

Issued in Washington, DC, on June 12, 2006, under authority delegated in 49 CFR part 106.

**Robert A. McGuire,**

*Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34883]

#### Portland and Western Railroad, Inc.— Trackage Rights Exemption—Union Pacific Railroad Company

BNSF Railway Company has agreed to assign overhead trackage rights to the Portland and Western Railroad, Inc. (PNWR), over: (1) The rail line owned by Union Pacific Railroad Company (UP) between East Portland, OR, in the vicinity of Milepost 770.3 and Labish, OR, in the vicinity of Milepost 720.9, a distance of approximately 49.4 miles (Joint Trackage); (2) the rail line owned by Portland Terminal Railroad Company (PTR) between PTR Milepost 0.0 and BNSF Mileposts 0.69 and 0.91 in Portland, OR; and (3) the railroad portion of UP's Willamette River Bridge in Portland.

The transaction was scheduled to be consummated on or after July 6, 2006, the effective date of the exemption.<sup>1</sup>

The purpose of the trackage rights is to allow PNWR the right to serve as BNSF's agent over the Joint Trackage, including the right to access the Joint Trackage via PTR's rail line and UP's Willamette River Bridge.

As a condition to this exemption, any employees affected by trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34883, must be filed with

<sup>1</sup> A decision served on July 13, 2006, denied a petition to stay the operation of the notice of exemption filed by John D. Fitzgerald, for and on behalf of the United Transportation Union-General Committee of Adjustment.

the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: Sidney L. Strickland Jr., Sidney Strickland and Associates, PLLC, 3050 K Street, NW., Suite 101, Washington, DC 20007.

Board decisions and notices are available on its Web site at <http://www.stb.dot.gov>.

Decided: July 13, 2006.

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

**Vernon A. Williams,**

*Secretary.*

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-55 (Sub-No. 671X)]

#### CSX Transportation, Inc.— Abandonment Exemption—in Logan County, WV

CSX Transportation, Inc. (CSXT), has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 1.4-mile line of railroad on its Southern Region, Huntington Division—East, Logan and Southern Subdivision, extending from milepost CME 10.0 at Stirrat to milepost CME 11.4 at the end of the line at Sarah Ann, in Logan County, WV. The line traverses United States Postal Service Zip Code 25644.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial

revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August 18, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 31, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 8, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to CSXT's representative: Steven C. Armbrust, Esq., CSX Transportation, Inc., 500 Water Street, J-150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

CSXT has filed an environmental report and a historic report which address the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by July 24, 2006. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority

<sup>1</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>2</sup> Each OFA must be accompanied by the filing fee, which was increased to \$1,300 effective on April 19, 2006. See *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2006 Update*, STB Ex Parte No. 542 (Sub-No. 13) (STB served Mar. 20, 2006).