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SERVICE DATE – FEBRUARY 24, 2012

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35593]

Cedar River Railroad Company—Trackage Rights Exemption—Chicago, Central & Pacific Railroad Company

Pursuant to a written trackage rights agreement,<sup>1</sup> Chicago, Central & Pacific Railroad Company (CCP) has agreed to grant nonexclusive overhead trackage rights to Cedar River Railroad Company (CEDR) over approximately 5.2 miles of rail line between the connection with CEDR at approximately milepost 281.0 at Mona Junction in Cedar Falls, Iowa, and CCP's Waterloo Yard at approximately milepost 275.8 in Waterloo, Iowa.

The earliest this transaction may be consummated is March 9, 2012, the effective date of the exemption (30 days after the notice was filed).

CEDR states that CEDR and CCP are indirect subsidiaries of Canadian National Railway Company and that the proposed trackage rights are for the purpose of CEDR conducting interchange with CCP at CCP's Waterloo Yard. CEDR states that such

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<sup>1</sup> A redacted version of the trackage rights agreement between CCP and CEDR was filed with the notice of exemption. The unredacted version, as required by 49 C.F.R. §§ 1180.6(a)(7)(ii) and 1180.4(g)(1)(i), was concurrently filed under seal along with a motion for protective order. The motion is being addressed in a separate decision.

interchange operations have been ongoing and may not require Board authorization,<sup>2</sup> but CEDR is seeking trackage rights authority out of an abundance of caution.

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

This notice is filed under 49 C.F.R. § 1180.2(d)(7). If the notice 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 effectiveness of the exemption. Stay petitions must be filed by March 2, 2012 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35593, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606-2832 (Counsel for CEDR).

Board decisions and notices are available on our website at “[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

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<sup>2</sup> CEDR cites Indiana Rail Road Co.—Exemption—Acquisition & Operation, FD 30789 (ICC served Oct. 10, 1986), reconsideration denied (ICC served Apr. 16, 1987), aff’d sub nom. Black v. ICC, 837 F.2d 1175 (D.C. Cir. 1988).

Decided: February 17, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.