

DIP # 010213001

206059

August 9, 2002

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, D.C. 20006

FILED

AUG 19 2002



SURFACE

Re: Finance Docket No. ~~34004~~ TRANSPORTATION BOARD
*Canadian Pacific Railway Company and Napierville Junction
Railway Company – Corporate Family Transaction Exemption –
St. Lawrence & Hudson Railway Company Limited*

Dear Secretary Williams:

Enclosed find the filing fee in the amount of \$150.00 for in the above-captioned proceeding.

In accordance with 49 CFR 1002.2 Petitioner requests the Board waive the filing fee in this case. This request is based upon the following reasons: 1) the pursuit of this matter is in the public interest; and, 2) Petitioner is not being provided with applicable labor protections mandated by the Board in Finance Docket No. 34004 and must progress this matter to its conclusion on her own (including paid arbitration under §11 of New York Dock) the fee poses an additional hardship.

In reference to item 1): as the Carrier involved in this dispute has adamantly ignored the obligations placed upon it by the Board, petitioner is required under the labor protection imposed by the Board for the public benefit to solely pursue this matter. Petitioner asserts that pursuit of this matter serves two purposes in the public interest. They are: a) enforcement of the Board's imposition of protection for the benefit of all employees thereby in the public interest; and, b) insurance that the Board's orders are not tacitly waived by the parties.

Petitioner believes that reopening and oversight of Finance Docket No. 34004 is clearly in the best interest of public in seeking enforcement of the Board's procedures involving 49 CFR 1180.2 labor protections.

ENTERED
Office of Proceedings

AUG 19 2002

Part of
Public Record

Very truly yours,

Karen Cline

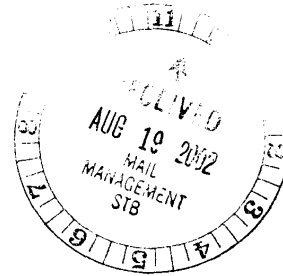
Karen Cline
15128 Gage Street
Taylor, Michigan 48180

FEE RECEIVED

AUG 19 2002

SURFACE
TRANSPORTATION BOARD

July 27, 2002



VIA U.S. MAIL

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, D.C. 20006

Re: Finance Docket No. 34004
*Canadian Pacific Railway Company and Napierville Junction
Railway Company – Corporate Family Transaction Exemption –
St. Lawrence & Hudson Railway Company Limited*

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of Petition to Reopen and Impose Oversight in the above referenced matter.

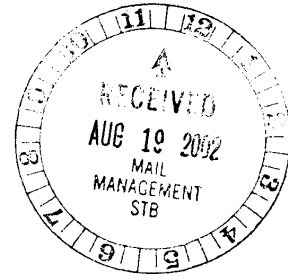
Kindly acknowledge receipt by date stamping the enclosed duplicate copy of this letter and return in the self-addressed stamped envelope.

Very truly yours,

Karen Cline

Karen Cline
15128 Gage Street
Taylor, Michigan 48180

Before the
SURFACE TRANSPORTATION BOARD
Washington, D. C. 20423



Finance Docket No. 34004

*Canadian Pacific Railway Company and
Napierville Junction Railway Company
– Corporate Family Transaction Exemption –
St. Lawrence & Hudson Railway Company Limited*

PETITION TO REOPEN

Comes now Karen Cline (Cline), an individual as set forth below, requests that (1) the above captioned exempt transaction proceeding be reopened, and; (2) the Board impose oversight on the transaction. In support of this request, Cline states as follows:

In STB Docket No. 34004, the Canadian Pacific and Napierville Junction Railway (CPR/NJR) filed a verified notice of exemption under 49 CFR 1180.2(d)(3) to absorb the St. Lawrence & Hudson Railway Company Limited (St.L&H) and the assets it holds into the CPR. The notice of exemption was served on February 16, 2001.¹

In such notice it was stated:

"Applicants state that there will be no change in operations as a result of this transaction, and they do not anticipate that any labor impacts will occur within the United States. 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 employees. Applicants state that they recognize the Board's obligation to impose employee protective conditions pursuant to 49 U.S.C. 11326(a) for the benefit of their U.S.

¹St.L&H was created in 1996; see STB Finance Docket No. 33136 service date October 9, 1996 which held: "...the transaction was expected to be consummated on or after October 1, 1996 and upon consummation of this transaction St.L&H will become a rail carrier."

railroad employees, and that they agree to imposition of the conditions imposed in New York Dock Ry. – Control – Brooklyn Eastern Dist., 360 I.C.C. 60 (1979) (New York Dock).²

Pursuant to STB approval St.L&H assets and operations were taken over by CPR. The transaction included the take-over of rail operations of St.L&H in the United States and overhead trackage rights over CSX Transportation, Inc. (CSXT) lines between Delray Interlocker (CSXT) and Rougemere Yard, Detroit, Michigan. The transaction was a reorganization designed to totally dissolve St.L&H with CPR absorbing all its properties and operations.

Six months later, CPR issued a notice dated October 15, 2001, to all United States (US) Employees that:

"It is the intent of the Carrier to initiate an organizational change and operational change by relocating the customs and border service work now performed in Detroit, MI to Winnipeg, MB. [CPR] The change will take place on or about February 01, 2002.

"All positions in the bargaining unit now located in Detroit will be abolished on the effective date of the change. These are eleven permanently assigned positions, the two permanently unassigned positions and the one spare unassigned positions."

Consequently, CPR served notice dated January 14, 2002 (Bulletin LAC1102) informing all US employees at Detroit, Michigan, that all assignments were being abolished and their work was being transferred to the CPR Winnipeg Terminal Service Center (TCS), Winnipeg, Canada. Four (4) Transportation Service Representative

²It was further stated that: *"If the notice contains false or misleading information, the exemption is void ab initio."*

assignments located at the Winnipeg TSC were established effected February 5, 2002 to accommodate the transfer/coordination of the US employees' work.

As a direct result of all these actions, all US employees (including Cline) employed at Rougemere Yard, Detroit, Michigan, lost their jobs and became dismissed employees as contemplated by the New York Dock (NYD) protective conditions.

Cline filed for an election of NYD protection pursuant to FD 34004 with CPR on April 19, 2002, asserting the transaction and movement of all St.L&H work from Detroit, Michigan, USA, to the CPR at Winnipeg, Manitoba, Canada, caused her dismissal. In response, Cline received a short reply, dated May 8, 2002, from an unidentified person (Gerth) stating NYD did not apply in the transaction by citing Atlantic Richfield Company and Anaconda Company – control – Butte, Anaconda & Pacific Railroad Company and Tooele Valley Railroad Company (Anaconda).^{3 4}

Cline has since attempted to have CPR provide formal response to substantive arguments made in original request for entitlement, but to no avail. Article I, § 1 of NYD aptly defines Cline as a dismissed employee and the direct impact between the takeover of St.L&H assets and operations by CPR inescapably entitles Cline to election of benefits as imposed and accepted by CPR in its filings with the Board.

Cline has continuously pursued rights under the proceeding and NYD. However,

³See Anaconda, Interstate Commerce Commission (ICC), Finance Docket No. 28490.

⁴It has since been ascertained that Gerth is associated with Leonard, Street and Deinard which represented CPR in its filings with the STB – FN 34004.

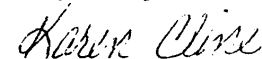
given the fact CPR corporate headquarters are located in a foreign country; communications and ultimately enforcement tenuous; Cline hereby requests the Board to reopen the exempt proceedings and impose oversight. Such actions will insure the public interest is protected in this proceeding and the Board's imposition of \$11326 for the benefit of U.S. railroad employees via the NYD protective conditions are expeditiously followed.

Conclusion

THEREFORE, for reasons stated herein, the Board should reopen the proceedings in Finance Docket No. 34004, Canadian Pacific Railway Company and Napierville Junction Railway Company – Corporate Family Transaction Exemption – St. Lawrence & Hudson Railway Company Limited; investigate into the propriety of the exemption; and, impose oversight to insure prompt adherence to NYD.

Cline will serve a copy of this petition upon Leonard, Street and Deinard, 150 South Fifth Street, Minneapolis, MN 55402 – Diane Gerth.

Respectfully submitted,



Karen Cline
15128 Gage Street
Taylor, Michigan 48180
Petitioner

Attachments
July 27, 2002

July 27, 2002

VIA U.S. MAIL

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, D.C. 20006

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Very truly yours,

Karen Cline

Karen Cline
15128 Gage Street
Taylor, Michigan 48180

Before the
SURFACE TRANSPORTATION BOARD
Washington, D. C. 20423

Finance Docket No. 34004

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Napierville Junction Railway Company
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THEREFORE, for reasons stated herein, the Board should reopen the proceedings in Finance Docket No. 34004, Canadian Pacific Railway Company and Napierville Junction Railway Company – Corporate Family Transaction Exemption – St. Lawrence & Hudson Railway Company Limited; investigate into the propriety of the exemption; and, impose oversight to insure prompt adherence to NYD.

Cline will serve a copy of this petition upon Leonard, Street and Deinard, 150 South Fifth Street, Minneapolis, MN 55402 – Diane Gerth.

Respectfully submitted,


Karen Cline
15128 Gage Street
Taylor, Michigan 48180
Petitioner

Attachments
July 27, 2002

31635

SERVICE DATE - FEBRUARY 16, 2001

DO

FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34004]

Canadian Pacific Railway Company and Napierville Junction Railway

Company—Corporate Family Transaction Exemption—St. Lawrence & Hudson Railway

Company Limited

Canadian Pacific Railway Company (CPR) and Napierville Junction Railway Company (NJR)¹ (collectively applicants) have filed a verified notice of exemption under 49 CFR 1180.2(d)(3) to absorb the St. Lawrence & Hudson Railway Company Limited (St. L & H) and the assets it holds back into CPR, its parent corporation.² The United States assets of St. L & H rail to be absorbed into CPR are described as follows:³

(1) St. L & H's interest in CNCP-Niagara Detroit, an Ontario partnership, which owns all of the stock of Detroit River Tunnel Company (DRTC) and Niagara River Bridge Company (NRBC). St. L & H held trackage rights from DRTC and NRBC:

¹ NJR is a wholly owned subsidiary of CPR.

² St. L & H was created in 1996 as a wholly owned subsidiary of CPR. See Canadian Pacific Limited, Canadian Pacific Railway Company, and Napierville Junction Railroad Company—Corporate Family Transaction Exemption—St. Lawrence & Hudson Railway Company Limited, STB Finance Docket No. 33136 (STB served Oct. 9, 1996).

³ Applicants state that the rail assets to be transferred in STB Finance Docket No. 34004 are identical to those covered by the transaction in STB Finance Docket No. 33136.

(a) through the Detroit River Tunnel (a railway tunnel connecting Detroit, MI, and Windsor, Ontario, Canada) in the U.S. from the international border (mid-tunnel at milepost 226.3) to the end of the connecting track at milepost 228.2, in Detroit, a distance of approximately 2 miles; and (b) over the Suspension Bridge (a railway bridge between Niagara Falls, Ontario, Canada, and Niagara Falls, NY) in the U.S. between the international border (milepost 0.2) and the end of the access track at milepost 0.0, in Niagara Falls, a distance of 0.2 miles. The trackage rights also include short segments of connecting track at both the Detroit River Tunnel and the Suspension Bridge.

(2) St. L & H's leasehold interest in the rail properties of the NJR⁴ consisting of a 1.1-mile segment of track on the U.S. side of the international border near Rouses Point, NY, where NJR connects with the lines of the Delaware and Hudson Railway Company, Inc., a wholly owned subsidiary of CPR.

(3) St. L & H's incidental overhead trackage rights to reach connections with U.S. carriers in the Detroit terminal area as follows: (a) former Consolidated Rail Corporation (Conrail) trackage between the end of the Detroit River Tunnel connecting track (Conrail milepost 2.02 Main Line) and Conrail milepost 9.3, Detroit Line, including the Delray Interlocking, at milepost 5.3, Detroit Line, and between milepost 2.02 and milepost 3.1, Mackinaw Branch, a total distance of approximately 8.4 miles; (b) former Norfolk and

⁴ Applicants note that NJR was a party to the STB Finance Docket No. 33136 proceeding when it granted the leasehold interest to St. L & H. Applicants further note that, other than NJR's role as the lessor of the trackage, NJR is not involved in the STB Finance Docket No. 34004 transaction.

Western Railway Company (NW) line between the Delray Interlocking (NW milepost 4.4) and Oakwood Yard (NW milepost 8.87), a distance of approximately 4.47 miles; and (c) the CSX Transportation, Inc. (CSXT) line between Delray Interlocking (CSXT milepost 4.5) and Rougemere Yard (CSXT milepost 6.6), a distance of approximately 2.1 miles.

The verified notice states that the transaction was consummated on January 1, 2001. The earliest the transaction could have been consummated was February 7, 2001, the effective date of the exemption (7 days after the exemption was filed).⁵

The transaction is part of a corporate reorganization designed to dissolve St. L & H and to absorb its properties and operations into CPR. This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). As described, the transaction will not result in adverse changes in service levels, operational changes, or a change in the competitive balance with carriers outside the applicants' corporate family.

Applicants state that there will be no change in operations as a result of this transaction, and they do not anticipate that any labor impacts will occur within the United States. 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 employees. Applicants state that they recognize the Board's obligation to impose employee protective

⁵ Pursuant to 49 CFR 1180.4, 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 one week before the transaction is consummated.

conditions pursuant to 49 U.S.C. 11326(a) for the benefit of their U.S. railroad employees, and that they agree to imposition of the conditions imposed in New York Dock Ry.-Control-Brooklyn Eastern Dist., 360 I.C.C. 60 (1979) (New York Dock).

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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34004, 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, a copy of each pleading must be served on Diane Gerth, Esq., Leonard, Street and Deinard, 150 South Fifth Street, Minneapolis, MN 55402.

Board decisions and notices are available on our website at
“WWW.STB.DOT.GOV.”

Decided: February 9, 2001.

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

Vernon A. Williams

Secretary

[Code of Federal Regulations]
 [Title 49, Volume 6]
 [Revised as of October 1, 2001]
 From the U.S. Government Printing Office via GPO Access
 [CITE: 49CFR1180.2]

[Page 262]

TITLE 49--TRANSPORTATION

CHAPTER X--SURFACE TRANSPORTATION BOARD, DEPARTMENT OF TRANSPORTATION

PART 1180--RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RI

Subpart A--General Acquisition Procedures

Sec. 1180.2 Types of transactions.

Transactions proposed under 49 U.S.C. 11323 involving more than one common carrier by railroad are of four types: Major, significant, minor, and exempt.

(a) A major transaction is a control or merger involving two or more class I railroads.

(b) A significant transaction is a transaction not involving the control or merger of two or more class I railroads that is of regional or national transportation significance as that phrase is used in 49 U.S.C. 11325(a)(2) and (c). A transaction not involving the control or merger of two or more class I railroads is not significant if a determination can be made either:

(1) That the transaction clearly will not have any anticompetitive effects, or

(2) That any anticompetitive effects of the transaction will clearly be outweighed by the transaction's anticipated contribution to the public interest in meeting significant transportation needs.

A transaction not involving the control or merger of two or more class I railroads is significant if neither such determination can clearly be made.

(c) A minor transaction is one which involves more than one railroad and which is not a major, significant, or exempt transaction.

(d) A transaction is exempt if it is within one of the seven categories described below. The Board has found that its prior review and approval of these transactions is not necessary to carry out the rail transportation policy of 49 U.S.C. 10101; and is of limited scope or unnecessary to protect shippers from market abuse. See 49 U.S.C. 10502. A notice must be filed to use one of these class exemptions. The procedures are set out in Sec. 1180.4(g). These class exemptions do not relieve a carrier of its statutory obligation to protect the interests of employees. See 49 U.S.C. 10502(g) and 11326. The enumeration of the following categories of transactions as exempt does not preclude a carrier from seeking an exemption of specific transactions not falling into these categories.

(1) Acquisition of a line of railroad which would not constitute a major market extension where the Board has found that the public convenience and necessity permit abandonment.

(2) Acquisition or continuance in control of a nonconnecting carrier or one of its lines where (i) the railroads would not connect with each other or any railroads in their corporate family, (ii) the acquisition or continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family, and (iii) the transaction does not

involve a class I carrier.

(3) Transactions within a corporate family that do not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

(4) Renewal of leases and any other matters where the Board has previously authorized the transaction, and only an extension in time is involved.

(5) Joint projects involving the relocation of a line of railroad which does not disrupt service to shippers.

(6) Reincorporation in a different State.

(7) Acquisition of trackage rights and renewal of trackage rights by a rail carrier over lines owned or operated by any other rail carrier or carriers that are: (i) based on written agreements, and (ii) not filed or sought in responsive applications in rail consolidation proceedings.

[47 FR 9844, Mar. 8, 1982. Redesignated at 47 FR 49592, Nov. 1, 1982, and amended at 50 FR 15751, Apr. 22, 1985; 51 FR 24669, July 8, 1986; 58 FR 63104, Nov. 30, 1993; 62 FR 9716, Mar. 4, 1997]

Ms. Nathalie Lapointe
President
TC Local 1976
United Steelworkers of America
4115 Ontario St. E
4th floor
Montreal, QC
H1V 1J7

October 15, 2001

REGISTERED

Dear Ms. Lapointe,

Please accept this as notice served pursuant to Article III, Section 2 of Appendix "E" ("Mediation Agreement") of the Collective Bargaining Agreement between the Canadian Pacific Railway Company and the United Steelworkers of America (TC local 1976) dated April 3, 2000.

It is the intent of the Carrier to initiate an organizational and operational change by relocating the customs and border services work now performed in Detroit, MI to Winnipeg, MB. The change will take place on or about February 01, 2002.

All positions in the bargaining unit now located in Detroit will be abolished on the effective date of the change. These are the eleven permanently assigned positions, the two permanently unassigned positions and the one spare unassigned position.

Four positions will be established in Winnipeg on implementation of the change. These positions, covering one desk on a 24/7 basis, will perform the work now done in Detroit and in Windsor, ON. Included in the duties of these positions will be the various functions now performed in Detroit with respect to preparation of documentation related to trans-border train movements. There will be a limited need to continue to hand deliver documents to US Customs in Detroit and this work will be performed by a broker on the Carrier's behalf on an as-and-when required basis.

The Carrier would request an early conference to discuss this change.

Sincerely,

Donald V. Brazier
Director, Labor Relations

-----Original Message-----
From: Joint Placement Committee/ir00028/cpr@merlin@CPR
Sent: Monday, January 14, 2002 4:49 PM
To: Alan Roberts; Don Brazier
Cc: Len Wormsbecker; Sharon Godard
Subject: Bulletin LAC1102

Bulletin LAC1102

Please ensure all affected employees in Detroit receive a copy of this Bulletin.

In accordance with the Tentative Agreement, signed on January 14 2002 between Canadian Pacific Railway and the TC Local 1976 (USWA) regarding the abolishment of positions at:

- Detroit, Michigan on February 4, 2002

Coincidental with these abolishment 4 positions will be established at the Winnipeg TSC.

Employees wishing to transfer to Winnipeg must send their bid prior to January 19, 2002 and their decision is irrevocable.

If you have a personal ID please send your Bid Declaration Form indicating your choices in order of preference to IR00028 (Joint Placement Committee) coping your supervisor and Union representative. If you do not have a personal ID pls forward via fax. If further information is required please contact the Joint Placement Committee: Tel:514-395-6590 Fax:514-395-7066 Merlin or Notes ID: IR00028

Any questions related to the positions transferred to Winnipeg should call Sharon Godard at (204) 947-8247

Bulletin LAC1102

Transportation Service Rep. Positions Established in Winnipeg

=====

POSITION	LOCATION	DESK	SDM	SHIFT	D/O	Date Position Established
POS. A	Winnipeg	Desk #1	L-1	0600-1400	S/S	Feb 5/02
POS. B	Winnipeg	Desk #1	L-1	1400-2200	S/S	Feb 5/02
POS. C	Winnipeg	Desk #1	L-1	2200-0600	M/T	Feb 5/02
POS. D	Winnipeg	Desk #1	L-1	Relief	W/T	Feb 5/02

(Relief shift) Mon:08-16, Tue:16-24, Fri/Sat:07-15, Sun:08-16

Position : Transportation Service Representative
Rate of Pay: SDM Level L-1 (797.69 Cdn Funds)

You will be part of the national Customer Service Team at Winnipeg, a growing and dynamic organization of highly skilled employees dedicated to meeting or exceeding internal and external customer requirements in a 7 days a week, 24 hour a day operation.

You will work in a team environment, assigned to a workgroup performing clerical activities for Service Area Operations, Billing Services, or Border Services to provide internal or external customers with timely, accurate information supporting the delivery of transportation services.

Nature of Duties:

You will be expected to apply your expertise in either waybilling, event reporting, car ordering, or transborder document processing and with proper training and support, to be able to perform these functions with excellence.

You will be trained to use a number of CPR's computer applications to perform your duties, including: Fastway, Electronic Data Interchange, Common Yards, AEI, Order Entry, C.U.S.T.O.M.S. and Merlin.

To demonstrate the above clerical abilities, and functional literacy in English, both written and verbal, applicants may be required to successfully complete tests administered by the Company. Note that some positions may require functional literacy in both French and English.

Prior to being named as a successful applicant, candidates must successfully complete a Transportation Service Representative Training Program given by the Company.

April 19, 2002
15128 Gage Street
Taylor, MI 48180

Mr. D. V. Brazier
Director, Labour Relations
Canadian Pacific Railway Company
Suite 300, Windsor Station
P. O. Box 6042, Station Centre-ville
Montreal, Quebec, Canada H3C 3E4

Mr. A. J. Roberts
Area Manager Transportation Services
Canadian Pacific Railway Company
1405 Caron Avenue
Windsor, Ontario, Canada N8X 4T6

Dear Sirs:

Consider this a claim on behalf of Ms. Karen Cline stating as follows:

A) Pursuant to the decision of the Surface Transportation Board (STB) in Finance Docket No. 34004, and related filings, Claimant Karen Cline was directly affected by Carriers' transfer of work from Detroit, Michigan, USA, to Winnipeg, Manitoba, Canada, on February 4, 2002 and was placed in a worse position in respect to compensation and rules as defined in Article I, Section 1 of the New York Dock (NYD) conditions.

B) Claimant Karen Cline is therefore entitled to an election of benefits as prescribed by Article I, Sections 5 & 6 of NYD and pursuant to the imposition of protection by the Surface Transportation Board.

Statement of Facts:

The Canadian Pacific (CPR) and Napierville Junction Railway Company (NJRC) filed a verified notice of exemption under 49 CFR 1180.2(d)(3) to absorb the St. Lawrence & Hudson Railway Company Limited (St.L&H) and place the assets it holds back into CPR. This transfer of assets included the rail operations of St.L&H in the United States.

This transfer included the St.L&H overhead trackage rights over CSX Transportation, Inc. (CSXT) lines between Delray Interlocker (CSXT) and Rougemere Yard, Detroit, Michigan. This transaction was a reorganization designed to dissolve St.L&H and absorb its properties and operations into CPR. Importantly, the parties asserted that the transaction would not result in adverse changes in service levels, operational changes, or a change in the competitive balance with carriers outside the corporate family.

On February 16, 2001 the Surface Transportation Board (STB) in Finance Docket No. 34004,¹ stated that: "[a]pplicants state that there will be no change in operations as a result of this transaction, and they do not anticipate any labor impacts will occur within the United States." In so finding, the STB approved the transaction in: "[a]pplicants state that they recognize the Board's obligation to impose employee protective conditions pursuant to 49 U.S.C. 11326(a) for the benefit of their U.S. railroad employees, and that they agree to imposition of the conditions imposed in New York Dock Ry.-Control-Brooklyn Eastern Dist., 360 I.C.C. 60 (1979) (New York Dock)."

Subsequently, by notice dated October 15, 2001, the CPR issued notice to the Employees that:

It is the intent of the Carrier to initiate an organizational change and operational change by relocating the customs and border service work now performed in Detroit, MI to Winnipeg, MB. The change will take place on or about February 01, 2002.

All positions in the bargaining unit now located in Detroit will be abolished on the effective date of the change. These are eleven permanently assigned positions, the two permanently unassigned positions and the one spare unassigned position.

¹The STB gives a finance docket designation to: "Cases involving transactions or arrangements to restructure rail companies and rail lines including merger, control, trackage rights, lease, acquisition, construction, pooling, interlocking offices and directors and feeder line development, as well as labor and environmental issues arising therefrom, and certain non-rate related complaint and declaratory order cases." See 49 USC 10901-02, 10907, 11101-03 and 11322-28.

Consequently, on January 14, 2002, the Carrier served notice (Bulletin LAC1102) informing all employees at Detroit, Michigan, that all assignments were being abolished and their work transferred to the Winnipeg Terminal Service Center (TCS). Four (4) Transportation Service Representative assignments located at the Winnipeg TSC were established effected February 5, 2002 to accommodate the transfer/coordination of the United States employees' work.

As a result of all these actions, all United States employees at Rougemere Yard, Detroit, Michigan, lost their jobs and became dismissed employees as defined by the New York Dock protective conditions.

Position of Claimant:

It Claimant Cline's position that the imposition of the protective conditions set forth in New York Dock - Control - Brooklyn Eastern District Terminal, 360 I.C.C. in the corporate transaction between Canadian Pacific Railway Company and St. Lawrence & Hudson Railway Company mandates an extension of protection entitlement. Claimant Cline under the circumstances outlined in the statement of claim as well as the statement of facts is entitled to an election as prescribed by NYD.

Your prompt compliance and response is requested.

Yours,



Karen Cline
Claimant
(ID#653907)

cc: Harry Gray, USWA

May 5, 2002
15128 Gage Street
Taylor, MI 48180

Mr. D.V. Brazier
Director, Labour Relations
Canadian Pacific Railway Company
P.O. Box 6042, Station Centre-ville
Montreal, Quebec Canada N8X 4T6

Dear Sir:

This is to confirm our conversation May 1st wherein you acknowledged receipt of my April 19, 2002 letter regarding claim for New York Dock protective entitlement. This additionally confirms your written response will be forthcoming. Also, contained in this response, you advised a telephone number for your consulting attorney would be provided, thereby, enabling discussion concerning New York Dock Protection.

Yours,



Karen Cline
Claimant
(ID #653907)

LEONARD, STREET AND DEINARD

PROFESSIONAL ASSOCIATION

May 8, 2002

Diane P. Gerth
612-335-1463
diane.gerth@leonard.com

Karen Cline
15128 Gage Street
Taylor, Michigan 48180

Re: April 19, 2002 Letter

Dear Ms. Cline:

Canadian Pacific Railway ("CPR") has asked me to respond to your letter of April 19, 2002, in which you purport to make a claim for employee protective benefits that can be available under New York Dock – Control – Brooklyn Eastern District, 360 ICC 60 (1979). Although your claim was not presented to the officer designated to handle such claims, CPR directed it to me for reply. We don't intend for this direct response to you to be a waiver of the proper procedures, but rather we wanted to respond quickly and directly to you about the issues you have raised. Because the adverse action of which you complain did not come about as a result of any STB regulated transaction as required under New York Dock, CPR declines your request for benefits.

It is fundamental law that in order for these labor protections to come into play, there must be a causal connection between the STB regulated transaction and any claimed adverse impact. See, Employees of the Butte, Anaconda & Pacific Railway Co. v. United States, 938 F.2d 1009 (9th Cir., 1991), cert. denied, 503 U.S. 936, 112 S.Ct. 1474 (1992). Absent a "causal nexus" between the transaction and any adverse effects, New York Dock benefits are not appropriate. It is the role of the STB in transactions that it oversees to protect employees from the adverse effects of that transaction, not from adverse effects of other unrelated events. See, 938 F.2d at 1014. Because the Border Services reorganization that resulted in the relocation of your position was a company decision independent of the STB approved transaction in Finance Docket No. 34004 you mentioned in your letter, New York Dock benefits are inapplicable.

The reabsorption of the St. Lawrence & Hudson corporate entity back into CPR is unrelated to CPR's reorganization of border services. The amalgamation of St. Lawrence & Hudson took place as of December 31, 2000, and the actions leading up to it took place prior to that. It was merely a change in corporate organization that resulted in no operational changes. Just as the creation of the St. Lawrence & Hudson in 1996 did not change operations, neither did the amalgamation.

150 SOUTH FIFTH STREET SUITE 2300 MINNEAPOLIS, MINNESOTA 55402 TEL 612-335-1500 FAX 612-335-1657

LAW OFFICES IN MINNEAPOLIS, SAINT PAUL, MANKATO, SAINT CLOUD AND WASHINGTON, D.C.

2210326v1

WWW.LEONARD.COM

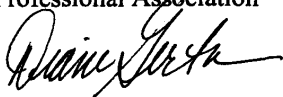
Page 2
May 8, 2002

The Border Services Reorganization that took place in February 2002 was commenced nearly a year later and was undertaken to effectuate operational efficiencies within the CPR network. The reorganization was not the result of the reabsorption of the St. Lawrence & Hudson. It cannot be shown that there was a causal nexus between the two actions because there is no causal nexus.

For this reason, the claim you make in your letter of April 19, 2002 is declined.

Very truly yours,

LEONARD, STREET AND DEINARD
Professional Association



Diane P. Gerth
DPG:km

cc: Bill Tuttle
Robin Mullaney
Don Brazier
Howard Buchanan

May 30, 2002

Mr. D. V. Brazier
Director, Labour Relations
Canadian Pacific Railway Company
Room 370, Windsor Station
P. O. Box 6042 Station Centre Ville
Montreal, Quebec, Canada H3C 3E4

Mr. A. J. Roberts
Area Manager Transportation Services
Canadian Pacific Railway Company
1405 Caron Avenue
Windsor, Ontario, Canada N8X 4T6

Dear Sirs:

This is in reference to the claim previously filed with the Carrier stating as follows:

A) Pursuant to the decision of the Surface Transportation Board (STB) in Finance Docket No. 34004, and related filings, Claimant Karen Cline was directly affected by Carriers' transfer of work from Detroit, Michigan, USA, to Winnipeg, Manitoba, Canada, on February 4, 2002 and was placed in a worse position in respect to compensation and rules as defined in Article I, Section 1 of the New York Dock (NYD) conditions.

B) Claimant Karen Cline is therefore entitled to an election of benefits as prescribed by Article I, Sections 5 & 6 of NYD and pursuant to the imposition of protection by the Surface Transportation Board.

As of this date, I have yet to receive a response to my claim from the Carrier. Instead, I received a letter dated May 8th from Ms. Diane P. Gerth (title unknown) from the firm of *Leonard, Street and Denard* (business unknown).

In her letter, Ms. Gerth states that my claim for protective entitlement was directed to her for reply -- attached is a copy for your ready reference. Although Ms. Gerth states that "*CPR directed it to me for reply*", she does not indicate who at CPR asked her to address my claim. Again, Ms. Gerth does not even identify herself or how she is connected with CPR. Moreover, Ms. Gerth's letter copies numerous other individuals that I have no knowledge of, nor what their connection to this matter may be -- they likewise are not identified.

Mr. Brazier, as you are aware, under provisions of the collective bargaining agreement (CBA); Carrier policy; and usual and customary procedures, employees are to file claims or grievances with their respective supervisors with final handling by the highest designated officer of the company. Yet, Ms. Gerth states that my "claim was not presented to the officer designated to handle such matters..."

Again, who is Ms. Gerth and what authority does she possess to interject herself in the grievance handling machinery and render interpretations of the CBA? I thought that was the job of the Union's representative and yourself Mr. Brazier.

What Ms. Gerth does is assert that no causal nexus exists between the loss of all St. L&H jobs at Detroit and the transfer of our work to the CPR at Winnipeg, MB, Canada. You may ask how she came to this decision. Well, the basis for Ms. Gerth's conclusion is her citation of the US Court of Appeals, 9th Circuit, decision in Employees of the Butte, Anaconda & Pacific Railway Co. v. United States, 938b F.2d 1009.

However, review of this decision, which was not supplied by Ms. Gerth, indicates the 9th Circuit was faced with the question of whether the Interstate Commerce Commission (ICC), now the STB, could stand in review of arbitration decisions dealing with its protective schemes. The ability of the ICC/STB to review arbitration decisions stemmed from its (then recent) so-called Lace Curtain decision.¹

Notwithstanding, important to the Anaconda case was the decision of the ICC in Finance Docket No. 28490 (Sub-No. 1), Arbitration Review, decided February 17, 1988. In that holding the ICC stated that it had the "primary jurisdiction to determine whether parties to a rail merger complied with an employee protective agreement relating to the transaction." The ICC also recognized that subsequent events trigger the benefit provisions under proximate cause by adhering to standards set by the Washington Job Protective Agreement (WJPA). (see ICC decision of Feb. 9, 1979 Finance Docket No. 28250).

Consequently, the ICC found the employees in the Anaconda case were affected by economic factors that were not a direct result of the control transaction. As such, the Anaconda case is clearly distinguishable from the claim I have presented for my protective entitlement.

In a previous telephone conversation with you, Mr. Brazier, you indicated that I deserved a written response to my claim from the Carrier. What I really deserve is an election of a NYD protective entitlement as imposed by the STB. However, I appreciate your remarks that my claim warrants a timely response from the Carrier – of which I still await.

¹Lace Curtain established standards for the review of arbitral decision dealing with imposed protective conditions. The ICC/STB restricted itself from dealing with issues of causation, calculation of benefits, or resolution of factual questions – arbitrators were given deference to these matters.

Your prompt attention and response is appreciated.

Yours truly,

Karen Cline

Karen Cline
15128 Gage Street
Taylor, Michigan 48180

Attachments

July 09, 2002

Mr. D.V. Brazier
Director, Labour Relations
Canadian Pacific Railway Company
Room 370, Windsor Station
P.O. Box 6042 Station Centre Ville
Montreal, Quebec Canada H3C 3E4

Dear Sir:

As of this date, I have still yet to receive a response to my claim from the Carrier, letters dated April 19 and May 30, 2002, respectively. I, again, remind you Mr. Bazier, in our telephone conversation May 1, 2002 you indicated a timely written response would be forthcoming. I still await your response.

I have been in contact with the Surface Transportation Board. Accordingly, if no reply is provided me, I will go forward to seek reopening of the CPR/St.L&H transaction, filing a formal petition with the Secretary of the Surface Transportation Board's Office of Congressional and Public Service.

Your prompt response is appreciated.

Yours truly,



Karen Cline
15128 Gage Street
Taylor, MI 48180

May 20, 2002

Ms. Linda Morgan, Chairman
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Dear Chairman Morgan:

The Canadian Pacific (CPR) and Napierville Junction Railway Company (NJR) filed a verified notice of exemption under 49 CFR 1180.2(d)(3) to absorb the St. Lawrence & Hudson Railway Company Limited (St.L&H) and place its assets into CPR. This transfer included the rail operations of St.L&H in the United States and overhead trackage rights over CSX Transportation, Inc. (CSXT) lines between Delray Interlocker (CSXT) and Rougemere Yard, Detroit, Michigan.¹ The transaction was a reorganization designed to totally dissolve St.L&H with CPR absorbing all its properties and operations.

On February 16, 2001 the Surface Transportation Board (STB) approved the transaction in Finance Docket No. 34004, stating: "[a]pplicants state that there will be no change in operations as a result of this transaction, and they do not anticipate any labor impacts will occur within the United States." The STB also held that: "[a]pplicants state that they recognize the Board's obligation to impose employee protective conditions pursuant to 49 U.S.C. 11326(a) for the benefit of their U.S. railroad employees, and that they agree to imposition of the conditions imposed in New York Dock Ry.-Control-Brooklyn Eastern Dist., 360 I.C.C. 60 (1979) (New York Dock)."

After approval of the STB, CP issued a notice dated October 15, 2001, to all United States (US) Employees that:

It is the intent of the Carrier to initiate an organizational change and operational change by relocating the customs and border service work now performed in Detroit, MI to Winnipeg, MB. The change will take place

¹Importantly, the parties asserted that the transaction would not result in adverse changes in service levels, operational changes, or a change in the competitive balance with carriers outside the corporate family.

on or about February 01, 2002.

All positions in the bargaining unit now located in Detroit will be abolished on the effective date of the change. These are eleven permanently assigned positions, the two permanently unassigned positions and the one spare unassigned positions.

As a consequence, the Carrier served notice dated January 14, 2002 (Bulletin LAC1102) that informed all US employees at Detroit, Michigan, that all assignments were being abolished and their work was being transferred to the Winnipeg Terminal Service Center (TCS), Winnipeg, Canada. Four (4) Transportation Service Representative assignments located at the Winnipeg TSC were established effective February 5, 2002 to accommodate the transfer/coordination of the US employees' work.

As a direct result of all these actions, all US employees at Rougemere Yard, Detroit, Michigan, lost their jobs and became dismissed employees as contemplated by the New York Dock (NYD) protective conditions.

Since the loss of my job on February 4th, I have followed the usual and customary practices and filed a claim with Mr. A. J. Roberts, Area Manager (my immediate supervisor), and, Mr. D. A. Braizer, Labour Relations (the Carrier's highest designated officer for the handling of claims and grievances), for an election of NYD. In response, I received a letter from Ms. Diane P. Gerth (title unknown) from the firm of *Leonard, Street and Denard* dated May 8th.

Ms. Gerth states that my claim for protective entitlement was directed to her for reply – I am appending such for your review. Couched in Ms. Gerth's response is the assertion that a causal nexus does not exist between the loss of all St. L&H jobs at Detroit and the transfer of our work to the CPR at Winnipeg, MB, Canada.

This assertion is based upon the decision of the US Court of Appeals, 9th Circuit, in Employees of the Butte, Anaconda & Pacific Railway Co. v. United States, 938 F.2d 1009. However, as the Board is aware, the 9th Circuit was really only faced with the question of whether the Interstate Commerce Commission (ICC), now the STB, could stand in review of arbitration decisions dealing with its protective schemes.

Notwithstanding, the important aspect to the Anaconda case was the decision of the ICC in Finance Docket No. 28490 (Sub-No. 1), Arbitration Review, decided February 17, 1988. In that holding the ICC stated that it had the "*primary jurisdiction to determine whether parties to a rail merger complied with an employee protective*

*agreement relating to the transaction.*²

As you may realize by now, I am attempting to have the CPR live up to its obligations and those imposed by the STB when it absorbed the assets and operation of the St. L&H in the United States. Therefore, in view of the importance of this matter I request that the STB impose oversight on this transaction thereby insuring that the dispute resolution process of NYD is complied with.

I appreciate your attention to this matter and response.

Yours truly,



Karen Cline
15128 Gage Street
Taylor, Michigan 48180

Attachments

cc: Alice C. Saylor (reference STB Ex Parte No. 586)

²The BAP also sought an injunction to prevent arbitration of the dispute and enforcement of the arbitration award. Noteworthy, the loss of positions on the BAP was attributable to sharp reductions in traffic and economic factors unrelated to the transaction – absent in the transaction that directly affected US employees of the St. L&H.



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

June 21, 2002

Ms. Karen Cline
15128 Gage Street
Taylor, MI 48180

Dear Ms. Cline:

Thank you for your letter and attachments detailing your claim for labor protection following the absorption of the St. Lawrence & Hudson Railway Company (St.L&H) back into the Canadian Pacific Railway Company (CPR) pursuant to a transaction approved by the Surface Transportation Board (Board). You note that the Board imposed the New York Dock labor protective conditions as part of its approval of the transaction. You indicate that you are pursuing a claim with CPR under the New York Dock conditions and request that the Board impose oversight on the transaction to ensure that CPR complies with the dispute resolution process of the New York Dock conditions.

As you recognize, the New York Dock conditions imposed by the Board provide the specific procedures for pursuing a claim under those conditions. Under these procedures, should you be unable to negotiate a satisfactory resolution of your claim filed with the railroad, you have the right to have the matter submitted to binding arbitration. Following the arbitration decision, a party to the arbitration proceeding may seek Board review under the limited standards set forth in the Board's so-called Lace Curtain decision. It is in this way that the Board can become involved in the process for implementing the New York Dock conditions.

If you wish to go beyond that process and seek reopening of the CPR/St.L&H transaction and the imposition of an oversight condition, you must file a formal petition with the Secretary of the Board. You may contact the Board's Office of Congressional and Public Services at 202-565-1592 if you have further questions.

I appreciate your interest in this matter, and I hope you find this information to be helpful. I will have your letter, the attachments, and my response made a part of the public docket for the CPR/St.L&H proceeding.

Sincerely,

Linda J. Morgan
Linda J. Morgan

JOHN D. DINGELL
16TH DISTRICT, MICHIGAN

RANKING MEMBER
COMMITTEE ON
ENERGY AND COMMERCE
CO-CHAIR
HOUSE GREAT LAKES
TASK FORCE
MEMBER
MIGRATORY BIRD
CONSERVATION COMMISSION

Congress of the United States
House of Representatives
Washington, DC 20515-2216
July 3, 2002

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WASHINGTON, DC 20515-2216
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(313) 846-1276
23 EAST FRONT STREET
SUITE 103
MONROE, MI 48161
(734) 243-1849

Ms. Karen Ann Cline
15128 Gage Street
Taylor, Michigan 48180

Dear Ms. Cline:

This is in reference to my previous correspondence concerning your employment with Canadian Pacific Railway. Thank you for your continued patience in this matter.

Enclosed for your reference and review is a copy of the response I received from officials at the Surface Transportation Board (STB) in Washington, D.C. STB officials advised me that you should have received the original copy of this letter from them on June 21, 2002 outlining your options at this time.

I hope this information is helpful and I trust that you will not hesitate to contact me in the future if I may be of further assistance to you with this or any other matter of federal concern.

With every good wish,

Sincerely yours,



John D. Dingell
Member of Congress

reh
Enclosures (2)



Office of the Chairman

Surface Transportation Board
Washington, D.C. 20423-0001

JUL 01 2002

COPY

June 25, 2002

The Honorable John D. Dingell
U.S. House of Representatives
5465 Schaefer Road
Dearborn, MI 48126

Dear Congressman Dingell:

Thank you for your letter forwarding correspondence from your constituent, Ms. Karen Cline, who wrote to you regarding her claim for labor protection following the absorption of the St. Lawrence & Hudson Railway Company (St.L&H) back into the Canadian Pacific Railway Company (CPR) pursuant to a transaction approved by the Surface Transportation Board (Board). You request that we investigate Ms. Cline's concerns, report to you on the matter, and communicate with her concerning the options for relief.

On May 20, Ms. Cline wrote directly to me regarding her concerns. I sent her a response on June 21, a copy of which I am enclosing for your information. In my response, I addressed the issues raised by Ms. Cline and advised her of the options.

I appreciate your interest in this matter. I will have your letter, the attachments, and my response made a part of the public docket for the CPR/St.L&H proceeding.

Sincerely,

Linda J. Morgan
Linda J. Morgan

Enclosure