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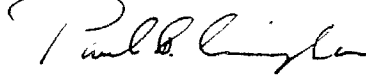
The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
Office of the Secretary
395 E Street, S.W.
Washington, DC 20423-0001

**Re: Canadian National Railway Company and Grand Trunk Corporation –
Control – EJ&E West Company (STB Finance Docket No. 35087)**

Dear Mr. Williams:

Enclosed for filing in the above-referenced docket please find the Applicants' Reply to Comments of Congressman Peter J. Visclosky, Aux Sable Liquid Products Inc., and Burlington Northern Santa Fe Railway Company (CN-7).

Very truly yours,



Paul A. Cunningham
Counsel for Canadian National Railway Company
and Grand Trunk Corporation

Enclosure

cc: All parties of record

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 35087

CANADIAN NATIONAL RAILWAY COMPANY
AND GRAND TRUNK CORPORATION
– CONTROL –
EJ&E WEST COMPANY

APPLICANTS' REPLY TO COMMENTS OF
CONGRESSMAN PETER J. VISCLOSKY,
AUX SABLE LIQUID PRODUCTS, INC.,
AND BNSF RAILWAY COMPANY

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CANADIAN NATIONAL RAILWAY COMPANY
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CONGRESSMAN PETER J. VISCLOSKY,
AUX SABLE LIQUID PRODUCTS, INC.,
AND BNSF RAILWAY COMPANY

Applicants Canadian National Railway Company and Grand Trunk Corporation (together, “CN” or “Applicants”)¹ respectfully reply to the arguments of (i) U.S. Congressman Peter J. Visclosky in his Notice of Intent to Participate in this proceeding (filed November 8, 2007), (ii) Aux Sable Liquid Products, Inc. (“Aux Sable”) in its “Reply In Opposition To Request For Determination That The Proposed Control Is A Minor Transaction” (filed on November 19, 2007), and (iii) BNSF Railway Company (“BNSF”) in its “Comments on the Suggested Procedural Schedule” (filed on November 20, 2007). Congressman Visclosky and Aux Sable each argue on different grounds that the control transaction proposed by Applicants in this proceeding (the “Transaction”) be classified by the Board as “significant” under the Board’s

¹ Applicants incorporate by reference the short forms and abbreviations set forth in the Table of Abbreviations at CN-2 at 8-11.

regulations at 49 C.F.R. § 1180.2. BNSF argues that a schedule longer than 156 days is required for discussions with CN and consideration of a number of operating issues.

In Part I, below, we review the criteria for classifying a transaction as minor or significant and the evidence in CN's application demonstrating that its proposed transaction is properly classified as "minor." In Part II, we explain why Congressman Visclosky's argument to the contrary is unsupported by the facts and inconsistent with the Board's regulations, and in Part III we address Aux Sable's arguments, which offer no basis for categorizing the transaction as "significant." Finally, in Part IV we address BNSF's comments.²

I. CN AMPLY DEMONSTRATED IN ITS APPLICATION THAT THE PROPOSED TRANSACTION IS PROPERLY CLASSIFIED AS "MINOR"

Under 49 C.F.R. § 1180.2(c), "[a] minor transaction is one which involves more than one railroad and which is not a major, significant, or exempt transaction." The proposed CN/EJ&EW transaction is not "major" because it does not involve "two or more class I railroads." 49 C.F.R. § 1180.2(a). Nor is it "exempt," because it does not fall "within one of the eight categories described in [49 C.F.R. § 1180.2](d)(1) through (d)(8)." *Id.* § 1180.2(d). Further, as CN demonstrated at length in its application, it also is not "significant," because it is

² The Board has in the past permitted applicants to respond to comments on their application and proposed schedule. In this case, Representative Visclosky and BNSF did not characterize their comments as replies, whereas Aux Sable did characterize its filing as a reply. In the event CN's response to any of these filings might be characterized as a reply to a reply subject to the prohibition of 49 C.F.R. § 1104.13(c), Applicants respectfully request that the Board waive that prohibition in order to permit this response.

not “of regional or national transportation significance as that phrase is used in 49 U.S.C. 11325(a)(2) and (c).” 49 C.F.R. § 1180.2(b).

The Board’s regulations establish clear criteria for use in determining whether a transaction is “of regional or national transportation significance” within the meaning of 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.

49 C.F.R. § 1180.2(b).³ Although only one of these two determinations need be made to conclude that a transaction is “minor,” the Application explains in detail why both of them can and should be made with regard to the proposed CN/EJ&EW Transaction.

As CN witness Gerald P. Radloff demonstrates (CN-2 at 65-71), the Transaction would clearly cause no reduction in horizontal competition. Mr. Radloff examined each of the rail stations served by both CN and EJ&E and determined that there are no shippers who would

³ These criteria for determining whether a transaction would be regarded as “of national or regional transportation significance” were adopted after a notice and comment under the Administrative Procedure Act. *See Railroad Consolidation Procedures: Definition of, and Requirements Applicable to, “Significant” Transactions*, 9 I.C.C.2d 1198 (1993).

lose a competitive rail service option as a result of CN's acquisition of EJ&EW.⁴ He further demonstrated that the Transaction would not reduce competition by eliminating any build-in, build-out, or transloading opportunities, or by eliminating independent access of any short line railroads to a Class I railroad. Moreover, under the "one lump theory" that the Board and its predecessor have endorsed in past control proceedings, vertical foreclosure is unlikely as a matter of general economic theory.⁵ While that theory admits the hypothetical possibility of such foreclosure under particular circumstances, Mr. Radloff has put to rest any concern regarding

⁴ Mr. Radloff's analysis of horizontal competition was considerably more detailed than the applicants' competitive analysis in *Canadian Pacific Co. – Control – Dakota, Minnesota & Eastern R.R.*, STB Finance Docket No. 35081 (application filed Oct. 5, 2007) ("CP/DM&E"). While CP's competition witness, Mr. Williams, discussed each rail station served by both CP and DM&E (STB Finance Docket No. 35081, CPR-2 DME-2, Verified Statement of John H. Williams at 11-20), in some instances he apparently relied on the fact that the STB Waybill Sample for 2005 showed no traffic originated or terminated by one or both of the applicants at a particular station as demonstrating that that applicant did not compete for traffic at that station. By contrast, Mr. Radloff identified the actual shippers at each common station and showed that a shipper's failure to use a particular railroad was due to the railroad's inability to provide competitive service.

In other instances, Mr. Williams apparently relied on the fact that one or the other applicant did not physically serve a station as demonstrating that competition would not be diminished by the proposed transaction, without addressing whether the applicant without physical access might provide competition through haulage service. In fact, he stated a number of times that one applicant could only provide service to a particular station pursuant to the terms of the other applicant's terminal services agreement or switching tariffs, but he did not address whether those terms precluded competition between the applicants.

Finally, neither Mr. Williams nor any other CP witness addressed the impact of the proposed CP/DM&E transaction on geographic competition, while CN witnesses Christopher A. Vellturo and Gary L. Kolbe did so exhaustively.

⁵ See, e.g., *CSX Corp. – Control & Operating Leases/Agreements – Conrail Inc.*, 3 S.T.B. 196, 266-69 (1998) ("CSX/Conrail"), *aff'd sub nom. Erie-Niagara Rail Steering Cmte. v. STB*, 247 F.3d 437 (2d Cir. 2001); *Burlington N. Inc. – Control & Merger – Santa Fe Pac. Corp.*, 10 I.C.C.2d 611, 751 (1995), *aff'd sub nom. Western Resources, Inc. v. STB*, 109 F.3d 782, 788

possible harmful vertical effects of the CN/EJ&EW Transaction on competition by stating CN's commitment to keep open, on commercially reasonable terms, all gateways affected by the Transaction. CN-2 at 75. Finally, Mr. Radloff stated CN's commitment that it would waive any defenses CN might otherwise have as a result of the Transaction, under the Board's general policy that it does not separately regulate bottleneck rates, in circumstances where a shipper prior to the Transaction would have been entitled to regulation of a bottleneck rate under the Board's "contract exception" to the general rule. *Id.*

Applicants also presented extensive testimony by Christopher A. Vellturo and Gary L. Kolbe demonstrating that the CN/EJ&EW Transaction would not reduce any benefits shippers might now enjoy from geographic competition between CN and EJ&E.

Finally, in the event, despite this thorough examination, that there were some lingering suspicion that the Transaction might have any adverse effects on competition, Applicants further showed that any such effects would clearly be outweighed by the Transaction's contribution to the public interest in meeting significant transportation needs. As CN witnesses E. Hunter Harrison, Gerald P. Radloff, and David L. Novak demonstrated, the Transaction would not only benefit CN and its shippers by providing a continuous route, under CN ownership, that would bypass Chicago and the congested downtown routes (including routes over other carriers' lines) that CN currently must use to move freight from one side of the city to the other, it would also benefit the City by moving traffic off the Chicago Subdivision (including the St. Charles Air Line) and off the Elsdon Subdivision, furthering the goals of the CREATE

(D.C. Cir. 1997); *Union Pac. Corp. – Control – Mo. Pac. Corp.*, 366 I.C.C. 462, 538 (1982), *aff'd sub nom. S. Pac. Transp. Co. v. STB*, 736 F.2d 708 (D.C. Cir. 1984).

project without requiring an expenditure of public funds. In addition to CN's own evidence, more than 25 verified statements of support have been filed to date testifying to the significant transportation benefits to the public of the proposed Transaction.

II. CONGRESSMAN VISCLOSKY'S ARGUMENTS ARE UNSUPPORTED BY THE FACTS AND CONTRARY TO THE BOARD'S CLASSIFICATION CRITERIA

Congressman Visclosky's argument for "significant" classification rests on the assertion that EJ&E "has 118 at grade highway-rail crossings" in Lake County, Indiana, and that "[g]iven the dramatic increase in rail traffic on the EJ&E line that would result from this acquisition, the procedural schedule for STB approval of a 'minor' transaction is inadequate and would not provide sufficient time for all interested parties in Northwest Indiana to analyze the impacts of the acquisition." This argument is factually incorrect and misconceives the relationship between the classification of a transaction and the applicable procedural schedule.

Whatever the correct total number of at-grade rail-highway crossings in Lake County, Indiana,⁶ any suggestion that the Transaction would increase train traffic at as many as 118 such crossings is simply incorrect. The CN/EJ&EW Transaction will only cause increases in the number of trains at 15 such crossings, with increases in tonnage (but not trains) at 5 others.⁷

⁶ Congressman Visclosky cited no source for his reference to 118 at-grade highway-rail crossings. The inventory of rail-highway crossings maintained by the Federal Railroad Administration's Office of Safety Analysis and made available at <http://safetydata.fra.dot.gov> indicates that EJ&E has only a total of 110 at-grade crossings in Lake County, of which 78 are crossings of public highways. Even this inventory is out of date and overstates the number of crossings, as it includes many on the now abandoned Porter Branch.

⁷ The CN/EJ&EW Transaction will only cause increases in the number of trains on EJ&E's main line, which circles Chicago from Waukegan to Gary, entering Indiana at Dyer. As

While the projected increase in rail traffic over this far more limited number of crossings may potentially have impacts on vehicle delay and on highway safety, those impacts could readily be examined, within the time limits of a “minor” procedural schedule, as part of the environmental analysis to be conducted by the Board’s Section of Environmental Analysis pursuant to the Board’s obligations under the National Environmental Policy Act of 1969 and implementing regulations.

In any event, nothing in Congressman Visclosky’s letter raises the slightest doubt that this transaction is appropriately classified as “minor.” The Congressman’s arguments do not address the criteria for categorizing a transaction as “minor” or “significant;” they go only to whether the Board’s procedural schedule would be inadequate for consideration of crossing issues. The statute and the Board’s rules, however, do not provide for the Board first to determine the time required for its environmental review of a transaction or to make a decision on an application and then for adoption of a transaction classification that will provide a sufficiently long schedule. Rather, they require that the Board first determine the proper classification of a transaction under established criteria, and the maximum length of the

the EJ&E track charts attached hereto as Exhibit 1 shows, those lines cross only the following 15 public roads in Indiana at grade: Lake Street (MP 30.96), Hart Street (MP 31.10), Airport Road (MP 33.66), Kennedy Avenue (MP 34.36), Broad Street (MP 36.22), Main Street (MP 36.52), Lake Street (MP 36.77), Miller Street (MP 36.89), Elm Street (37.02), 45th Avenue (MP 37.52), 40th Place (MP 38.11), West 25th Avenue (MP 40.03), West 15th Avenue (MP 41.03), West 9th Avenue (MP 41.52), and West 5th Avenue (US Route 20) (MP 41.97). In addition, the Transaction is projected to cause an increase in tonnage, but no increase in the number of trains, on the Lake Front Line, which runs west from Gary to South Chicago, and crosses the following 5 public roads in Indiana at grade: Clark Road (MP 11.86), Front Street (MP 5.81), 117th Street (MP 5.51), Lake Street (MP 4.60), and Calumet Avenue (MP 4.36). Calumet Avenue is open to pedestrians but closed to vehicular traffic.

procedural schedule – which has already been established by statute – follows from that determination.

Finally, it should be noted that even if the environmental impacts of the Transaction, including transportation and safety impacts at affected grade crossings in Lake County, were so extensive that the environmental assessment or environmental impacts statement required under the NEPA could not be completed within the 180 days provided for a “minor” transaction, that would not be a valid reason for classifying the Transaction as “significant.” The Board could still issue a decision within that period on whether the Transaction satisfies the standards of 49 U.S.C. § 11324(d), even if it might be necessary to wait until completion of the NEPA process for the Board’s approval of the Transaction to become effective, subject to conditions requiring appropriate mitigation of its adverse environmental effects.

III. AUX SABLE OFFERS NO BASIS FOR CATEGORIZING THE TRANSACTION AS “SIGNIFICANT”

Aux Sable’s opposition to Applicants’ request that the transaction be treated as “minor” is based solely on Aux Sable’s unsupported and implausible suggestion that has been soundly rejected in the past as a matter of law and logic. Aux Sable never asserts that the transaction would have an adverse affect on competition, it merely repeats variations on a theme: “Aux Sable would be seriously harmed if [EJ&E’s] rail service and rate structure were to be compromised as a result of CN’s acquisition.” Aux Sable Reply at 3 (emphasis added). Aux Sable also posits by implication a vague and unsupported analogy between this proceeding and that being conducted to review the CP/DM&E transaction.

These unsupported contentions fall far short of showing that there is a real issue as to whether the transaction would in fact adversely affect competition (*see generally supra* Section I) and, accordingly, should be rejected by the Board. Instead, the Board should take into account the many statements of large and small shippers that support both the Transaction and the designation of the Transaction as “minor.”

Aux Sable Makes Only A Bare-Bones Neutrality Argument That Has Been Soundly Rejected. The principal facts asserted by Aux Sable are that it operates its Channahon facility “on” the lines of EJ&E between Walker and Goose Lake, IL, that Aux Sable “makes extensive use of EJ&E’s rail service,” that it “relies on EJ&E to provide quality rail service at reasonable rates,” and that it ships “NGLs in tank cars.” Aux Sable Reply at 2-3. Based on these facts, Aux Sable makes a bare bones argument that CN’s control of EJ&E threatens it with the loss of a neutral carrier. As discussed below, this type of argument has been soundly rejected in the past, and should be rejected again.

Notably, Aux Sable adduces no other facts and makes no other claims suggesting a cognizable claim concerning a loss of competition or of competitive options. As discussed above in Section I of this response, the Application thoroughly examined the competitive situation on the EJ&E and demonstrated that the proposed transaction poses no risk to competition. Nothing in Aux Sable’s comments calls into question the quality or completeness of that competitive analysis.

There Is No Law To Support Aux Sable’s Opposition. In lieu of any facts that might suggest a cognizable competition issue, Aux Sable’s argument in support of its opposition

is essentially the following: that EJ&E is today a “neutral” switching carrier that will no longer be “neutral” when acquired by CN. This proposition is somewhat undermined by the fact that, to Applicants’ knowledge, EJ&E today performs little or no switching of Aux Sable traffic but instead serves principally, if not exclusively, as a line-haul carrier. However, even construing Aux Sable’s pleading generously as extending to EJ&E’s line-haul service, which is incontestably neutral as to connecting carriers, Aux Sable’s “neutrality” argument is not supported by any facts or expert opinion.

Most important, Aux Sable would only be in a position to assert its theory if EJ&E were its only source of rail service for the traffic in question. Aux Sable, however, does not assert that it is exclusively served at its Channahon facility by EJ&E and, in fact, the plant appears to be physically served by both EJ&E and by CSX. Accordingly, it may be that Aux Sable has no basis for its “neutrality” theory.

If, for some reason not now in the record, Aux Sable has a basis for alleging that EJ&E is its only available provider of some rail services, it would still have no tenable theory. Its “neutrality” theory flies in the face of the many precedents of this Board that conclude that the acquisition of one carrier that exclusively serves a shipper by another carrier will have no adverse competitive effect on exclusively-served shippers.⁸ The Board’s “one lump” theory clearly rejects Aux Sable’s contention that “there are many subtle ways that an origin or destination carrier” can “diminish[] competition” by “jeopardiz[ing]...equal access.” Aux Sable Reply at 4. Under the “broadly accepted economic proposition” of the one lump theory, “there is only one

⁸ See *supra* note 5.

monopoly profit to be gained from the sale of an end-product or service.” *W. Resources, Inc. v. Surface Trans. Board*, 109 F.3d 782, 787 (D.C. Cir. 1997). This is because “a monopolist at the end stage of production is in a position to capture the entire profit, [such that] integration backwards upstream . . . normally does not enable it to raise the profit-maximizing price and thus inflicts no harm on the ultimate customer.”

Thus, a “merger would have no adverse effect on shippers even if the resulting single-line rail carrier . . . were to foreclose competition from the remaining independent origin carrier or carriers.” *Id.* at 787. This is because “if an independent origin carrier could transport [a commodity] at a lower incremental cost, then the bottleneck railway would have an incentive to choose that carrier over its own, affiliated carrier, just as firms in the rest of the economy make ‘make or buy’ decisions for all elements of their production.” *Id.* *Aux Sable* points to nothing that calls this settled principle into question. Moreover, to the “extent that single-line transportation is more efficient, or eliminates misjudgments due to imperfect information and strategic behavior, the merger will likely lead to a reduction in the bottleneck carrier’s profit-maximizing price.” *Id.* at 787. *Aux Sable* does not even recognize this law, and makes no effort whatsoever to show why it should be ignored by the Board here.

There Is No Logic To Support Aux Sable’s Opposition. Again, without any support, *Aux Sable* asserts that the “[n]eutral switching carriers have been established to prevent diminution of railroad competition as a result of consolidation of rail carriers.”⁹ *Aux Sable*

⁹ *Aux Sable* asserts that the creation of the Shared-Asset Areas when CSX and NS acquired Conrail is a recent example of “neutral switching carriers [being] established to prevent a diminution of railroad competition as a result of consolidation of rail carriers.” However, as the Conrail decision makes clear, the Shared-Asset Areas were not created to prevent a

Reply at 4. It then argues, again without support, that “it should follow that elimination of a neutral switching carrier diminishes competition.” *Id.* However, even assuming the predicate -- that neutral switching carriers have been established to prevent diminution of rail competition -- and ignoring the fact that EJ&E is a line-haul, not a switching carrier, this Board cannot logically assume that acquisition of a “neutral” bottleneck carrier would eliminate its neutrality, especially when, as here, Applicants have declared their commitment to “keep all existing gateways affected by the Transaction open on commercially reasonable terms.” CN-2 at 75 (Verified Statement of Gerald P. Radloff). Such an unsupported assumption would be especially unwarranted in circumstances where, as we have noted above, this Board has consistently found to the contrary.

There is No Substance to Aux Sable's Speculations. The essence of Aux Sable’s opposition is thus speculative possibility, unsupported by any suggestion of plausibility or probability. It is easy to allege that CN could, contrary to its enforceable commitments, its past practices, and this Board’s extensive analyses and conclusions in other like cases, operate EJ&EW to undermine competition. But Aux Sable offers no reason why anyone should think that CN would do such a thing. It is also plausible to imagine that CN could offer worse service to Aux Sable than is offered by EJ&E, if, for example, Aux Sable were a small, insignificant shipper and CN were a poor operator. By any measure, however, Aux Sable is a very large shipper to which CN, which is almost universally recognized as a very good service provider,

diminution of competition, but rather to address other issues and to create competition where it had not previously existed. *See, e.g., CSX/Conrail*, 3 S.T.B. at 380 (comments of Chairman Morgan) (“Shippers will benefit from **new** head-to-head rail competition within shared assets areas and joint access areas.” (emphasis added)).

will have every incentive to provide excellent service. Indeed, CN will be investing over \$100 million to help improve service on EJ&EW and CN following the Transaction. CN-2 at 23. Accordingly, Aux Sable's references to service to small shippers on low density lines have no bearing here.

CN/EJ&EW Cannot Be Equated To CP/DM&E. Aux Sable urges that the Board "should order the same procedural compliance required in significant transactions as ordered in the CP-DM&E case." Aux Sable Reply at 6. Again, however, it offers no basis for its position. And in fact, the two cases are in no way analogous. The Board determined in CP/DM&E that CP's application covered the possibility that a shipper with two competitive options might have those options reduced to one carrier, but did "not clearly establish that there would be no other anticompetitive effects" as a result of the transaction. *CP/DM&E*, Decision No. 2, at 6-7 (served Nov. 5, 2007). As discussed in Part I, above, CN's did a more complete job in its application of analyzing and eliminating any potential competition issues. Moreover, no such issues with respect to CN/EJ&EW have been identified by Aux Sable or any other party.

IV. BNSF's CONCERNS DO NOT WARRANT LENGTHENING THE SCHEDULE BEYOND 156 DAYS

BNSF does not argue against categorization of this transaction as “minor.”

Instead, in order to provide additional time to seek a voluntary resolution with CN of a number of issues it discusses (primarily operating questions), it argues for adoption of a procedural schedule longer than the 156-day schedule proposed by CN. CN proposed a procedural schedule somewhat shorter than the maximum 180-day schedule for a “minor” transaction, based on the successful use of a similar schedule for used for CN’s acquisition of control of the Great Lakes Transportation LLC, including the Duluth, Missabe, and Iron Range Railway Company, which is a larger carrier than EJ&E, and also in light of the positive public benefits of the Transaction and the absence of any competitive issues.

None of the matters noted by BNSF provides a convincing reason why added time should be necessary. Where voluntary negotiations are required to work out the mutually beneficial operating changes made possible by the transaction, five months should be more than sufficient time. Other matters noted by BNSF – including CN’s commitments to honor trackage rights agreements and maintain gateways – are self-executing commitments by CN that do not require negotiations. Perhaps most importantly, although CN has every reason to believe it will reach voluntary resolution with BNSF of all issues related to the proposed transaction, the implicit assumption underlying BNSF’s comments that every operational detail must be worked out between the companies prior to a decision on the transaction is unrealistic and unfounded. No carrier has proven itself more skilled than CN at integrating new carriers into its network. As

it has in the past, CN fully expects that it will work with BNSF on an ongoing basis to improve their coordination and handling of interline movements for the mutual benefit of their customers and companies.

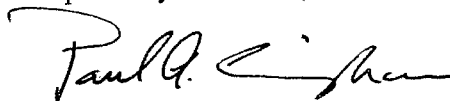
CONCLUSION

CN demonstrated in its Application, as clearly as it did in the CN/WC and CN/GLT control proceedings,¹⁰ that its proposed acquisition would not harm competition, and that it would contribute to the public's interest in meeting significant transportation needs. Under the applicable standards, there is no basis for classifying the Transaction as anything but "minor." Neither Congressman Visclosky nor Aux Sable has presented any reason for the Board to conclude, contrary to evidence submitted in the Application, that the Transaction would have any anticompetitive effects, much less that any such anticompetitive effects outweigh the Transaction's contribution to the public interest in meeting significant transportation needs. Further, none of the parties has demonstrated any need to modify CN's proposed schedule. Accordingly, CN respectfully requests that the Board deny the two requests that the Transaction

¹⁰ See, e.g., *Canadian Nat'l Ry. – Control – Bessemer & L.E. R.R.*, STB Finance Docket No. 34424, Decision No. 2, slip op. at 1-2, 10 (STB served Dec. 1, 2003); *Canadian Nat'l Ry. – Control – Wisc. Cent. Transp. Corp.*, STB Finance Docket No. 34000, Decision No. 2, slip op. at 1, 8 (STB served May 9, 2001) (denying request that CN/WC transaction be classified as "significant.")

be classified as “significant” and the suggestions that the proposed procedural schedule be lengthened.

Respectfully submitted,



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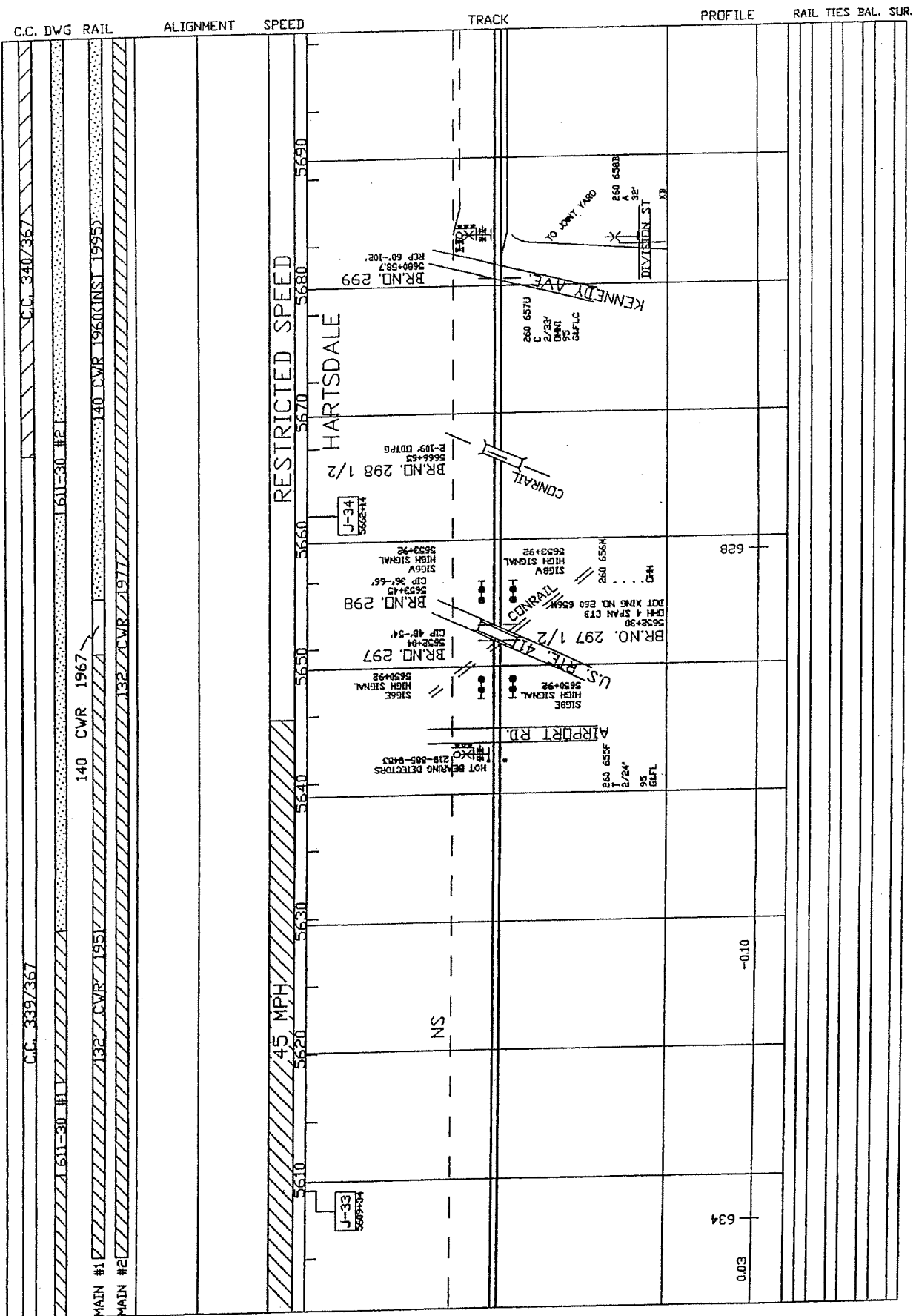
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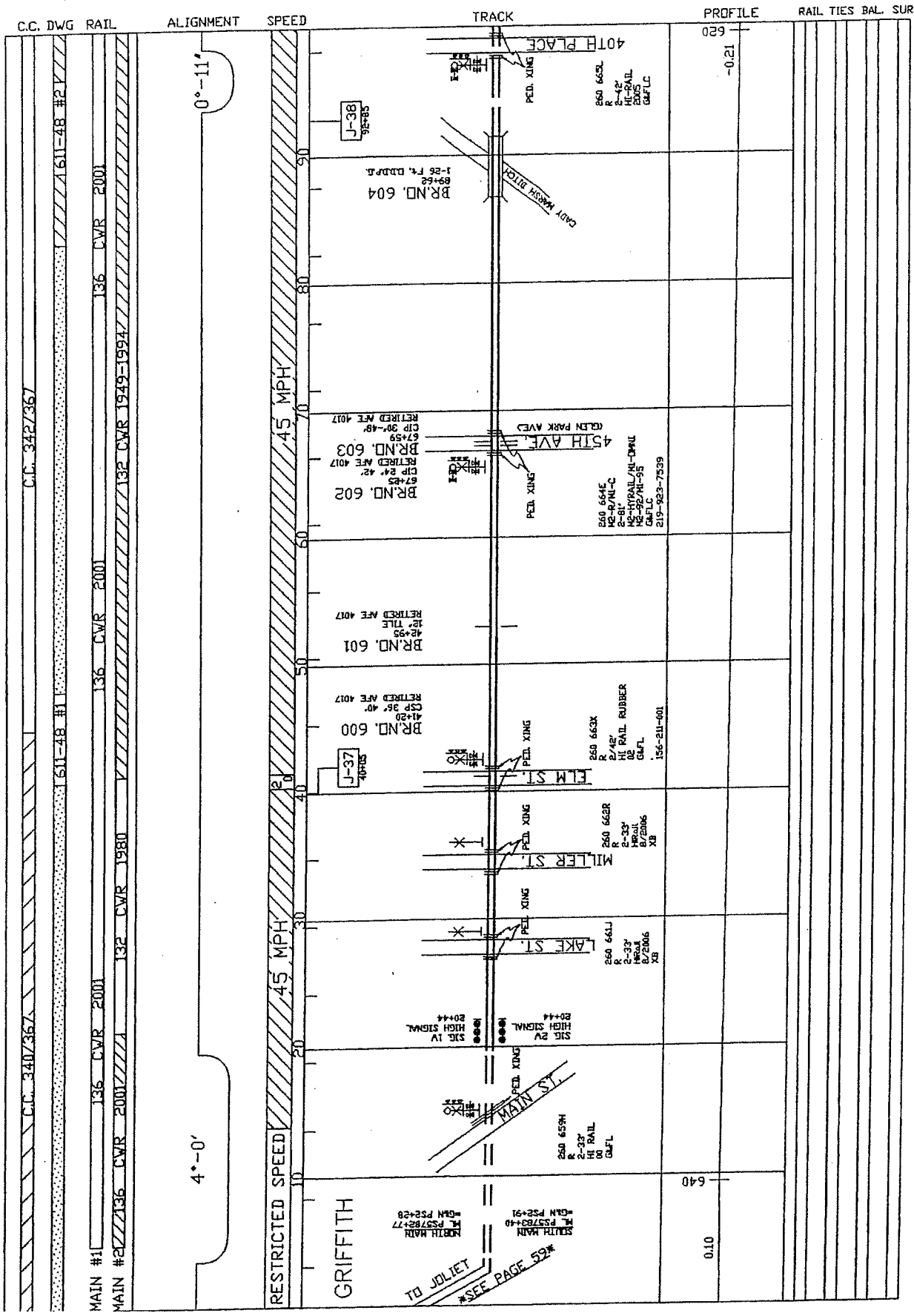
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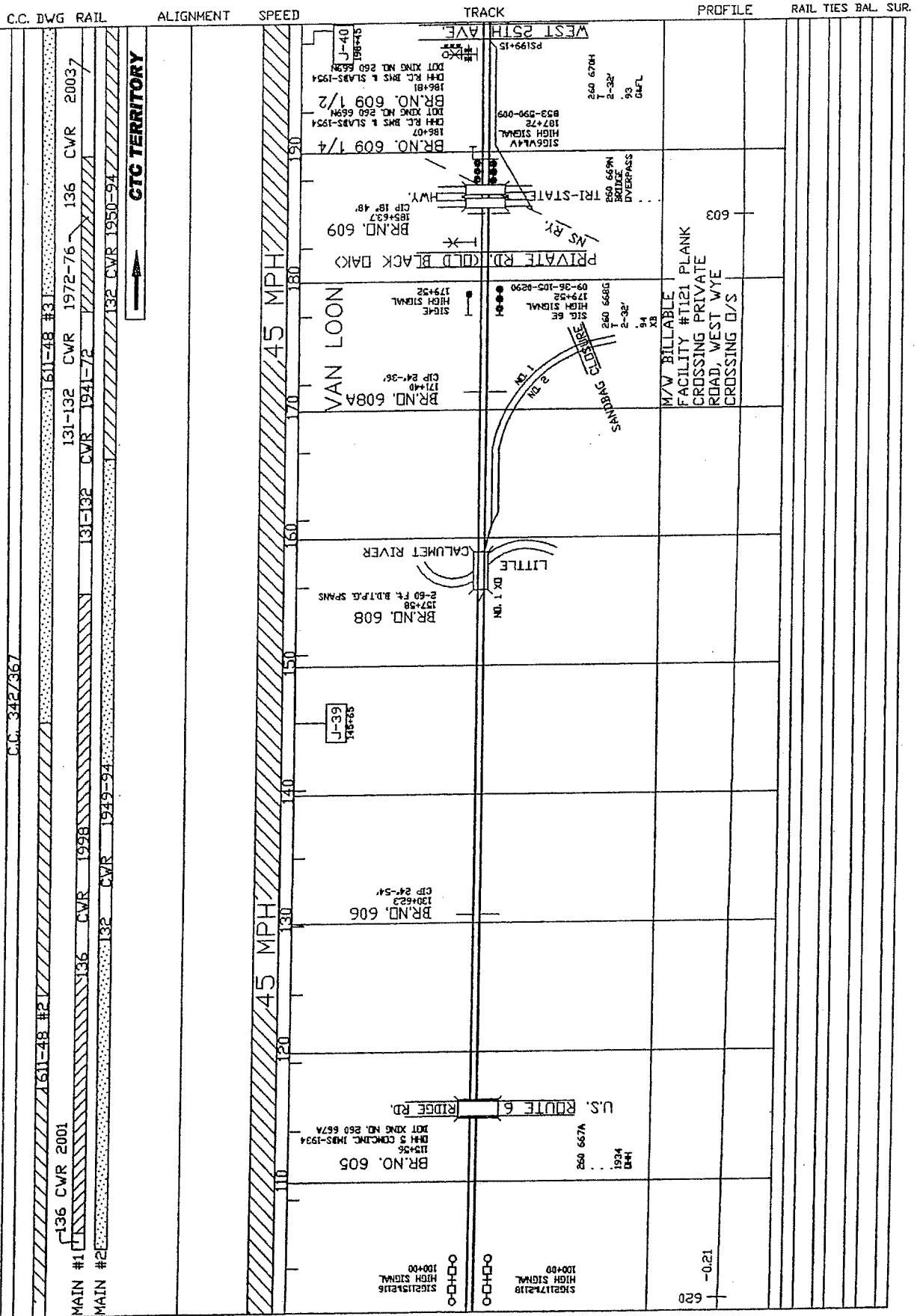
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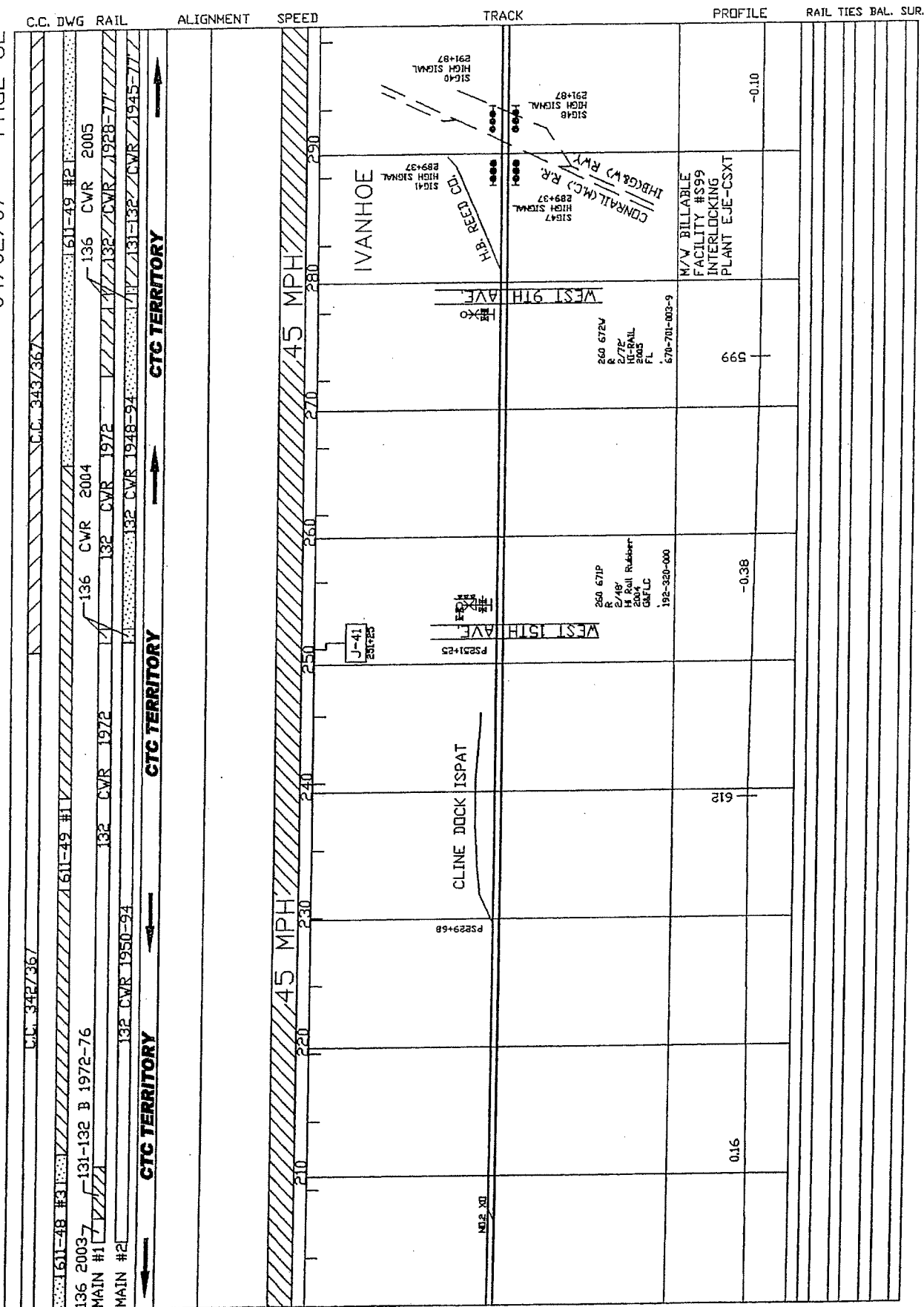
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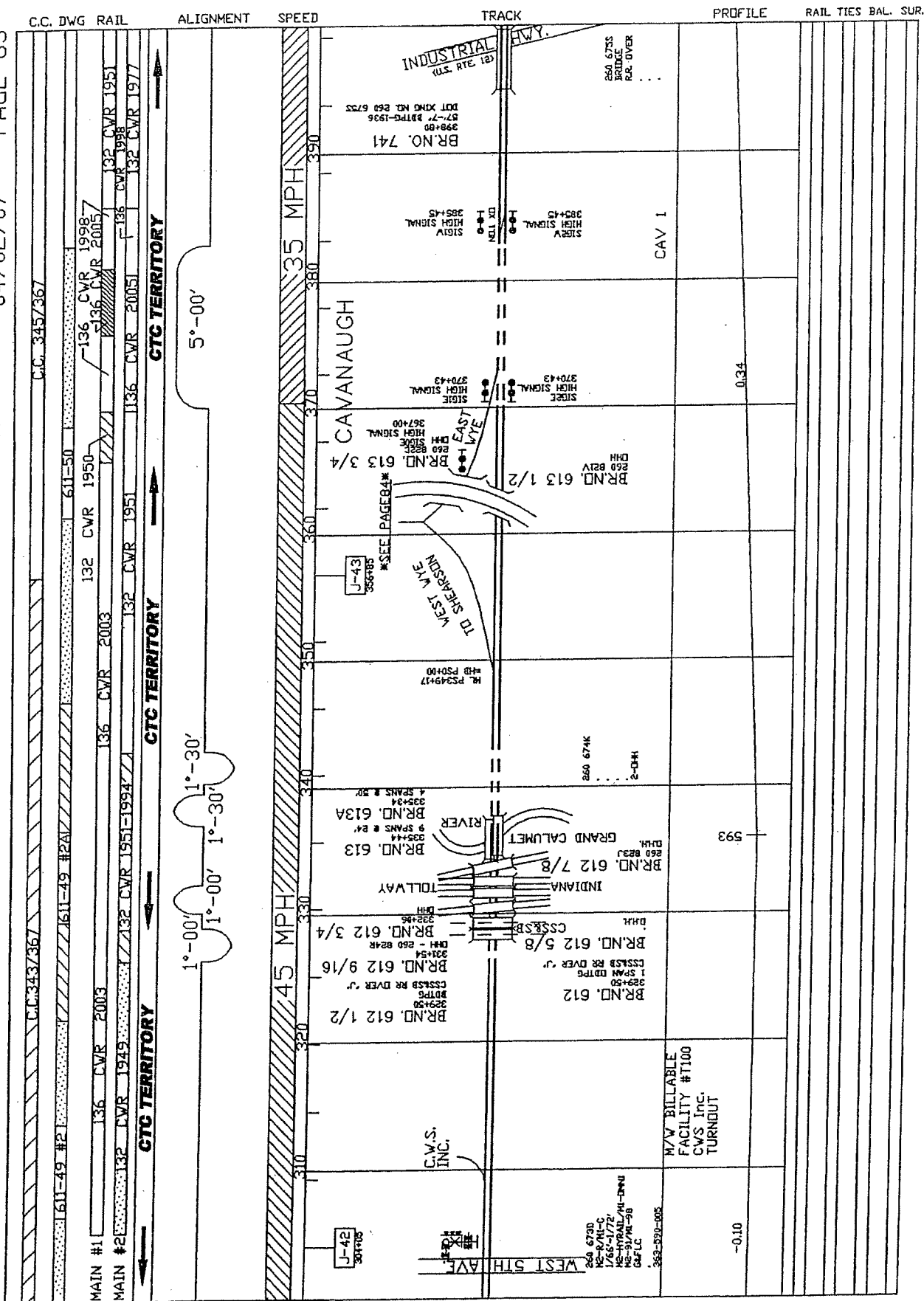
EXHIBIT 1

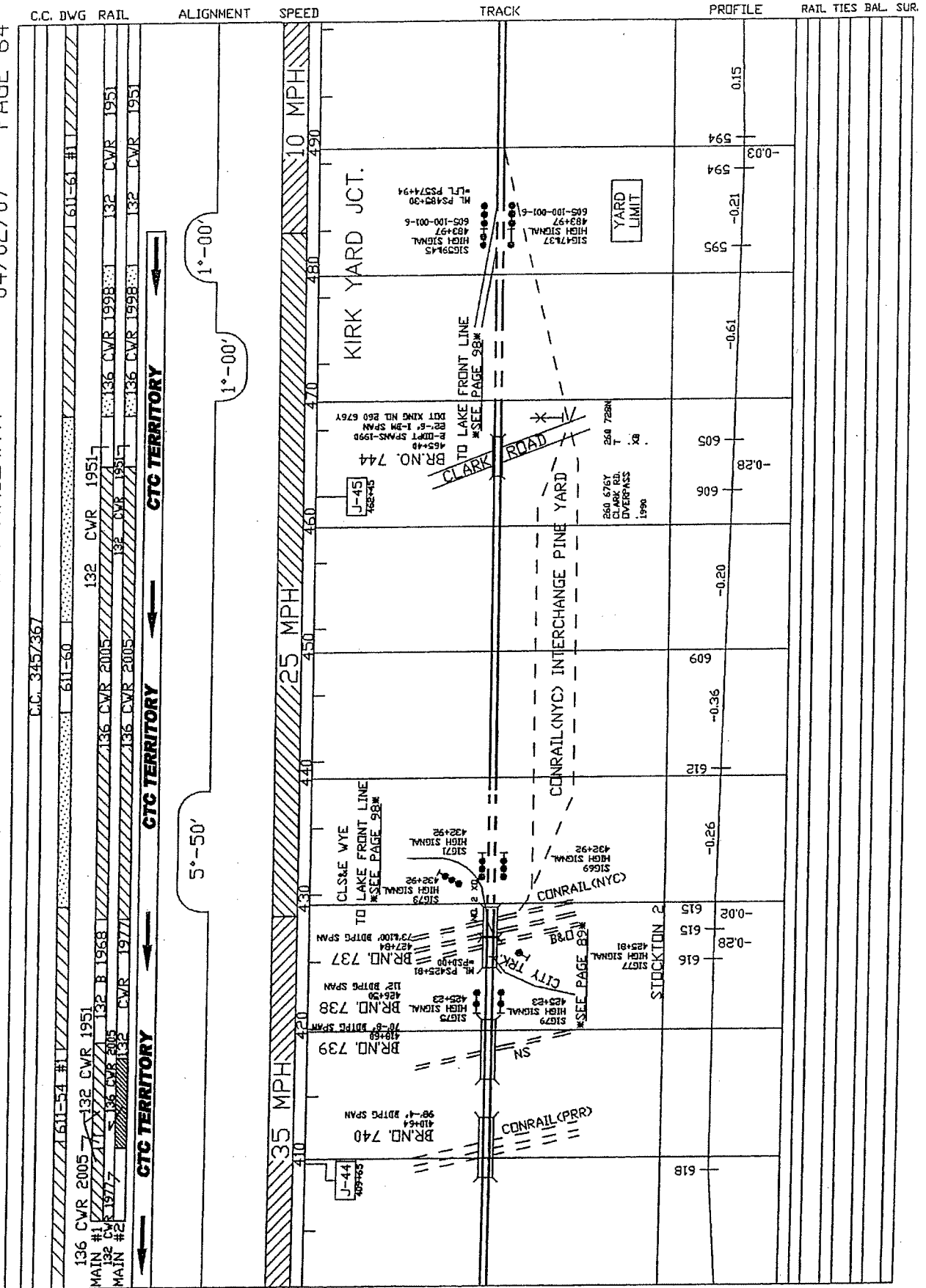






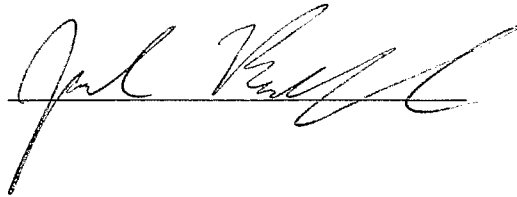






CERTIFICATE OF SERVICE

I certify that I have this 21st day of November, 2007, served copies of the foregoing Applicants' Reply to Comments of Congressman Peter J. Visclosky, Aux Sable Liquid Products Inc., and Burlington Northern Santa Fe Railway Company (CN-7) upon all known parties of record in this proceeding by first-class mail or a more expeditious method.

A handwritten signature in black ink, appearing to read "Paul Visclosky", is written over a horizontal line.