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FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35045 (Sub-No. 1)]

Duluth, Winnipeg and Pacific Railway Company—Trackage Rights Exemption—Duluth, Missabe and Iron Range Railway Company

Pursuant to a written trackage rights amendment agreement,¹ Duluth, Missabe and Iron Range Railway Company (DMIR) has agreed to amend and extend the existing overhead trackage rights previously granted to Duluth, Winnipeg and Pacific Railway Company (DWP).² According to DWP, its existing trackage rights on DMIR's line from Nopeming Junction, MN, through Adolph, MN, to Shelton Junction, MN (Nopeming Junction-Shelton Junction segment), did not provide access to DMIR's Proctor Yard in Proctor, MN, which is located several miles east of Adolph on a separate DMIR line. DWP now proposes to acquire additional overhead trackage rights over DMIR's line of

¹ Duluth, Winnipeg and Pacific Railway Company has submitted a draft agreement. As required by 49 CFR 1180.6(a)(7)(ii), DWP states that it will submit a copy of the executed agreement within 10 days of the date the agreement is executed.

² The original trackage rights were exempted in Duluth, Winnipeg and Pacific Railway Company—Trackage Rights—Duluth, Missabe and Iron Range Railway Company, STB Finance Docket No. 34424 (Sub-No. 1) (STB served Apr. 9, 2004), and were exempted as amended in Duluth, Winnipeg and Pacific Railway Company—Amended Trackage Rights Exemption—Duluth, Missabe and Iron Range Railway Company, STB Finance Docket No. 35045 (STB served June 29, 2007). DWP and DMIR are indirect subsidiaries of Canadian National Railway Company. See Canadian National Railway Company and Grand Trunk Corporation—Control—Duluth, Missabe and Iron Range Railway Company, et al., STB Finance Docket No. 34424 (STB served Apr. 9, 2004).

railroad between milepost 12.8 at Carson/Adolph and milepost 6.7 at Proctor, MN (2,000 feet beyond the south switch into DMIR's Proctor Yard), a distance of approximately 6.1 miles. DWP states that the proposed trackage rights will include the right to enter and exit the Nopeming Junction-Shelton Junction segment at Carson/Adolph, and will provide access from that line into DMIR's Proctor Yard for interchange purposes.

The purpose of the proposed transaction is to allow DWP trains to operate in and out of the DMIR Proctor Yard, thus increasing interchange efficiency by optimizing traffic flows in the Twin Ports of Duluth, MN, and Superior, WI.

The transaction is scheduled to be consummated on November 25, 2009, the effective date of the exemption (30 days after the exemption was filed).

As a condition to this exemption, any employees 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).

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.

This notice is filed under 49 CFR 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. Petitions for stay must be filed no later than November 18, 2009 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35045 (Sub-No. 1), 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.

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Decided: November 5, 2009.

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

Anne K. Quinlan

Acting Secretary