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SERVICE DATE - MARCH 16, 2001

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34006]

Canadian Pacific Railway Company–Trackage Rights Exemption–Detroit River Tunnel Company

Detroit River Tunnel Company, through its lessee Detroit River Tunnel Partnership (DRT Partnership), has agreed to grant to Canadian Pacific Railway Company (CPR) trackage rights to and through the Detroit River Tunnel (Tunnel) between Detroit, MI (milepost 228.1) and Windsor, ON (milepost 225.0).<sup>1</sup> The trackage rights will permit CPR to continue to operate over the trackage following the dissolution of CNCP Niagara-Detroit Partnership, the current lessee of the trackage, and DRT Partnership's becoming the lessee of the trackage.<sup>2</sup>

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<sup>1</sup> According to CPR, the portion of the trackage rights within the United States, which is subject to the Board's jurisdiction, lies between milepost 228.1 and milepost 226.3, a distance of approximately 1.8 miles.

<sup>2</sup> This transaction is related to the following verified notices of exemption all filed at the Board on February 27, 2001: 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. 33984, Borealis Infrastructure Trust Management, Inc., Sole Trustee of the Borealis Transportation Infrastructure Trust–Acquisition Exemption–Detroit River Tunnel Company; STB Finance Docket No. 34007, Canadian National Railway Company–Corporate Family Transaction 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.

The transaction was scheduled to be consummated on or soon after the March 6, 2001 effective date of the exemption (7 days after the exemption was filed).<sup>3</sup>

CPR states that the trackage rights to and through the Tunnel simply replace existing trackage rights and will affect no CPR employees. Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its United States employees. As a condition to this exemption, any United States employee affected by 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34006, 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, one copy of each pleading must be served on George W. Mayo, Jr., Esq., Hogan & Hartson L.L.P., 555 Thirteenth Street, N.W., Washington, DC 20004-1109.

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<sup>3</sup> An unredacted draft version of the CPR Tunnel User Agreement, as required by 49 CFR 1180.6(a)(7)(ii), was filed under seal. A motion for a protective order, filed on February 27, 2001, is being addressed in a separate decision.

Board decisions and notices are available on our website at

“WWW.STB.DOT.GOV.”

Decided: March 9, 2001.

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

Vernon A. Williams

Secretary