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SERVICE DATE - MARCH 22, 2001

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33984]

Borealis Infrastructure Trust Management Inc., Sole Trustee of the Borealis

Transportation Infrastructure Trust—Acquisition Exemption—Detroit River Tunnel

Company

Borealis Infrastructure Trust Management Inc., sole trustee of the Borealis Transportation Infrastructure Trust (BTIT), a noncarrier, has filed a notice of exemption under 49 CFR 1150.31¹ to acquire, pursuant to a share and asset purchase agreement (agreement) with Canadian National Railway Company (CNR), CNR's undivided one-half interest in the Detroit River Tunnel Company (DRTC). The rail line of the DRTC extends for 3.24 miles between milepost 228.08 in Detroit, MI, and milepost 224.84 in Windsor, Ontario, CN, of which, according to BTIT, approximately 1.79 miles are located in the United States. The total area of DRTC's lands is approximately 27.894 acres, of which approximately 15.041 acres are located in Canada and approximately 12.853 acres are in the United States. In addition to an undivided one-half ownership interest in the DRTC, the agreement involves a long term lease of the Detroit River Tunnel property (the Tunnel), as well as CNR's undivided one-half ownership interest in

¹ BTIT simultaneously filed a motion to dismiss the notice of exemption on jurisdictional grounds. That motion will be addressed by the Board in a separate decision.

certain improvements to the Tunnel. All shares of the stock of DRTC, a corporation of the State of Michigan and the Dominion of Canada, currently are held by CNCP Niagara-Detroit Partnership (N-D Partnership), which is equally owned by CNR and Canadian Pacific Railway Company (CPR).² As part of the proposed transaction, the N-D Partnership will be dissolved and its assets will be distributed to CNR and CPR, with CNR then transferring its undivided 50% interest in the Tunnel to BTIT. CPR and BTIT will form a new partnership, Detroit River Tunnel Partnership, which will be 50% owned by CPR and 50% owned by BTIT, and to which CPR and BTIT will contribute their undivided one-half interests in DRTC and the related Tunnel assets. BTIT certifies that its annual revenues will not exceed those that would qualify it as a Class III rail carrier.³

The transaction was scheduled to be consummated on or shortly after March 6, 2001, the effective date of the exemption (7 days after the exemption was filed).

² See Canadian National Railway Company and Canadian Pacific Limited-Acquisition-Interests of Consolidated Rail Corporation in Canada Southern Railway Company and Detroit River Tunnel Company, Finance Docket No. 30387 and Canadian National Railway and Canadian Pacific Limited-Application for Trackage Rights Over Consolidated Rail Corporation Trackage in Detroit, MI, Finance Docket No. 30387 (Sub-No. 1) (ICC served Sept. 4, 1984).

³ This transaction is related to the following simultaneously filed verified notices of exemption: STB Finance Docket No. 34005, Canadian Pacific Railway Company-Corporate Family Transaction Exemption-Interests in Detroit River Tunnel and Niagara River Bridge; STB Finance Docket No. 34006, Canadian Pacific Railway Company-Trackage Rights Exemption-Detroit River Tunnel Company; STB Finance Docket No. 34007, Canadian National Railway Company-Corporate Family Exemption-Interest in Detroit River Tunnel and Niagara River Bridge; and STB Finance Docket No. 34001, Canadian National Railway Company-Trackage Rights Exemption-Detroit River Tunnel Company.

Whether BTIT and its affiliates need an exemption for the acquisition described in this notice or need some other Board approval or exemption in connection with this transaction are matters that will be addressed by the Board in its consideration of BTIT's motion to dismiss.

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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33984, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, 1920 N Street, N.W., 8th Floor, Washington, DC 20036-1601.

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Decided: March 14, 2001.

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

Vernon A. Williams

Secretary