

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36721]

Cedar River Railroad Company and Chicago, Central & Pacific Railroad Company—
Trackage Rights Exemption—Dakota, Minnesota & Eastern Railroad Corporation

Cedar River Railroad Company (CEDR) and Chicago, Central & Pacific Railroad Company (CCP)¹ (collectively, Applicants) have filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) for acquisition of limited local trackage rights over approximately 3.75 miles of rail line owned by Dakota, Minnesota & Eastern Railroad Company, d/b/a Canadian Pacific Kansas City (DM&E),² between approximately milepost 88.85 in Charles City, Iowa, and the east mainline switch to the Valero ethanol facility at approximately milepost 92.6, west of Charles City (the Line).

Applicants and DM&E have entered into a March 3, 2022 written trackage rights agreement³ that grants Applicants local trackage rights over the Line, limited to the

¹ The verified notice states that both CEDR and CCP are indirect rail carrier subsidiaries of Canadian National Railway Company (CN), whose U.S. rail carrier subsidiaries (including CEDR and CCP) are held directly or indirectly by CN's wholly owned subsidiary Grand Trunk Corporation. See Canadian Nat'l Ry.—Control—Ill. Cent. Corp., 4 S.T.B. 122 (1999); Ill. Cent. Corp.—Control—CCP Holdings, Inc., FD 32858 (STB served May 14, 1996).

² The verified notice states that DM&E is part of the Canadian Pacific Kansas City system. See Canadian Pac. Ry.—Control—Kan. City S., FD 36500, slip op. at 3 n.3 (STB served Mar. 15, 2023).

³ A redacted version of the trackage rights agreement was filed with the verified notice. An unredacted version of the agreement was submitted to the Board under seal

provision of freight rail service to the Valero facility and to the movement of no more than seven loaded trains per week.⁴

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 & Western Railway—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605 (1978), as modified by Mendocino Coast Railway—Lease & Operate—California Western Railroad, 360 I.C.C. 653 (1980).

The transaction may be consummated on or after October 1, 2023, the effective date of the exemption. If the verified 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 September 22, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36721, must be filed with the Surface Transportation Board via e-filing on the Board's website or in writing addressed to 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading

concurrently with a motion for protective order, which was granted in a decision served on September 7, 2023.

⁴ In a related proceeding, CCP has filed a verified notice of exemption under 49 C.F.R. § 1180.2(d)(7) for the acquisition of overhead trackage rights over approximately 41.5 miles of rail line owned by CEDR between Cedar Falls, Iowa, and Charles City. See Chi., Cent. & Pac. R.R.—Trackage Rts. Exemption—Cedar River R.R., Docket No. FD 36722. Applicants state that CCP's service to the Valero facility will be provided in conjunction with such overhead trackage rights.

must be served on Applicants' representative, Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to Applicants, this action is categorically excluded from environmental review under 49 C.F.R. § 1105.6(c) and from historic preservation reporting requirements under 49 C.F.R. § 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: September 12, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.