Comments**

ODOT contacted all of the affected governmental jurisdictions, again with a very short time to respond. To date, we have received neutral comments from the City of

Harrisburg. The City of Salem, through its City Manager, has expressed concern about the substantial increase in traffic will little time to respond to safety and environmental issues. Like many communities with railroad operations, concerns focus on whistle and train noise, and safety issues at crossings.

### **Public Policy Issues**

There are many things we like about this transaction, and while we do have some concerns about community safety, we believe they can be addressed. What concerns we do have are at a much higher public policy level. We do not fully understand the requested "incidental" trackage rights for either BNSF or CORP and agree with the Board's initial finding that these requests should be made as separate filings. The layered trackage rights have the potential for providing the kind of competitive rail option that this state has vehemently supported, but we are not certain if that is simply an unintended consequence of this transaction.

The PNWR and the WPRR have together been highly successful in generating new intra-system traffic. The extension of PNWR's reach to Eugene on the Oregon Electric offers additional opportunities for developing that kind of traffic. There is a strong public benefit to developing intrastate traffic, which, unfortunately the Class I railroads have little interest in handling.

### **CONCLUSION**

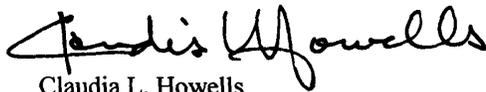
ODOT generally supports this transaction based on the over-all benefits of extending the PNWR network. We have concerns primarily related to the nature of an expedited proceeding. While this transaction may qualify for the Exemption process, the affect on shippers and the communities is significant. We request the following:

1. Both BNSF and PNWR communicate directly with the local jurisdictions on the impact of changes in operations.

2. Both BNSF and PNWR give Operation Lifesaver presentations to schools and other community groups affected by the increases in traffic, and that both contribute to purchasing appropriate OL publications in both Spanish and English.
3. BNSF participate financially in upgrading critical grade crossings that are agreed upon by ODOT, affected public road authorities and PNWR.
4. PNWR contact all customers affected by this transaction.
5. PNWR provide at least the same level of service to all customers now served by the BNSF.

Because of the unusual nature of this transaction, we suggest that the Board proceed with approval, but leave the docket open for at least a year of oversight.

Respectfully submitted,



Claudia L. Howells  
Manager, Rail Division  
Oregon Department of Transportation



## CITY MANAGER'S OFFICE

555 Liberty St SE / Room 220 • Salem, OR 97301-3503 • (503) 588-6255 • Fax (503) 588-6354

December 20, 2002

Claudia L. Howells, Manager  
Dept of Transportation, Rail Division  
555 13<sup>th</sup> Street NE, Ste 3  
Salem OR 97301-4179

**SUBJECT:** Portland & Western Railroad lease of BNSF trackage  
in and through Salem, Oregon.

Dear Ms. Howells:

We received your letter dated December 13, 2002, today, asking for Salem's comments on what appears to be a large increase in rail traffic due to a pending lease on December 29, 2002. The extremely short time frame for comments does not give us any opportunity to do more than a very cursory review, and we wish to first express our dismay over not having sufficient time to review a change in operations, which will undoubtedly have an impact on the City's citizens and traffic flow.

The main areas of concern are the doubling of the current rail traffic through this corridor, which crosses a number of major streets, as well as the only entrances to Riverfront Park, a project which the entire community has been working on for a number of years. The creation of a new defacto switching yard in a predominately residential area south of downtown (Minto siding) can be expected to produce a number of noise complaints, especially with any increase in night time activities. Finally, the addition of a brand new resident switcher will also undoubtedly increase the use of the trackage through town as it shuttles local loads back and forth to the Minto switch area.

Although we support the value added by freight rail service to our local economy, we would have wished for greater notice of a change of this magnitude, so that we could have participated in the discussions and perhaps found ways to more easily accommodate this new service provider. We would appreciate any help your office can provide in meeting with the parties to become more fully informed on the impacts to the community. We urgently request more time for review. Under the current time line, we have had virtually no time for review.

Sincerely,



Robert D. DeLong  
City Manager

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**OREGON DEPARTMENT OF TRANSPORTATION  
CERTIFICATE OF SERVICE**

**FINANCE DOCKET NO. 34255**

I, Brian Burnett, Office Specialist of the Rail Division for the Department of Transportation of the State of Oregon, hereby certify that on the 20th day of December, 2002, I served copies of Finance Docket No. 34255 with enclosures upon the parties listed below by depositing a copy thereof in the United States mail at Salem, Oregon, with postage prepaid and addressed as their addresses appear in the records of the Department of Transportation.

**PARTIES**

OFFICE OF THE GOVERNOR  
STATE OF OREGON  
STATE CAPITOL BLDG  
900 COURT ST NE  
SALEM OR 97301-4047

MR EDWARD DUBROSKI  
INTERNATIONAL PRESIDENT  
BROTHERHOOD OF LOCOMOTIVE  
ENGINEERS  
STANDARD BLDG  
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CLEVELAND OH 44113

MR MAC A FLEMING  
BROTHERHOOD OF MAINTENANCE  
OF WAY EMPLOYEES  
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MR BYRON A BRYD, JR  
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UNITED TRANSPORTATION UNION  
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EUGENE OR 97440

GEORGIA-PACIFIC CORP  
CORPORATE HEADQUARTERS;  
GEORGIA PACIFIC CORPORATION  
133 PEACHTREE ST  
ATLANTA GA 30303

BRAD ASBURY & RON MCKERN  
A&M RELOAD INC.  
PO BOX 11255  
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BOISE CASCADE CORP  
1111 JEFFERSON ST  
BOISE ID 83728-0001

PAPER & SALES MARKETING  
BOISE CASCADE CORP  
907 W SEVENTH ST  
VANCOUVER WA 98660

WEYERHAEUSER CO  
PO BOX 907  
ALBANY OR 97321

CASCADE WAREHOUSE  
1330 SALEM INDUSTRIAL DR NE  
SALEM OR 97303

EAGLE VENEERS  
PO BOX 288  
HARRISBURG OR 97446

EAGLE VENEERS  
PO BOX 908  
GRANTS PASS OR 97528

MORSE BROTHERS  
PO BOX 205  
HARRISBURG OR 97446

MORSE BROTHERS  
23505 PEORIA RD  
HARRISBURG OR 97446

CORPORATE ADMINISTRATION  
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1300 E GRANT ST  
LABANON OR 97355

ALBANY ROCKS PRODUCTS  
MORSE BROTHERS  
35973 KENNEL RD SE  
ALBANY OR 97321

SALEM REED PLANT  
MORSE BROTHERS  
9710 WHEATLAND RD  
SALEM OR 97303

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PO BOX 7037  
EUGENE OR 97401-0038  
KROPF FEED & SEED  
815 S 2ND ST  
HARRISBURG OR 97446

GRAIN MILLERS INC  
315 MADISON  
EUGENE OR 97402

EMERALD FOREST PRODUCTS INC  
PO BOX 2746  
EUGENE OR 97402

POPE & TALBOT INC  
1500 SW 1ST AVE  
PORTLAND OR 97201  
PANOLAM INDUSTRIES INC  
3030 CALAPOOIA ST SW  
ALBANY OR 97321-3840

SPECIALTY LAMINATES  
1740 WEST 5TH ST  
EUGENE OR 97402-4303

TRUITT BROTHERS INC  
PO BOX 309  
SALEM OR 97308-0309

AGRI TRANDING CORP  
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D R JOHNSON LUMBER CO  
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FOREST CITY TRADING GROUP  
10250 SW GREENBURG RD  
PORTLAND OR 97223

ISG RESOURCES INC  
136 EAST SOUTH TEMPLE STE 1300  
SALT LAKE CITY UT 84111

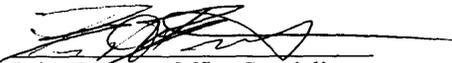
WESTERN REGION OFFICE  
ISG RESOURCES INC  
950 ANDOVER PARK E STE 24  
TUKWILA WA 98188

NORTHERN REGION OFFICE  
ISG RESOURCES INC  
4034 N EUCLID AVE  
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Brian Burnett, Office Specialist  
Oregon Department of Transportation  
Rail Division