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SERVICE DATE - JULY 22, 1997

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33424]

Portland & Western Railroad, Inc.--Acquisition and Operation Exemption--The Burlington Northern and Santa Fe Railway Company

Portland & Western Railroad, Inc. (PNWR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire and operate The Burlington Northern and Santa Fe Railway Company's (BNSF) line, known as the Astoria Branch, between milepost 5.22 near Willbridge and milepost 96.88 near Tongue Point, in Clatsop, Columbia, and Washington Counties, OR, a distance of approximately 91.66 miles. BNSF is also granting incidental trackage rights to PNWR over the line between milepost 5.22 near Willbridge and milepost 3.30 near Willbridge Yard, a distance of approximately 1.92 miles.<sup>1</sup>

In its verified notice, PNWR stated that it expected to begin operations pursuant to the exemption on or about July 12, 1997. PNWR has subsequently reported that the sale was consummated on July 11, 1997.

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<sup>1</sup> On July 10, 1997, John D. Fitzgerald, on behalf of the United Transportation Union--General Committee of Adjustment (UTU-GCA), filed a petition to reject, to revoke, and to stay the notice of exemption. The notice of exemption is in compliance with our regulations at 49 CFR 1150.41 *et seq.* and will not be rejected. The notice of exemption was filed on July 3, 1997, and became effective on July 10, 1997, the same day UTU-GCA's petition was filed. *See* 49 CFR 1150.42(b). Therefore, as the stay request was filed after the exemption had taken effect, it will not be considered. The Board will consider the petition to revoke in a subsequent decision.

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If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33424, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, D.C. 20423-0001. In addition, a copy of each pleading must be served on Eric M. Hocky, 213 West Miner Street, P.O. Box 796, West Chester, PA 19381-0796.

Decided: July 15, 1997.

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

Vernon A. Williams

Secretary