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SERVICE DATE – DECEMBER 19, 2023

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36727¹

CSX TRANSPORTATION, INC.—ACQUISITION AND OPERATION—RAIL LINE OF
MERIDIAN & BIGBEE RAILROAD, L.L.C.

Docket No. FD 36732²

CANADIAN PACIFIC KANSAS CITY LIMITED AND THE KANSAS CITY SOUTHERN
RAILWAY COMPANY, D/B/A CPKC—ACQUISITION AND OPERATION—CERTAIN
RAIL LINE OF MERIDIAN & BIGBEE RAILROAD, L.L.C. IN LAUDERDALE COUNTY,
MISS., AND CHOCTAW AND MARENGO COUNTIES, ALA.

Decision No. 5³

Digest:⁴ This decision assigns and authorizes an administrative law judge to
address discovery matters.

Decided: December 19, 2023

By decision served November 3, 2023, the Board accepted for consideration the
application filed by CSX Transportation, Inc. (CSXT), seeking Board approval for CSXT to
acquire from Meridian & Bigbee Railroad, L.L.C. (MNBR), and operate certain rail line between
Burkville, Ala., and Myrtlewood, Ala. On the same day, the Board accepted for consideration

¹ This decision embraces the following dockets: Alabama & Gulf Coast Railway—
Trackage Rights Exemption—CSX Transportation, Inc., Docket No. FD 36724; Meridian &
Bigbee Railroad—Discontinuance of Incidental Overhead Trackage Rights—in Lowndes &
Montgomery Counties, Ala., Docket No. AB 1335X.

² This decision embraces the following dockets: CSX Transportation, Inc.—
Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. &
Lauderdale County, Miss., Docket No. AB 55 (Sub-No. 814X); Alabama & Gulf Coast
Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific
Kansas City, Docket No. FD 36731; CSX Transportation, Inc.—Trackage Rights Exemption—
Kansas City Southern Railway, Docket No. FD 36730.

³ These two sets of proceedings are not consolidated. A single decision is being issued
for administrative purposes.

⁴ The digest constitutes no part of the decision of the Board but has been prepared for the
convenience of the reader. It may not be cited to or relied upon as precedent. See Pol’y
Statement on Plain Language Digs. in Decisions, EP 696 (STB served Sept. 2, 2010).

the application filed by Canadian Pacific Kansas City Limited, on behalf of itself and its wholly owned subsidiary, The Kansas City Southern Railway Company (KCS) d/b/a CPKC, seeking Board approval for KCS to acquire from MNBR and to operate approximately 50.4 route miles of rail line between Meridian, Miss., and Myrtlewood.

The Board has signed a Memorandum of Understanding with the Federal Mine Safety and Health Review Commission to employ the services of administrative law judges on a case-by-case basis to perform discrete, Board-assigned functions such as adjudicating discovery disputes in cases pending before the Board. The Board hereby assigns and authorizes Administrative Law Judge Thomas McCarthy to entertain and rule upon discovery matters and to resolve initially any disputes concerning discovery in these proceedings that are filed after the service date of this decision. The parties are directed to send copies of all their filings and documents in these proceedings to Judge McCarthy, at 1331 Pennsylvania Avenue, N.W., Suite 520N, Federal Mine Safety and Health Review Commission, Washington, DC 20004-1710, and at ctolbert@fmshrc.gov and cbrightwell@fmshrc.gov. In light of the statutory timeline for minor transactions under 49 U.S.C. § 11325(d)(2), the parties are encouraged to cooperate on discovery matters and resolve any disputes promptly.

It is ordered:

1. The Board hereby ratifies the loan of Administrative Law Judge Thomas McCarthy to the office of administrative law judge in the Surface Transportation Board, under terms and conditions prescribed in 5 U.S.C. § 3344 and 5 C.F.R. § 930.208, and the Board today approves his appointment as the Board's own action under the Constitution.

2. This proceeding is assigned to Judge McCarthy for the handling of all discovery matters and initial resolution of all discovery disputes filed after the service date of this decision.

3. In addition to filing pleadings with the Board and serving copies on parties of record, parties must send a copy of all filings and documents, including submissions already filed with the Board, to Judge McCarthy at 1331 Pennsylvania Avenue, N.W., Suite 520N, Washington, DC 20004-1710, and at ctolbert@fmshrc.gov and cbrightwell@fmshrc.gov.

4. Judge McCarthy will be added to the service list in these proceedings and a copy of this decision will be served upon him.

5. A copy of this decision will be served on the U.S. Office of Personnel Management (OPM), at Human Resource Solutions, ALJ Program Office, 1900 E Street N.W., Suite 2469, Washington, DC 20415-9400 and electronically at karyn.lusby@opm.gov. Judge McCarthy shall send a copy of the notice or order that constitutes the final disposition of his assignment of this case to OPM at the above address.

6. This decision is effective on its service date.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.