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ENTERED
Office of Chief Counsel
June 8, 2026
Part of
Public Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

VFRC, LLC, an Oregon Limited Liability
Company, VENELL FARMS, INC., an
Oregon Business Corporation, ALBANY &
EASTERN RAILROAD COMPANY, an
Oregon Business Corporation,

Complainants,

v.

PORTLAND & WESTERN RAILROAD,
INC., a New York Corporation; GENESEE
& WYOMING, INC., a Delaware
Corporation, UNION PACIFIC
RAILROAD COMPANY, a Delaware
Corporation,

Defendants.

Docket No. NOR 42187

AMENDED COMPLAINT

*Filing contains color photographs
at Exhibit 5*

AMENDED COMPLAINT

COMPLAINANTS

VFRC, LLC
30257 Highway 99W
Corvallis, Oregon 97333

Venell Farms, Inc.
30742 Venell Place
Corvallis, Oregon 97333

Albany & Eastern Railroad Company, Inc.
263 Industrial Way
Lebanon, Oregon 97355

DEFENDANTS

Portland & Western Railroad, Inc.
c/o C T Corporation System, Inc.
780 Commercial St. SE, Suite 100
Salem, Oregon 97301

Genesee & Wyoming, Inc.
20 West Avenue
Darien, Connecticut 06820

Union Pacific Railroad Company, Inc.
c/o The Corporation Trust Company
Corporation Trust Center 1209 Orange St.
Wilmington, Delaware 19801

ATTORNEY FOR COMPLAINANTS

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Bend, Oregon 97702
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Pursuant to 49 C.F.R. § 1111.3(a) and 49 C.F.R. § 1104.11, Complainants hereby amend their Complaint, which was originally filed with Surface Transportation Board on May 8, 2026.

Pursuant to 49 U.S.C. § 11701(b), 49 U.S.C. § 11704(c), and 49 C.F.R. § 111.2, VFRC, LLC (“VFRC”), Venell Farms, Inc. (“Venell”), and Albany & Eastern Railroad Company, Inc. (“AERC”) (collectively “Complainants”) hereby submit the following amended complaint against Portland & Western Railroad, Inc. (“PNWR”), Genesee & Wyoming, Inc. (“G&W”), and Union Pacific Railroad Company, Inc. (“UP”) (collectively “Defendants”), seeking redress for Defendants’ failure to provide reasonable rail transportation service to Complainants in violation of Defendants’ common carrier obligations imposed by 49 U.S.C. § 11101(a), as well as damages caused by Defendants’ failure to discharge their duties as common carriers pursuant to 49 U.S.C. § 11704(b).

I.

VFRC is an Oregon limited liability company that engages in agricultural services, shipping their commodities to buyers both in and outside of Oregon. VFRC also owns the physical assets of the Bailey Branch railroad line from Milepost 687.60 near Corvallis, Oregon to Milepost 682.25 near Greenberry, Oregon. VFRC’s principal place of business is located at 30257 Highway 99W, Corvallis, Oregon 97333. VFRC is a wholly owned subsidiary of Venell.

II.

Venell is an Oregon business corporation that engages in agricultural services and ships commodities along the Bailey Branch. Venell is the parent company of VFRC. Venell's principal place of business is located at 30742 Venell Place, Corvallis, Oregon 97333.

III.

AERC is an Oregon business corporation and a short line railroad which serves the mid-Willamette Valley. AERC operates the section of the line owned by VFRC pursuant to its freight easement, with UP retaining overhead trackage rights on the line. AERC's principal place of business is 263 Industrial Way, Lebanon, Oregon 97355.

IV.

PNWR operates a roughly 500-mile regional system of former BNSF and UP lines in Western Oregon. PNWR is a wholly owned subsidiary of short line and regional railroad holding company G&W. PNWR is a common carrier by rail subject to the jurisdiction of the Surface Transportation Board under Title 49 U.S. Code, Subtitle IV, Part A. PNWR's principal place of business is located at 780 Commercial Street SE, Suite 100, Salem, Oregon 97301. G&W's principal place of business is located at 20 West Avenue, Darien, Connecticut 06820.

V.

UP is a freight-hauling railroad that operates over 30,000 miles of routes in the United States west of Chicago and New Orleans. UP is a common carrier by rail subject to the jurisdiction of the Surface Transportation Board under Title 49 U.S. Code, Subtitle IV, Part A. UP is the owner of the Marys River Bridge. UP is a Delaware corporation with headquarters located at 1400 Douglas Street, Omaha, Nebraska 68179.

VI.

The Surface Transportation Board has subject matter jurisdiction over the Complaint pursuant to 49 U.S.C. § 10501. Furthermore, 49 U.S.C. § 11101(a) requires a rail carrier providing transportation or service subject to the jurisdiction of the Surface Transportation Board to provide such transportation or service on reasonable request.

VII.

The Bailey Branch is a 17.7-mile railroad line in Benton County, Oregon stretching from the cities of Corvallis to Monroe, with a spur to Dawson. A map showing the location of this line is attached hereto as Exhibit 1. This track is the only north-south track on the west side of the Willamette River south of Corvallis.

The Bailey Branch includes the Marys River Bridge, which spans the Marys River near Corvallis, Oregon. This bridge has been owned by UP since 1996, and before that, it was owned by Southern Pacific. In or around 1992, Southern Pacific contracted with PNWR (formerly Willamette & Pacific Railroad (“WPRR”)) to operate the line, including the Marys River Bridge.¹ This lease was recently extended in 2025. *See* Exhibit 2. This arrangement remains in effect today. Thus, the obligation to operate, maintain, and repair the bridge and line lies with PNWR and UP.

The Marys River Bridge constitutes the exclusive conduit through which cargo shippers on the Bailey Branch, including Complainants, access external markets.

¹ WPRR is a closely related sister company to PNWR. Both are operated together under Genesee & Wyoming Inc. In 2000, PNWR adopted all the stations of the WPRR, and PNWR incorporates WPRR as part of its operations. For the purposes of this Amended Complaint, any reference to PNWR includes and incorporates WPRR.

VIII.

Since 1956, Venell has shipped tens of thousands of rail cars on the Bailey Branch. Initially, their cargo primarily constituted grass seed and some hay, but in the 1970s, they began shipping a substantial amount of animal feed as well.

IX.

In 1996, Venell built a \$2,000,000 bulk loading facility on the Bailey Branch so that they could facilitate further shipments by rail on the Bailey Branch. Venell also added a spur and a switch at the North end of their facility to facilitate a pass through, so the PNWR did not have to pull loaded cars to Monroe, Oregon and back, which assisted PNWR by having less ware on the southern section of the line.

Once Venell's facility was complete, Venell engaged PNWR to start sending cars to their new facility. However, PNWR refused to do so because they claimed that repairs were needed on the Bailey Branch line.

From 1992 (when PNWR first contracted with Southern Pacific) and 2000, the track had deteriorated due to PNWR failing to make the necessary repairs to keep it in safe operating condition. PNWR's deferred maintenance resulted in the need for PNWR to request emergency aid from the State of Oregon to repair the line.

In or around August of 2000, PNWR received approximately \$250,000 in emergency repair funds from the State of Oregon to repair the track to a safe operating condition. As part of the rehabilitation of the line, PNWR also imposed a shipper paid maintenance surcharge of \$49 on all carloads to cover operating costs to serve the line. The \$49 surcharge was charged only to the local shippers on the track, including Venell.

In or around 2002, additional funding of approximately \$105,000 was granted by the State to PNWR to repair the track. However, a year after receiving these funds, the PNWR had still yet to repair the track. Additionally, they continued to charge Venell the \$49 surcharge.

In or around 2007, PNWR sent VFRC a letter informing them that they were going to embargo the track due to safety concerns directly related to poor track conditions, and that they were commencing formal abandonment procedures. A copy of this letter is attached hereto as Exhibit 3. The line was embargoed shortly thereafter (PNWR000107).

This embargo left Venell and other shippers on the line with no rail service for over a year. This resulted in Venell having to ship products via truck instead, even though they had invested millions in their facility for the purpose of shipping by rail.

In 2007, Venell and other shippers along the line sued UP, G&W, and WPRR in Benton County Circuit Court seeking, *inter alia*, injunctive relief and damages for breach of contract related to failures associated with not repairing or maintaining the track.

X.

Increasingly frustrated by PNWR's failure to repair and maintain the track, in 2010, instead of further pursuing their claims in Benton County Circuit Court, Venell purchased a section of the Bailey Branch from Milepost 687.60 near Corvallis to Milepost 682.25 near Greenberry under the entity VFRC, LLC. This section of the line is located approximately 1,500 feet south of the Marys River Bridge.

VFRC purchased this section of the line from UP. At the time of this acquisition, UP maintained a freight easement over the line, but later transferred this easement to AERC. AERC continues to operate the section of the line owned by VFRC pursuant to its freight easement, with UP retaining overhead trackage rights on the line. PNWR had previously terminated its lease with UP pertaining to this line and transferred its operating rights on the line to AERC,

while also retaining overhead trackage rights on the line. A copy of the Corvallis Line Operating Agreement is attached hereto as Exhibit 4. Following their purchase of the line in 2010, VFRC invested \$800,000 into track upgrades and repairs that PNWR was required to complete but failed to do years earlier.

Following this substantial investment in track upgrades, Complainants commenced operating on the line and shipping products by rail, relying on the Bailey Branch's sole means of access to the interstate rail network via the Marys River Bridge. Between 2011-2013, Venell shipped approximately 400 cars of wheat per year in addition to their usual shipments of grass seed and animal feed.

Following VFRC's investment to repair the track and with AERC now serving as the operator on VFRC's section of the track, additional agricultural companies began investing in substantial infrastructure along the line. In 2018, Nutrien Ag Solutions ("Nutrien") constructed an \$8,000,000 shipping facility on the line. Nutrien chose to invest substantial capital in this location because they would have access to reliable rail interchange.

XI.

On May 2, 2022, the Marys River Bridge caught fire and burned for approximately nine hours, severely scorching the wooden trestles and cross braces of the 75-year-old structure. Defendants had allowed a large camp of homeless individuals to remain underneath the Marys River Bridge leading up to the fire. On May 2, 2022, a lab used to manufacture methamphetamine located underneath the bridge within the homeless camp exploded, which caused the pilings underneath the bridge to catch fire. While the Corvallis Fire Department was able to put out the fire, the cross braces on the bridge were severely burned and sustained substantial damage. While Defendants worked to replace the ties and light rail equipment on the bridge following the blaze, they never replaced the damaged cross braces.

Less than three years later, on January 4, 2025, the bridge's cross braces failed causing the bridge to collapse, sending rail cars operated by PNWR—and approximately 200 tons of urea (a chemical used in fertilizer production)—into the river below. Photographs of the aftermath of the bridge collapse are attached hereto as Exhibit 5.

On November 25, 2025, the Oregon Department of Environmental Quality (“DEQ”) sent PNWR a Notice of Civil Penalty for unlawfully discharging waste into waters of the state and assessed an \$81,600 fine against PNWR. A copy of this Notice is attached hereto as Exhibit 6. Particularly significant is the following quotation from the DEQ's Notice:

“Given the circumstances of this incident, DEQ is concerned about the condition and safety of Portland & Western, Inc.'s railroad crossings over water bodies.”

See Exhibit 6.

This structural failure was caused by Defendants' oversight. Had the bridge been properly repaired/rebuilt following the fire in 2022, the bridge would not have collapsed in 2025.

Since its collapse on January 4, 2025, Defendants have yet to repair the bridge or provide a timeline on resuming service. This has caused the cessation of interchange services between Complainants and the PNWR-operated Railroad, resulting in the complete disruption of rail service by AERC and to and from VFRC, Venell, and other cargo shippers on the line such as Nutrien.

This interruption has had a substantial financial impact on Venell's business. Based on historical usage, Venell estimates a loss of 157 inbound railcars of fertilizer over the past year. At an average margin of \$300 per railcar, this equates to approximately \$47,100 in lost revenue to Venell.

Furthermore, in late 2024 prior to the collapse of the bridge, VFRC and Venell were in discussions with Kalama Grain in Washington about loading their grain at VFRC's facility. This

represented a substantial business opportunity for VFRC and Venell to expand their business, as the Port of Kalama is a major west coast hub for exporting agricultural products. Unsurprisingly, these discussions did not continue following the collapse of the bridge, given that no rail interchange has been possible since.

Relatedly, a neighboring farm in Benton County had engaged VFRC prior to the bridge collapse about shipping fifty cars of wheat per year. Again, since the bridge collapsed, these talks have ceased.

Other shippers on the line have also been significantly impacted. For instance, Nutrien has been forced to truck in all fertilizer products, despite choosing to invest \$8,000,000 at this location due to its proximity to rail infrastructure to support its deliveries. These impacts have rippled through the surrounding community, increasing congestion on local roadways due to heightened trucking activity and leaving local farmers to contend with reduced fertilizer availability and higher costs.

XII.

AERC has also been significantly impacted by the collapse of the Marys River Bridge and the prolonged lack of connection to the interstate rail network. AERC's losses have principally come in the form of the lost use of their locomotives, which have been stranded due to the collapse of the bridge. While the locomotives are stranded, AERC is unable to use them to generate income. Furthermore, AERC is facing costs of approximately \$160,000 to remove the stranded locomotives. As well, under VFRC and AERC's operating agreement, the two parties split revenue from freight cars. This further represents an additional loss of income which AERC continues to suffer as a result of the collapse of the Marys River Bridge.

XIII.

Since the bridge collapsed, Complainants have attempted to engage with Defendants on multiple occasions to determine when the bridge will be repaired and service will be resumed. Defendants have failed to provide any substantive answer. After waiting nearly one and a half years for an answer, counsel for Complainants sent a letter to PNWR on April 24, 2026, formally demanding that PNWR take whatever steps were necessary to resume interchange service with VFRC's trackage. This letter also reminded PNWR of their obligations to do so as a common carrier. A copy of this letter is attached hereto as Exhibit 7.

In this letter, VFRC also alerted PNWR that at the time the Marys Bridge collapsed, two of PNWR's locomotives and sixteen PNWR freight cars were on the south side of the bridge. These PNWR locomotives and freight cars have been stored on VFRC's property and railroad without VFRC's consent and without payment for storage costs since January 2025. Accordingly, on May 1, 2026, VFRC sent PNWR an invoice reflecting sixteen months siding and yard rent for PNWR's two locomotives from January 2025 through April 2026 at a total cost of \$400,000.00. A copy of this invoice is attached hereto as Exhibit 8.

XIV.

On April 29, 2026, counsel for Complainants sent a follow up letter to their April 24th correspondence. This letter is attached hereto as Exhibit 9. This letter was sent to PNWR after VFRC learned that PNWR had recently engaged with contractors about removing their locomotives via truck from VFRC's property for a quoted price of \$409,890.00. The invoice reflecting this amount is attached hereto as Exhibit 10.

This further demonstrates PNWR's continued efforts to improperly abdicate its obligations as a common carrier. By attempting to remove its stranded rail equipment from VFRC's property by truck at a significant cost—while failing to take steps to restore interchange

service as a common carrier, PNWR has demonstrated that it has no intention of resuming such service anytime soon.

XV.

On April 29, 2026, counsel for VFRC received an email on behalf of WPRR and G&W stating that the portion of the line including the Marys River Bridge had been embargoed as of April 29, 2026 (PNWR000126). A copy of this email is attached hereto as Exhibit 11. A copy of the embargo is attached hereto as Exhibit 12.

An embargo is an “**emergency measure** placed in effect because of some disability on the party of the carrier which makes the latter unable properly to perform its duty as a common carrier.” *GS Roofing Prods. Co. v. Surface Transp. Bd.*, 262 F3d 767, 773 (8th Cir 2001) (emphasis added). Here, there is no “emergency.” The bridge collapsed nearly **17 months** before the line was embargoed.

Further, while a valid embargo temporarily excuses a common carrier’s duty to provide service on reasonable request pursuant to 49 U.S.C. § 11101(a), it does not permanently eliminate the common carrier obligation. 2001 STB LEXIS 633, *11, 2001 STB LEXIS 633. “[A]n embargo cannot be used by a railroad to unilaterally abandon or discontinue service on a line at its own election.” *Id.* Here, PNWR has done precisely this. PNWR neglected its duty as a common carrier for 17 months after the bridge collapsed and has now decided to embargo the line with “no immediate plan to resume service.” *See* Exhibit 9.

To be valid, an embargo must at all times be reasonable. *GS Roofing Prods. Co.*, 262 F3d at 773. If the Surface Transportation Board determines that an embargo is unreasonable, a rail carrier may be liable for damages pursuant to 49 U.S.C. § 11704(b). *Id.* Whether an embargo is reasonable or not is a fact specific inquiry, and is determined by balancing several factors, including the “length of the service cessation, the intent of the railroad, the cost of the repairs, the

amount of traffic on the line, and the financial condition of the carrier.” 2001 STB LEXIS 633, *12, 2001 STB LEXIS 633. Each of these factors is discussed in detail below.

i. The Length of the Service Cessation

As explained above, the Marys River Bridge collapsed in early January 2025. For nearly 17 months, there has been no service on this line and during this time, Defendants refused to take any action or provide any information regarding a timeline to resume service. It is critical to note that there was no embargo in place until April 29, 2026. Thus, for nearly 17 months, PNWR completely evaded its obligation to provide rail service as a common carrier. Had PNWR embargoed the line shortly after the bridge collapsed, they might have found temporary relief from their common carrier duties under 49 U.S.C. § 11101(a). *GS Roofing Prods. Co.*, 262 F3d at 773 (Noting that the obligation of common carriers is not absolute, and a valid, reasonable embargo will relieve a carrier of its obligation to provide rail service.). However, they did not. They sat on their hands until legal counsel for Complainants sent two separate demand letters reminding them of their common carrier duties. Only then did they proceed to place an embargo on the line, treating the collapse of the Marys River Bridge as if it had happened the day before. Their actions during this period are indefensible, unreasonable, and in clear violation of 49 U.S.C. § 11101(a).

ii. The Intent of the Railroad

The actions, or inactions, of PNWR on the Bailey Branch since January 2025 confirm a longstanding pattern of PNWR abandoning their duties as a common carrier dating back to 1996. Even when PNWR operated the section of the line now owned by VFRC, they refused to send cars to VFRC’s newly constructed facility because of needed repairs—repairs which PNWR was obligated to perform but never fully completed. To restore service to the line, VFRC was forced

to take the unprecedented step of purchasing a section of the line to complete what PNWR was obligated to do years earlier.

Now, years later, PNWR is undoubtedly taking a similar approach to avoiding their common carrier duties. By failing to take any action regarding the collapsed Marys River Bridge for nearly 17 months, despite being obligated to do so, their intent is clear. Only now, after receiving multiple demand letters from VFRC's counsel to restore service, do they attempt to employ the "emergency measure" of embargoing the railroad. This is not the behavior of a common carrier acting in good faith to discharge its obligation under 49 U.S.C. § 11101(a). It is the behavior of a common carrier that has repeatedly evaded their duties on this line for over thirty years.

Additionally, as stated above, "an embargo cannot be used by a railroad to unilaterally abandon or discontinue service on a line at its own election." 2001 STB LEXIS 633, *11, 2001 STB LEXIS 633. By failing to act for 17 months, then embargoing the line and claiming there are "no immediate plan to resume service," PNWR's actions resemble an attempt to abandon or discontinue a rail line without following the procedures required under 49 U.S.C. § 10903 and 49 C.F.R. § 1152.

iii. The Cost of Repairs

To date, there has been no formal quotation of costs to repair the Marys River Bridge and resume service; However, Rick Franklin Corporation, the company that was contracted to remove the bridge from the Marys River after the collapse, estimated the cost of the bridge repairs at \$1.5 million. Moreover, PNWR has recently demonstrated a willingness to pay Rick Franklin Corporation \$409,890.00 to remove their stranded locomotives from VFRC's property, instead of putting those funds toward rebuilding the bridge and resuming service, which they are obligated to do. *See Exhibit 8.*

iv. The Amount of Traffic on the Line

Hundreds of cars travel along this line each year. The current primary shippers on this line (prior to the bridge collapse) include Venell Farms Inc. and Nutrien Ag Solutions, both of which have invested millions of dollars in facilities along the line. As described above, prior to the bridge collapse, Kalama Grain and a neighboring farm in Benton County were in talks with VFRC/Venell Farms, Inc. about shipping additional cars along the line.

v. The Financial Condition of the Carrier

PNWR is owned by G&W, which is the largest short line railroad holding company in North America. G&W's subsidiaries include over 13,000 miles of track and provide rail service at more than 30 major ports. In 2019, G&W was acquired by the \$16-billion-dollar global infrastructure company Brookfield Infrastructure Partners. G&W most certainly has the financial means to repair the Marys River Bridge and restore service to the Bailey Branch following PNWR's failures as a common carrier.

Each of the relevant factors above show the unreasonableness of PNWR's recent embargo on the Bailey Branch.

XVI.

Defendants should be liable for damages incurred by Complainants pursuant to 49 U.S.C. § 11704(b), including for lost profits. *See Louisiana Railcar, Inc. v. Missouri Pacific Railroad Co.*, 5 I.C.C. 2d 542, 549 (1989) (Surface Transportation Board possesses the authority to award damages for lost profits); *see also GS Roofing Prods. Co.*, 262 F3d at 777 (lost profits cannot be speculative or remote).

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, for the foregoing reasons, the Surface Transportation Board should find that Defendants' actions constitute failures to provide adequate rail service to Complainants in violation of Defendants' common carrier obligation under 49 U.S.C. § 11101(a).

Complainants respectfully requests that the Surface Transportation Board order Defendants to repair the Marys River Bridge and restore service to the Bailey Branch. Pursuant to 49 U.S.C. § 11704(b), Complainants respectfully request that the Surface Transportation Board award damages to Complainants, including lost profits, caused by Defendants' failures to discharge their duty as a common carrier and for PNWR's unlawful embargo of the line. VFRC and Venell also request an order requiring PNWR to pay VFRC/Venell for their ongoing, unauthorized storage of two locomotives and sixteen freight cars on VFRC/Venell's property, caused by Defendants' failure to repair the bridge and restore service, as well as any other damages as may be proven in an investigation of this Complaint.

DATED this 8th day of June, 2026

FRANCIS HANSEN & MARTIN LLP

/s/ Martin E. Hansen

Martin E. Hansen, OSB #800526
Attorney for Complainants

CERTIFICATE OF SERVICE

I certify on the 8th day of June, 2026, I served the foregoing **AMENDED COMPLAINT (NOR 42187)** on the parties below by email, US First Class mail, and by directing a certified process server to Personally Serve the parties below:

Portland & Western Railroad, Inc.
c/o C T Corporation System, Inc.
780 Commercial St. SE, Suite 100
Salem, OR 97301

Genesee & Wyoming, Inc.
Attn: Allison Fergus, General Counsel and
Secretary
20 West Avenue
Darien, CT 06820

Portland & Western Railroad, Inc.
Attn: Scott Boyter, General Manager
1200 Howard Drive SE
Albany, OR 97321
scott.boyter@gwrr.com

Union Pacific Railroad Company, Inc.
c/o The Corporation Trust Company
Corporation Trust Center 1209 Orange St.
Wilmington, Delaware 19801

Portland & Western Railroad, Inc.
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Genesee & Wyoming, Inc.
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DATED this 8th day of June, 2026.

FRANCIS HANSEN & MARTIN LLP

/s/ Martin E. Hansen
Martin E. Hansen, OSB #800526
Attorney for Complainants

CERTIFICATE OF SERVICE

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SERVICE DATE – MAY 9, 2025

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36827

WILLAMETTE & PACIFIC RAILROAD, INC.—
LEASE AND OPERATION EXEMPTION INCLUDING INTERCHANGE COMMITMENT—
UNION PACIFIC RAILROAD COMPANY

[REQUEST FOR WAIVER OF 49 C.F.R. § 1150.42(e)]

Digest:¹ This decision waives a 60-day advance notice requirement and allows Willamette & Pacific Railroad, Inc., to enter into an amended lease agreement with Union Pacific Railroad Company and continue to operate approximately 160.95 miles of rail lines in Oregon, on or after May 14, 2025.

Decided: May 9, 2025

On April 14, 2025,² Willamette & Pacific Railroad, Inc. (WPRR), a Class III rail carrier, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to amend and extend its lease originally entered into with a predecessor of Union Pacific Railroad Company (UP), Southern Pacific Transportation Company. The lines of railroad subject to the lease amendment include the following segments, totaling approximately 160.95 miles: (1) the Toledo Branch between milepost 691.61 near Albany, Or., and milepost 766.70 at the end of the track, near Toledo, Or.; (2) that portion of the Newberg Branch between milepost 738.00 near St. Joseph, Or., and milepost 749.67 near Newberg, Or.; (3) that portion of the West Side Branch between milepost 738.00 near St. Joseph and milepost 687.6 near Corvallis, Or.; (4) the Dallas Branch between milepost 729.01 near Gerlinger, Or., and milepost 733.80 at the end of the track, near Dallas, Or.; and (5) the Willamina Branch between milepost 730.46 near Whiteson, Or., and milepost 749.46 at the end of the track, near Willamina, Or. (collectively referred to as the Leased Lines).

In its verified notice, WPRR certifies that its revenues currently exceed \$5 million. (Verified Notice 6-7.) Accordingly, unless waived, 49 C.F.R. § 1150.42(e) would require WPRR, at least 60 days before the exemption becomes effective, to post a notice of its intent to undertake

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

² WPRR initially filed its verified notice on April 4, 2025. WPRR filed a supplement on April 14, 2025, which was therefore deemed the filing date of the verified notice.

the proposed transaction setting forth certain information at the workplaces of the employees on the affected lines, serve a copy of the notice on the national offices of the labor unions with employees on the affected lines, and certify to the Board that it has done so. However, the verified notice includes a request for a waiver of those notice requirements. (Id. at 7-9.)

Notice of WPRR's exemption was served and published in the Federal Register on April 30, 2025 (90 Fed. Reg. 17,989). The notice of exemption stated that the Board would establish the effective date of the exemption in a separate decision on the waiver request.

In its request for waiver, WPRR argues that the labor notice requirements are unnecessary because the proposed transaction would result in no changes for any employees working on the Line. (Verified Notice 6-7.) According to WPRR, it has been the operator of the Leased Lines since 1993, and there will be no changes for any WPRR employees working on the Leased Lines, or for UP employees, resulting from this transaction. (Id.) WPRR further notes that, even though there will be no effect on employees of WPRR, it is providing notice of this transaction to the national office of the union that represents employees working on the Leased Lines by serving it with a copy of its verified notice. (Id. at 8 n.3.) No opposition to this waiver request has been filed.

DISCUSSION AND CONCLUSIONS

The purpose of the notice requirements at 49 C.F.R. § 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.

Here, however, it does not appear that the purpose behind the requirements would be thwarted if the requested waiver is granted. The record indicates that no employees would be adversely affected by a waiver of the 60-day notice requirements. WPRR is the current operator of the Leased Lines and has been since 1993, and WPRR states that there would be no changes for any WPRR employees working on the Line as a result of the proposed transaction. (Verified Notice 6-7.) Moreover, WPRR indicates that UP has no employees who would be affected by the transaction. (Id.)

Because no employees would be adversely affected by the requested waiver of the 60-day notice period, the Board will grant the waiver. Accordingly, WPRR's lease and operation exemption, unless stayed, will become effective on May 14, 2025, the effective date under the Board's rules absent the notice requirement.

This action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c).

It is ordered:

1. WPRR's request for waiver is granted.
2. WPRR's exemption will be effective on May 14, 2025, unless stayed.

3. This decision is effective on its date of service.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.



John J. Speight
Vice President
Marketing & Sales

June 4, 2007

To Our Customers:

Subject: Notice of PNWR Embargo on Bailey District

During the past 5 weeks the Portland & Western Railroad (PNWR) has experienced 5 derailments that were directly related to existing track conditions. With the current and anticipated volumes of traffic on the line from Corvallis to Monroe and Dawson, we are unable to justify the significant investment required to bring the line up to safe operating conditions. Due to safety concerns, we are faced with no alternative but to embargo the line account track conditions pending the formal filing for abandonment.

Effective June 16, 2007, the PNWR will issue an embargo on all traffic on the line. After this date, no traffic will be accepted originating or destined for stations on the Bailey District.

Please feel free to call our Salem marketing office at 503-365-7717 x103 or x110 if you have any questions regarding the embargo or if you require further information regarding this decision.

EXHIBIT C PAGE 1 OF 1

CORVALLIS LINE OPERATING AGREEMENT

THIS OPERATING AGREEMENT ("Agreement") is made this 25th day of May, 2010 ("Effective Date"), between VFRC, LLC ("VFRC"), an Oregon Limited Liability Company and Albany & Eastern Railroad Company, an Oregon corporation ("AERC").

WHEREAS, VFRC has acquired from Union Pacific Railroad Company ("UP") the physical assets of a line of railroad, including but not limited to right-of-way, roadbed and trackage from Milepost 687.60 near Corvallis to Milepost 682.25 near Greenberry, all in Benton County, Oregon (the "Line"); and

WHEREAS, UP retained the exclusive freight easement on the Line ("Freight Easement") and has transferred that Freight Easement to AERC while, at the same time, retaining overhead trackage rights on the Line; and

WHEREAS, Willamette & Pacific Railroad, Inc. ("WPRR") has terminated that portion of its lease with UP pertaining to the Line, and has transferred its operating rights on the Line to AERC, while retaining overhead trackage rights on the Line; and

WHEREAS, VFRC and AERC have agreed that AERC will operate the Line pursuant to its Freight Easement on the following terms; and

WHEREAS, AERC has obtained authority from the U.S. Surface Transportation Board ("STB") to acquire the Freight Easement and provide railroad common carrier service on and over the Line.

NOW, THEREFORE, in consideration of the covenants and agreements herein contained and other good and valuable consideration, and intending to be legally bound, the parties agree as follows:

SECTION 1. PROPERTY RIGHTS.

AERC shall utilize its Freight Easement rights to operate railroad service over the Line. VFRC shall have the right to lease, license or use the right-of-way on the Line for non-railroad purposes, provided that any such use shall not unreasonably interfere with AERC's rail operations.

SECTION 2. USE.

- 2.1. AERC shall use and occupy the Line solely for the purpose of providing and maintaining common carrier and/or contract railroad freight service. In no event shall AERC provide passenger service on the Line.
- 2.2. Subject to the overhead trackage rights retained by UP and WPRR, AERC shall have the exclusive right to conduct railroad operations on the Line and to place

rails, ties, and ballast and all other railroad related facilities thereon. VFRC shall not grant to any third party any rights whatsoever to conduct such railroad operations during the Term of the Agreement, unless earlier terminated.

- 2.3. AERC shall provide rail freight service over the Line to the Venell Farms facility at Greenberry, Oregon, which service shall include interchange of rail traffic with WPRR, under the terms and conditions of the Rail Transportation Contract of even date herewith between AERC and Venell Farms and other applicable tariffs or exempt quotes.
- 2.4. Subject to the prior written approval of VFRC, AERC may, at its sole cost and expense, install additional track, yards, or other structures that it deems necessary or convenient to provide railroad service to other shippers that may be or become located adjacent to or near the Line. Subject to the prior written approval of VFRC, AERC may, at its sole cost and expense, remove track, yards and other facilities when such facilities are no longer necessary or convenient to provide such railroad service.

SECTION 3. RENTAL PAYMENT.

AERC shall pay to VFRC fifty percent (50%) of all freight charges (net of fifty percent (50%) of all car hire (time and mileage) paid by AERC) collected by AERC as a result of providing rail freight operations on the Line. Payment to VFRC shall not include any fuel surcharges or demurrage collected by AERC. The rental payments shall be due monthly, by the fifteenth (15) day of the month for the previous month's rental payment (based upon revenues actually collected by AERC during the previous month). Payment of Rental and any other payment due and payable from AERC under this Agreement shall be subject to a late payment charge of one and one-half percent (1.5%) per month (eighteen percent (18%) per annum) or the maximum interest permitted by applicable law, if lower, on balances past due over thirty (30) days. AERC shall be entitled (but shall not be obligated to assert) a right of offset against rental payments due under this Section 3 with respect to any sums otherwise due and owing to AERC by VFRC. This Section 3 shall be renegotiated in the event a new shipper locates along the Line and utilizes AERC's services.

SECTION 4. APPROVAL OF STRUCTURES.

Prior to erecting any track, yards or other structures on the Line, AERC shall submit the plan to, and secure approval in writing of, VFRC, which approval shall not be unreasonably withheld. VFRC shall not erect or place or allow to be erected or placed on the Line any buildings, structures, fixtures or obstructions of any kind, either temporary or permanent, within twenty-five (25) feet of the center line of any track, nor shall any such buildings, structures, fixtures or obstructions be placed within five hundred (500) feet of any grade crossing, provided nothing in the foregoing shall be construed to permit any clearance which is less than the minimum required by any applicable law or regulation.

SECTION 5. ORDINANCES AND REGULATION.

AERC shall comply with any and all applicable ordinances, rules, regulations, requirements and laws of any governmental authority having jurisdiction over railroad structures and operations on the Line. VFRC shall comply with any and all applicable ordinances, rules, regulations, requirements and laws of any governmental authority having jurisdiction over any non-railroad structures on the Line.

SECTION 6. MAINTENANCE.

6.1. AERC shall upgrade the Line and the WPRR Interchange and Access Tracks (as those terms are defined in that certain Interchange Agreement by and between AERC and WPRR, dated May 25, 2010) (including, but not limited to, bridge repairs) to Federal Railroad Administration ("FRA") Class 1 condition at the sole cost and expense of VFRC. VFRC shall provide, at VFRC's sole cost and expense, all rail, other track materials, ties and ballast necessary to upgrade the Line and the Interchange and Access Tracks to FRA Class 1 condition. Any other costs incurred by AERC in upgrading the Line and the Interchange and Access Tracks shall be paid for at the sole cost and expense of VFRC subject to the prior approval of VFRC. Once the Line is upgraded, AERC shall inspect, maintain and repair the rail-related structures on the Line and the Interchange and Access Tracks at the sole cost and expense of VFRC. AERC shall keep and maintain the Line at FRA Class 1 condition, and a minimum speed of ten (10) m.p.h., subject to conditions of force majeure, and temporary slow orders related to track maintenance. AERC shall not be responsible for any additional track upgrades or other capital improvements. Any additional track upgrades and other capital improvements shall be the sole responsibility of VFRC. Notwithstanding anything to the contrary in this Section 6.1, any additional track upgrades or other capital improvements made by AERC without the prior approval of VFRC shall be at the sole cost and expense of AERC.

6.2 All payments for maintenance (to the extent AERC performs track maintenance approved by VFRC) or other changes associated with operations on the Line and the Interchange and Access Tracks (other than freight transportation charges) shall be paid by VFRC to AERC within thirty (30) days after receipt of a bill therefore. As between AERC and VFRC, the cost of clearance of AERC wrecks on the Line shall be split among the parties with AERC paying eighty (80) percent and VFRC paying twenty (20) percent, except to the extent such wrecks are caused, in whole or in part, by AERC's failure to properly maintain the track and track structures, in which case AERC shall pay one hundred percent (100%) of such costs. UP and WPRR wrecks shall be cleared as provided in those railroads' trackage rights agreements and the clearance costs shall be paid for by UP, WPRR or VFRC as provided in those agreements. Bills for maintenance and clearance of wrecks shall include direct labor and material costs, together with the surcharges, overhead percentages and equipment rentals as specified by AERC at the time any work is performed by AERC.

- 6.3 In the event any new rail customers locate along the Line after the Effective Date of this Agreement, the parties shall renegotiate the terms of this Section 6.

SECTION 7. REPRESENTATIONS AND WARRANTIES.

The parties hereby represent and warrant the following to each other:

7.1 AERC represents and warrants to VFRC that:

- (i) AERC has taken all proceedings or corporate action required to authorize the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.
- (ii) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated herein, will (a) conflict with or result in a breach of any provision of AERC's articles of incorporation or bylaws, (b) violate any order, writ, injunction, decree, or, to the best knowledge of AERC, any statute, rule or regulation applicable to AERC or the Line, or (c) contravene or conflict with the authority under which AERC is doing business or with the provisions of any existing indenture or agreement of AERC.
- (iii) This Agreement, when and as executed and delivered, will constitute a valid and binding obligation of AERC enforceable against AERC in accordance with its terms, subject only to the application of bankruptcy laws or equitable principles.

7.2 VFRC represents and warrants to AERC that:

- (i) VFRC has taken all proceedings or corporate action required to authorize the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.
- (ii) Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated herein, will (a) conflict with or result in a breach of any provision of VFRC's bylaws, (b) violate any order, writ, injunction, decree, or, to the best knowledge of VFRC, any statute, rule or regulation applicable to VFRC or the Line, (c) terminate or adversely affect any permit, license or authorization of any government authorities used by or required of VFRC relating to the Line, or (d) contravene or conflict with the authority under which VFRC is doing business or with the provisions of any existing indenture or agreement of VFRC.
- (iii) This Agreement, when and as executed and delivered, will constitute a valid and binding obligation of VFRC enforceable against VFRC in accordance

with its terms, subject only to the application of bankruptcy laws or equitable principles.

- (iv) VFRC is not a party to any action, suit, arbitration, governmental investigation or other administrative proceeding pending or, to the knowledge of VFRC, threatened, which challenges VFRC's right to own the Line or AERC's ability to conduct rail freight operations on the Line during the Term of this Agreement.

SECTION 8. INGRESS AND EGRESS.

Each party shall have the right to use in common with the other party, existing driveway(s), roadway(s) or other facilities designated as a means of ingress to and egress from the Line and facilities thereon.

SECTION 9. MECHANICS LIENS.

Subject to VFRC's obligations to reimburse AERC, as provided above, AERC shall pay all debts incurred and shall satisfy all liens of contractors, subcontractors, mechanics, laborers and materialmen with respect to any construction, alteration, improvement and/or repair in and to the Line authorized by AERC and arising out of or incidental to AERC's operations over, and maintenance of, the Line and AERC shall indemnify, defend and hold VFRC harmless against all legal costs and charges, including attorney's fees reasonably incurred in any suit involving a lien which AERC caused or permitted to be filed against the Line, the enforcement thereof or encumbrance caused by the same with respect to the Line or any part thereof.

SECTION 10. INDEMNIFICATION.

The parties agree to indemnify and hold each other harmless as follows:

- 10.1 Indemnification by AERC. VFRC, its agents, directors, officers and employees, shall not be held liable for any claims, liabilities, costs or expenses (including reasonable attorney's fees) for damage to any property, personal injuries or deaths caused by or resulting from any acts or omissions of AERC, its agents, employees, independent contractors or otherwise by AERC's provision of rail freight service over the Line after the Effective Date, other than liabilities caused, in whole or in part, by the acts or omissions of VFRC. AERC agrees to indemnify and hold harmless VFRC against any of the foregoing liabilities (subject to the foregoing exceptions). In the event that any liabilities are caused by the acts or omissions of both AERC and VFRC, the parties shall equally share and be held liable for any such claims, liabilities, costs or expenses, regardless of the degree of fault by either party and notwithstanding any state laws governing contributory negligence.
- 10.2 Indemnification by VFRC. AERC, its agents, directors, officers and employees, shall not be held liable for any claims, liabilities, costs or expenses (including

reasonable attorney's fees) for damage to any property, personal injuries or deaths caused by or resulting from (i) any acts or omissions of the operator(s) (including UP and WPRR) providing rail freight service over the Line, (ii) any violation of any Environmental Law (defined below) occurring before the Effective Date, or (ii) any third party claims relating to the ownership or operation of the Line before the Effective Date. VFRC agrees to indemnify and hold harmless AERC against any of the foregoing liabilities.

- 10.3 AERC's Environmental Indemnification. From and after the Effective Date, AERC shall, to the maximum extent permitted by law, indemnify and save harmless VFRC, its affiliates, their employees, agents, officers, successors and assigns, from and against any and all suits, actions, causes of action, legal or administrative proceedings, claims, demands, fines, punitive damages, losses, costs, liabilities and expenses, including attorney's fees (collectively, "environmental costs"), caused by AERC with respect to the environmental condition of the property on the Line (including, without limitation, any contamination in, on, under or adjacent to the property on the Line by any hazardous or toxic substance or material), or any federal, state or local law, ordinance, rule or regulation applicable thereto (including, without limitation, the Toxic Substances Control Act, the Comprehensive Environmental Response, Compensation and Liability Act, and the Resource Conservation and Recovery Act) ("Environmental Law"), and including, without limitation, personal injury to or death of persons whomsoever including employees, agents or contractors of AERC, VFRC or any third party.

- 10.4 Survival. The parties' obligations under this Section 10 shall survive the termination of this Agreement.

SECTION 11. INSURANCE.

AERC shall provide and maintain in effect during the term and any continued term hereof, a policy of commercial general liability insurance and public liability insurance and railroad protective liability insurance including contractual liability covering liability assumed by AERC under this Agreement. Said insurance shall be issued by companies and in form reasonably acceptable to VFRC and shall provide for limits of liability of not less than \$10 million per occurrence and \$10 million in the aggregate. Such coverage shall name VFRC as an insured or an additional insured, and any exclusion for work on or within 50 feet of railroad property shall be removed. AERC shall furnish to VFRC certificates of all required insurance policies. All policies shall be endorsed to provide not less than thirty (30) days notice to VFRC of any cancellation thereof and of any material change in coverage. The providing of said insurance coverage's shall not be deemed a limitation on the liability of AERC as provided in this Agreement, but shall be additional security therefore.

SECTION 12. MILEAGE AND CAR HIRE.

All mileage and car hire charges accruing on cars in AERC's trains on the Line shall be assumed by AERC and reported and paid by it directly to the owner of such cars, unless specified to the contrary in any applicable tariff, exempt quote or transportation contract.

SECTION 13. TERM.

The Term of this Agreement shall be from the Effective Date, through and including December 31, 2019 ("Initial Term") unless sooner terminated in accordance with the provisions of Section 14 or by written agreement of both parties. After the Initial Term, this Agreement shall automatically renew for successive five (5) year terms ("Renewal Terms") unless terminated by either party upon ninety (90) days advance written notice prior to the end of the Initial Term or any Renewal Term.

SECTION 14. TERMINATION.

- 14.1 Notwithstanding anything to the contrary herein, either party shall have the right to terminate this Agreement on ninety (90) days written notice to the other party in the event such other party has materially breached the terms or conditions of this Agreement; provided, however, such termination may not be effectuated so long as the breaching party is making good faith efforts to cure the breach and has, in fact, cured the breach within ninety (90) days of the notice of termination.
- 14.2 AERC and Venell Farms, the parent of VFRC ("Venell Farms") shall enter into a five (5) year Transportation Contract on or prior to the Effective Date of this Agreement providing for, among other things, carload rates and minimum volume requirements ("Initial Transportation Contract"). In the event AERC and Venell Farms are unable timely to enter into a new five (5)-year Transportation Contract prior to the expiration of the Initial Transportation Contract, either party shall have the right to terminate this Agreement on thirty (30) days written notice to the other party. The rates and minimum volume requirements set forth in the Initial Transportation Contract and any renewed Transportation Contracts shall be adjusted by mutual agreement of the parties.
- 14.3 VFRC may terminate this Agreement in the event AERC files, or has filed against it, any petition or action for relief under any creditor's laws (including bankruptcy, reorganization, or similar actions), either in state or federal court, or becomes insolvent, or has a receiver appointed for its assets, or makes an assignment for the benefit of creditors. Upon the occurrence of an event under this Section 14.3, VFRC may terminate this Agreement by giving one day's written notice to AERC.
- 14.4 AERC may terminate this Agreement in the event VFRC files, or has filed against it, any petition or action for relief under any creditor's laws (including bankruptcy, reorganization, or similar actions), either in state or federal court, or

becomes insolvent, or has a receiver appointed for its assets, or makes an assignment for the benefit of creditors. Upon the occurrence of an event under this Section 14.4, AERC may terminate this Agreement by giving one day's written notice to VFRC.

SECTION 15. ASSIGNMENT OF FREIGHT EASEMENT

At the expiration of the Initial Term or a Renewal Term of this Agreement pursuant to Section 13, or upon termination of this Agreement pursuant to Section 14, AERC shall immediately assign the Freight Easement to an entity chosen by VFRC. In the event AERC fails timely to assign the Freight Easement to VFRC's designee, AERC: (1) hereby irrevocably grants VFRC a power of attorney to seek authority from the STB to abandon the Freight Easement at the sole cost and expense of AERC; and (2) shall pay, as liquidated damages, \$100 per day from the termination date of this Agreement until the effective date of the STB's decision authorizing the abandonment of the Freight Easement.

SECTION 16. AERC'S OBLIGATIONS.

During the term of this Agreement, AERC shall have the right, and shall be obligated, to do the following:

16.1. AERC shall provide rail freight service over the Line, which services shall include, without limitation, providing the following:

- (i) common carrier rail service upon reasonable request therefor;
- (ii) the locomotive and crews sufficient to provide the common carrier rail freight service on the Line;
- (iii) the accounting services required for revenue settlement and car hire with other rail carriers.

16.2 Subject to the reimbursement provisions in this Agreement, AERC shall pay all general operating expenses it incurs in connection with providing rail freight service over the Line.

SECTION 17. FORCE MAJEURE.

If either party is unable to meet its obligations hereunder as a result of acts of God, war, terrorism, insurrection, derailments, floods, strikes, failure of WPRR to provide adequate facilities or adequate crews and equipment for interchange with AERC, or any like causes beyond its reasonable control, that party's obligations, and those of such other party affected by such force majeure event, will be suspended for the duration of same; provided, however, that the parties will make all reasonable efforts to continue to meet their respective obligations during the duration of the force majeure event; and, provided further, that the party declaring a force majeure event shall promptly notify the other party of the same (including its anticipated duration), the nature of the force majeure event, and when it is completed. The suspension of any

obligation owing to a force majeure event will neither cause the term of this Agreement to be extended nor affect any rights accrued under this Agreement prior to the force majeure event.

SECTION 18. ASSIGNABILITY.

Except as otherwise provided in Section 15, neither VFRC nor AERC shall assign or transfer this Agreement or any interest arising thereunder without the prior written consent of the other party, except that no consent shall be required where an assignment is to a parent or an affiliate corporation or successor in interest of all, or substantially all, of the assets or equity ownership of such party by way of a merger, sale or consolidation. Subject to the provisions of this Section 18, this Agreement shall bind and inure to the benefit of the parties, their successors and permitted assigns.

SECTION 19. NOTICES.

All notices, requests, demands, directions and other communications provided for hereunder shall be in writing and shall be delivered by hand, facsimile, or overnight commercial courier to the applicable party at the address indicated below:

- Albany & Eastern Railroad Company
110 Industrial Way
Lebanon, Oregon 97355
Phone: (541) 259-6470

VFRC, LLC
30742 Venell Place
Corvallis, Oregon 97333
Phone: (541) 752-2446

or, as to each party, at such other address as shall be designated by such party in written notice to each other party complying to delivery with the terms of this Section 19. All such notices shall be effective when delivered to the applicable party by hand, upon transmittal to the applicable party by facsimile, or if by overnight commercial courier, when delivered by the courier.

SECTION 20. TAXES.

VFRC shall be responsible for payment of all real estate taxes associated with the Line. AERC shall be responsible for payment of any personal property taxes associated with its locomotives operating on the Line.

SECTION 21. UP AND WPRR OPERATIONS.

AERC shall not be responsible for the costs of any UP or WPRR trackage rights operations on the Line. The assessment of charges against UP or WPRR with respect to any

such operations, that shall be set forth in the Overhead Trackage Rights Agreements between AERC and UP and WPRR. Any such fees paid by UP or WPRR shall be forwarded to VFRC.

SECTION 22. CONFIDENTIALITY.

The parties shall not disclose the terms of this Agreement to a third party except:

- (i) To a parent, affiliate or subsidiary corporation;
- (ii) As may be required by law, including STB filing requirements;
- (iii) Any auditor(s) used in the regular course of business by the parties provided such auditor shall agree in writing to uphold the confidentiality of all information disclosed to them on behalf of itself and its employees; and
- (iv) Upon written approval of all parties hereto.

SECTION 23. WAIVER.

The failure to enforce any provision of this Agreement shall not be construed as a waiver of that provision, or a subsequent or continuing default.

SECTION 24. SEVERABILITY.

If any one or more of the provisions contained in this Agreement shall be held invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not effect any other provisions of this Agreement but this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

SECTION 25. AMENDMENTS.

This Agreement may not be amended except in writing signed by all parties to this Agreement.

SECTION 26. BOOKS AND RECORDS.

AERC shall retain all records associated with operations on the Line for a period of three (3) years. VFRC shall have the right to audit such records for the purpose of confirming compliance with the terms of this Agreement, upon reasonable notice to AERC. Such audit shall be performed during normal business hours at the location where the applicable records are normally kept.

SECTION 27. NO THIRD PARTY BENEFICIARIES.

This Agreement and each and every provision throughout are for the exclusive benefit of the parties to this Agreement and not for the benefit of any third party.

SECTION 28. GOVERNING LAW.

This Agreement shall be a contract made under and governed by the internal laws of the State of Oregon applicable to contracts made and to be performed entirely within such State.

SECTION 29. COUNTERPARTS.

This Agreement may be executed in any number of counterparts and by the different parties hereto on separate counterparts and each such counterpart shall be deemed to be an original, but all such counterparts shall together constitute but one and the same Agreement.

SECTION 30. GOVERNMENTAL AUTHORITY.

The effectiveness of this Agreement is contingent upon AERC obtaining operating authority for the Line from the STB on terms acceptable to AERC. The effectiveness of this Agreement is also dependent on VFRC obtaining a determination from the STB that no STB authority is required for its purchase of the Line from UP.

SECTION 31. ENTIRETY.

This Agreement constitutes the entire Agreement and merges and supersedes all prior understandings and representations between AERC and VFRC concerning the subject matter hereof.

SECTION 32. ARBITRATION

In all matters relating to the interpretation and compliance of this Agreement, the parties agree to submit disputes to arbitration by a single arbitrator of the American Arbitration Association in Lane County, Oregon, in accordance with the Rules of that Association. The costs of the arbitrator shall be split equally between the parties. Each party shall bear its own attorney's fees. Any determination or award resulting from this arbitration shall be binding on the parties as the sole and exclusive remedy for any dispute between the parties. The parties consent to the entry of judgment in accordance with the decision of the arbitrator by any court having jurisdiction in the matter when an arbitrator's decision is properly made and entered. Any award shall be subject to the defenses set forth under Oregon law.

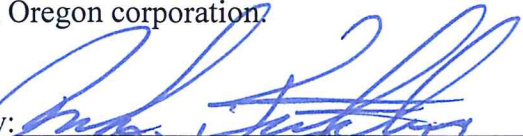
ARTICLE 33. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument. Execution and delivery of this Agreement by facsimile or electronic transmission shall be deemed for all purposes to be due execution and delivery by the undersigned.

[Remainder of this page left blank intentionally – Signature page follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date referenced herein.

ALBANY & EASTERN RAILROAD COMPANY,
an Oregon corporation.

By: 
Name: Rick Franklin
Its: President

VFRC, LLC,
an Oregon Limited Liability Company.

By: 
Name: Larry Venell
Its: ~~Member~~ Manager







Oregon

Tina Kotek, Governor

Department of Environmental Quality
Office of Compliance and Enforcement
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100
(503) 229-5696
FAX (503) 229-5100
TTY 711

November 25, 2025

CERTIFIED MAIL: 9589 0710 5270 3236 6721 23

Portland & Western Railroad, Inc.
c/o C T Corporation System, Inc.
780 Commercial St. SE, Suite 100
Salem, OR 97301

Re: Notice of Civil Penalty Assessment and Order
Case No. WQ/NP-WR-2025-687

This letter is to inform you that the Oregon Department of Environmental Quality (DEQ) has issued you a civil penalty of \$81,600 for discharging waste into the Marys River following a trestle collapse and train derailment in Corvallis on January 4, 2025. The incident resulted in approximately 199.28 tons of urea being released into the river over a period of nine days.

DEQ issued this penalty because discharging waste into waters of the state without a permit is a serious violation of Oregon environmental law. Urea can pollute waters by introducing excessive nitrogen that promotes algal blooms, depletes dissolved oxygen, and disrupts aquatic ecosystems. When urea breaks down into ammonia, it can be toxic to aquatic organisms. To protect water quality, Oregon law prohibits any discharge of pollutants into state waters unless that discharge is authorized by a waste discharge permit.

Given the circumstances of this incident, DEQ is concerned about the condition and safety of Portland & Western, Inc.'s railroad crossings over water bodies. Included in Section IV is an order requiring you to submit a report to DEQ that identifies all wooden trestle bridges over water bodies in Oregon that are owned and maintained by you, and describes your process for evaluating and prioritizing repairs, modifications or replacement of wooden trestles.

DEQ appreciates your efforts to minimize the impacts of the violation by promptly initiating incident response and cleanup efforts and conducting water quality monitoring. DEQ considered these efforts when determining the amount of civil penalty.

If you wish to appeal this matter, DEQ must receive a request for a hearing within 20 calendar days from your receipt of this letter. The hearing request must be in writing. Send your request to DEQ Office of Compliance and Enforcement:

Via mail – 700 NE Multnomah Street, Suite 600, Portland, Oregon 97232

Via email – DEQappeals@deq.oregon.gov

Via fax – 503-229-6762

Once DEQ receives your request, we will arrange to meet with you to discuss this matter. If DEQ does not receive a timely written hearing request, the penalty will become due. Alternatively, you can pay the penalty by sending a check or money order to the above address.

The attached Notice further details DEQ's reasons for issuing the penalty and provides further instructions for appealing the penalty. Please review and refer to it when discussing this case with DEQ.

DEQ may allow you to resolve part of your penalty through the completion of a Supplemental Environmental Project (SEP). SEPs are environmental improvement projects that you sponsor instead of paying a portion of your penalty. Further information is available by calling the number below or at <http://www.oregon.gov/deq/Regulations/Pages/SEP.aspx>.

DEQ's rules are available at <https://www.oregon.gov/deq/Regulations/Pages/Administrative-Rules.aspx> or by calling the number below.

If you have any questions, please contact Esther Westbrook at 503-229-5374 or toll free in Oregon at 800-452-4011, extension 5374.

Sincerely,



Erin Saylor, Interim Manager
Office of Compliance and Enforcement

Enclosures

cc: Scott Boyter, Portland & Western Railroad, Inc., 1200 Howard Drive SE, Albany, OR 97321
Chance Plunk, Salem Office, DEQ
Heather Tugaw, Medford Office, DEQ
Accounting, DEQ



MARTIN E. HANSEN *
ALISON A. HUYCKE
SARAH E. HARLOS
FRANCES MANN *
CRAIG K. EDWARDS
CHRISTOPHER J. MANFREDI Δ

* ADMITTED IN OREGON AND WASHINGTON
Δ ADMITTED IN OREGON AND CALIFORNIA

FRANCIS HANSEN & MARTIN LLP

ATTORNEYS AT LAW

1148 NW HILL STREET, BEND, OR 97703-1914
PHONE: 541-389-5010 • FAX: 541-382-7068

WWW.FRANCISHANSEN.COM

April 24, 2026

QUINN M. BURKET
ANDY C. ARCHER
JEFFREY H. SMITH ○

C.E. "WIN" FRANCIS (RETIRED)
GERALD A. MARTIN (1943-2022)

LIA S. BOWMAN, LICENSED PARALEGAL

○ ADMITTED IN OREGON, WASHINGTON, AND PENNSYLVANIA

VIA E-MAIL SERVICE

Scott Boyer
General Manager, P&W
scott.boyter@gwrr.com

Frankie Gonzales
Assistant General Manager, P&W
francisco.gonzales@gwrr.com

Re: VFRC LLC v. P&W/Demand for Resumption of Service

Dear Mr. Boyer and Mr. Gonzales,

Our office represents VFRC, LLC and it's owner Larry Venell. As you know, VFRC, LLC is the owner of the Baily Branch out of Corvallis that connects with the Portland and Western.

It has been over a year since the bridge failure on your railroad that caused the cessation of interchange service between VFRC and the P&W. The P&W's failure to resume interchange service has caused substantial damages to both VFRC and it's major shipper, Nutrein Ag Services. Those damages include loss of railcar interchange fees and other lost revenue to VFRC. Additionally, P&W locomotives and freight cars have been stored by the P&W on VFRC without VFRC's consent and without payment for storage cost.

It has come to our attention that recently P&W has been obtaining bids to move by truck the stranded railcars and P&W locomotives. This is a clear indication that P&W is attempting to abdicate their responsibility as a common carrier railroad. We cannot allow that to happen.

The purpose of this letter is to formally demand that the P&W take whatever steps are necessary to resume interchange service with VFRC's trackage. You are obligated as a common carrier to continue interchange service even if it means making repairs to your railroad. We have waited long enough for you to resume service.

We expect you to respond to this letter within the next five (5) days and tell us what your plan is to resume service. If we do not hear from you or if you do not propose a

reasonable plan to resume service in the very near future, my client will take this matter to the Service Transportation Board through a formal complaint process. The P&W has taken no steps to abandon it's connection with VFRC nor could it support such an abandonment given the need for rail service to VFRC. We are giving you an opportunity to propose a plan to resume interchange service now before we take this matter up with the STB.

My client also is contemplating filing suit against the P&W to collect the damages that it has suffered to date and to collect all future damages until rail transportation service has resumed.

Once you have had a chance to review this you should consult with your attorney and have them get in touch with me.

Sincerely,



Martin E. Hansen

MEH/ldj

VFRC, LLC

30257 Hwy 99W
Corvallis, OR 97333

Invoice

Date	Invoice #
4/29/2026	042926

Bill To
Portland & Western Railroad Inc. 1200 Howard Drive SE Albany, OR 97321

Ship To

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
			4/29/2026			
Quantity	Item Code	Description			Price Each	Amount
16	Rent Expense	16 months Siding and Yard rent for 2 locomotives PNWR3532 & PNWR3549 Jan. 2025 through April 2026 Contact: Larry Venell 541-990-7688			25,000.00	400,000.00
					Total	\$400,000.00



MARTIN E. HANSEN*
ALISON A. HUYCKE
SARAH E. HARLOS
FRANCES MANN*
CRAIG K. EDWARDS
CHRISTOPHER J. MANFREDIA

* ADMITTED IN OREGON AND WASHINGTON
△ ADMITTED IN OREGON AND CALIFORNIA

FRANCIS HANSEN & MARTIN LLP

ATTORNEYS AT LAW

1148 NW HILL STREET, BEND, OR 97703-1914
PHONE: 541-389-5010 • FAX: 541-382-7068

WWW.FRANCISHANSEN.COM

April 29, 2026

QUINN M. BURKET
ANDY C. ARCHER
JEFFREY H. SMITH^o

C.E. "WIN" FRANCIS (RETIRED)
GERALD A. MARTIN (1943-2022)

LIA S. BOWMAN, LICENSED PARALEGAL

^oADMITTED IN OREGON, WASHINGTON, AND PENNSYLVANIA

VIA E-MAIL AND FIRST-CLASS US MAIL

Catherine A. Pushchak
Deputy General Counsel
Genesee & Wyoming Railroad Services, Inc.
20 West Avenue
Darien, CT 06820
catherine.pushchak@gwrr.com

Re: VFRC LLC v. P&W/Demand for Resumption of Service

Dear Ms. Pushchak,

I am writing this as a follow up to my letter of April 24, 2026 and your e-mail to me of this morning. The P&W has recently attempted to take actions that are once again inconsistent with it's obligations as a common carrier as regulated by the STB.

We have recently learned the P&W has attempted to engage contractors to remove it's two locomotives together with the sixteen railcars that have been isolated on my client's railroad for over a year since P&W's bridge failed. This attempt by your client to remove these items is further proof of the P&W's improper abdication of it's obligations as a common carrier. We will not permit that.

Please be aware that my client will not allow the P&W or any contractor on our property with the intent or purpose to remove the locomotives or stranded railcars. To do so would be an admission on our part that P&W has a right to cease interchange service with my client's railroad without first having gone through the formal abandonment process. For that reason, any attempt by P&W or any contractor to enter our property for the purpose of removing these pieces of rail equipment will be treated as trespassing and dealt with accordingly.

We are in the process of filing the STB complaint that we lined out in my letter of April 24th. We are also contemplating filing suit to collect the damages incurred as a result of the P&W's breach of it's common carrier obligations. There are serious damages accumulating as a result of P&W's failure to resume interchange with my client's railroad.

Re: VFRC LLC v. P&W/Demand for Resumption of Service
April 29, 2026
Page 2

If you wish to discuss alternatives to the process laid out in this letter we are open to a dialogue in that regard. We cannot allow P&W to ignore it's obligations any further.

Sincerely,

A handwritten signature in blue ink, appearing to be 'MEH', with a large, stylized loop at the end.

Martin E. Hansen

MEH/ldj

Purchase Order

Bill to:

Portland & Western Railroad, Inc.
4545 East River Road, Suite 210
West Henrietta, NY 14586
USA

Purchase order no.	PNWR-000001434
Date	4/29/2026
Page	1 of 1
Currency	USD

Buyer: Purchasing PO	Requestor: Konley Newman
Phone:	Phone: 503-798-3519
Email: Purchasing-PO@gwrr.com	Email: konley.newman@gwrr.com

Vendor: RICK FRANKLIN CORPORATION

PO BOX 365, 101 INDUSTRIAL WAY
LEBANON, OR 97355
USA
Phone: (503) 258-6444
Fax:

Ship to:

1000 W. Jackson Street SE
Albany, OR 97322
USA
Phone:
Fax:

Attention information

Payment terms

Net30

Shipping method

G&W Routing Guide

Line number	Item number	OEM number	Description	Unit	Quantity	Unit cost	Amount
Purchase agreement	Vendor item	Delivery date	Delivery address	Asset number	Tax amount	Vendor comment	Project no.
1	OS06-0007	4/29/2026	Contract Services 1000 W. Jackson Street SE Albany, OR 97322 USA	Each	220,130.00 \$0.00	\$1.0000 Movement of PNWR 3532 and PNWR 3549	\$220,130.00 PNW058825D
2	OS06-0007	4/29/2026	Contract Services 1000 W. Jackson Street SE Albany, OR 97322 USA	Each	16.00 \$0.00	\$11,860.0000 Movement of 16 rail cars	\$189,760.00 PNW058825D

Purchase Order number, item number, name and address of consignee must appear on all invoices, shipping, delivery correspondence and other documents. Packing slip complete with Purchase Order and item number must accompany each shipment. This Purchase Order incorporates the Genesee & Wyoming Railroad Services, Inc. General Terms and Conditions, which can be downloaded at <http://www.gwrr.com/suppliers>. The provision of goods or services under this Purchase Order is deemed acceptance of the Genesee & Wyoming Railroad Services, Inc. General Terms and Conditions. For prompt payment, invoices can be emailed to accountspayable@gwrr.com and the Requestor listed above. To request a copy of G&W Routing Instructions, please email Purchasing-PO@gwrr.com

Subtotal	\$409,890.00
Trade discount	\$0.00
Charges	\$0.00
Tax	\$0.00
Order total	\$409,890.00

Outlook

FW: VFRC LLC v. P&W/Demand for Resumption of Service

From: Catherine Pushchak <catherine.pushchak@gwrr.com>

Sent: Wednesday, April 29, 2026 8:56 AM

To: Martin Hansen <meh@francishansen.com>; Lisa Johnson <lisa@francishansen.com>

Cc: Scott Boyter <scott.boyter@gwrr.com>; Lauren Roberts <lauren.roberts@gwrr.com>; David Franklin Jr. <david.franklin2@gwrr.com>; Michael Morningstar <michael.morningstar@gwrr.com>; Frankie Gonzales <francisco.gonzales@gwrr.com>

Subject: RE: VFRC LLC v. P&W/Demand for Resumption of Service

Mr. Hansen,

I am writing on behalf of Willamette & Pacific Railroad, Inc. ("WPRR") in response to your April 24, 2026 letter. As you are aware, WPRR suffered a force majeure event, which resulted in its inability to operate the relevant portion of this line. WPRR has been working to explore options to reopen the bridge. This portion of the line has been embargoed as of this morning as WPRR continues to work to evaluate its options moving forward. There is no immediate plan to resume service.

If you have any questions, please do not hesitate to contact me.

Best regards,

Catherine A. Pushchak
Deputy General Counsel*

Genesee & Wyoming Railroad Services, Inc.
20 West Avenue
Darien, CT 06820
ph: 203-202-8915
fx: 203-656-1148
cell: 203-249-2369
Email: catherine.pushchak@gwrr.com

Print Embargo

PNWR-PORTLAND & WESTERN RAILROAD INC

Embargo Number: PNWR000126

Amendment Number: 1

Status: Effective

Effective Date: 04-29-2026

Expiration Date: 04-29-2027

Allow Permit: No

Tier 2 Effective Date: 04-29-2026

Original Effective Date:

Roads Invited to Participate: UP

Embargo Contact Email: embargogw-commercial@gwrr.com

Bypass Local Waybills: No

Operating Station Notice: No

Effective Immediately: Yes

Include Empty Revenue Cars: No

Include All Empty Cars: No

Minimum Car Allowed:

Maximum Car Allowed:

Commodities: Target All Commodities

Geography:

Included Locations:

Origin: *

Destination:

PNWR-72025,CORVALLIS,OR

PNWR-72026,ORCHARDS,OR

BI-DIRECTIONAL

Origin: *

Destination:

UP-71960,CORVALLIS,OR

BI-DIRECTIONAL

Condition: OR

Interchange(s): Via Interchange Junctions

PNWR - ORHDS (ORCHARDS, OR) - AERC

AERC - ORHDS (ORCHARDS, OR) - PNWR

Umler Equip. Type : Target All Umler Equipment Types

No Weight Restrictions

Except These Cars: No Cars In Exception List

Embargo/OPSL Umler Element Status: No Umler Element

Clearance Code: No Clearance Code

Waybill Parties: Target All Waybill Parties

Cause: Bridge out of service

Cause Detail: Bridge Out of Service

Note:

Amendment History:

Amendment 1 (Current): Add/Remove Stations by Participant -

By direction of the Safety and Operations Department, Association of American Railroads.

Specific contact information can be found in the TD-1 Circular

(<https://public.railinc.com/sites/default/files/documents/TD-1.pdf>).

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AAR Embargo/OPSL Notes And Permit System (<https://embargo.railinc.com>)