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SERVICE DATE – JANUARY 24, 2020

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 541 (Sub-No. 2X)]

Portland & Western Railroad, Inc.—Discontinuance of Service Exemption—in Clatsop County, Or.

Portland & Western Railroad, Inc. (PNWR), has filed a verified notice of exemption under 49 C.F.R. part 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue service over an approximately 22.58-mile rail line extending between milepost 96.88 near Tongue Point/Astoria and milepost 74.3 near Wauna, in Clatsop County, Or. (the Line).¹ The Line traverses U.S. Postal Service Zip Code 97103.

PNWR has certified that: (1) no local traffic has moved over the Line for at least two years; (2) because the Line is stub-ended, it has not handled any overhead traffic in at least two years, and there is no potential overhead traffic that would need to be rerouted; (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 is pending either with the Surface Transportation Board (Board) or with any U.S.

¹ PNWR initially submitted its verified notice on December 6, 2019, and supplemented it on December 10 and December 16, 2019. By letter filed December 26, 2019, PNWR notified the Board that it had included an incorrect Zip Code in its notice and requested that the proceeding be held in abeyance. The Board granted PNWR's request to allow it to submit supplemental information, and on January 6, 2020, PNWR submitted amendments to its notice. Therefore, January 6, 2020 is considered the filing date and the basis for all dates in this notice.

District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.12 (newspaper publication) and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.²

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 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)³ to subsidize continued rail service has been received, this exemption will be effective on February 23, 2020, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 C.F.R. § 1152.27(c)(2)⁴ must be filed by February 3, 2020.⁵ Petitions for reconsideration must be filed by February 13, 2020, with

² PNWR filed a corrected notice of newspaper publication and corrected letters providing notice to governmental entities on January 6, 2020.

³ Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(2)(i).

⁴ The filing fee for OFAs can be found at 49 C.F.R. § 1002.2(f)(25).

⁵ Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require environmental review.

the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with Board should be sent to PNWR's representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave., N.W., Suite 1300 South, Washington, DC 20004.

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

Board decisions and notices are available at www.stb.gov.

Decided: January 16, 2020.

By the Board, Allison C. Davis, Director, Office of Proceedings.