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SERVICE DATE – JANUARY 9, 2009

DO

FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35180]

Delray Connecting Railroad Company—Trackage Rights Exemption—Consolidated Rail Corporation

Pursuant to a written trackage rights agreement, Consolidated Rail Corporation (Conrail) has agreed to grant local trackage rights to Delray Connecting Railroad Company (DCRR) from Tecumseh Yard Lead to No. 1 and No. 2 Hill Tracks and Marion Track 1 (a/k/a the Marsh Industrial Track), Marion Track 2, and Marion Track 3 to their connections with Canadian National Railway Company's (CN) line to Zug Island.¹ The entire line of railroad is located in the State of Michigan.

DCRR states that the trackage rights agreement has been consummated but that, after it was consummated, USS management was advised by counsel that a grant of trackage rights would require Board approval. Thus, this notice of exemption is filed on a nunc pro tunc basis. Under 49 CFR 1180.4(g), in order to qualify for an exemption under 49 CFR 1180.2(d), a railroad must file a verified notice of the transaction with the Board at least 30 days in advance of consummation. In this case, the verified notice was

¹ According to DCRR, United States Steel Corporation (USS), a noncarrier, owns all of the issued and outstanding stock of Transtar, Inc. (Transtar), which is a noncarrier holding company. Transtar owns all of the issued and outstanding stock of seven common carrier railroads, including DCRR, a Class III rail carrier. Conrail is the owner and operator of certain railroad tracks that connect with both Tecumseh Yard and track owned by CN.

filed on December 24, 2008. Therefore, the earliest this transaction could be consummated is January 23, 2009, the effective date of the exemption (30 days after the exemption was filed). The purpose of the trackage rights is to permit DCRR to move trains consisting of empty “bottle cars” between Tecumseh Yard and CN’s line to USS’s facility on Zug Island, which will enhance operational efficiencies.

As a condition to this exemption, any employees affected by the acquisition of the 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 effectiveness of the exemption. Stay petitions must be filed by January 16, 2009 (at least 7 days before the exemption becomes effective).

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35180, 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

John A. Vuono, Esq., Vuono & Gray, LLC, 310 Grant Street, Suite 2310 Grant Building, Pittsburgh, PA 15219; and Robert N. Gentile, Esq., Assistant General Counsel-Commercial, Intellectual Property & Special Litigation, United States Steel Corporation, 600 Grant Street 18th Floor, Room 1880, Pittsburgh, PA 15219.

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“WWW.STB.DOT.GOV.”

Decided: January 2, 2009.

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

Anne K. Quinlan

Acting Secretary