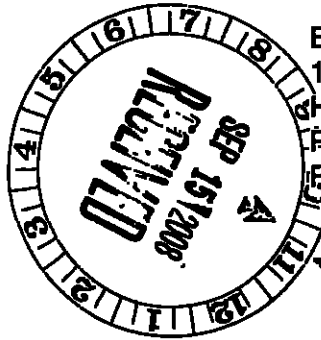
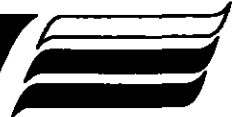


since 1865

Bertling



Bertling Logistics, Inc
15500 Vickery Drive
Houston, TX 77032
Phone 281 774-2300
Fax 281 449-7667



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August 29, 2008

223612

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

FD-35087

Dear Honorable Quinlan:

Please find the enclosed POINTS FOR SUPPORT OF CN'S PETITION FOR
MODIFICATION OF PROCEDURAL SCHEDULE

Thank you

Respectfully yours,

Keith Lincoln
Director of Logistics
Bertling Logistics, Inc

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Bertling Logistics, Inc

**POINTS FOR SUPPORT OF CN'S PETITION
FOR MODIFICATION OF PROCEDURAL SCHEDULE**

- 1 Bertling Logistics, Inc , Houston, Texas, Global Project Logistics Our company strongly supports CN's proposed acquisition of a major portion of the EJ&E because of the significant public benefits it will bring, including reduced rail congestion for CN and other rail carriers through Chicago
- 2 The purpose of this letter is to express our particular support for CN's August 14, 2008 petition for modification of the procedural schedule, which would permit the Surface Transportation Board (STB) to reach a final decision on the merits of CN's proposed transaction subject to maintenance of the environmental *status quo* pending completion of the STB's environmental review
- 3 Our company recognizes that there are valid reasons for the STB to conduct an environmental review of the proposed transaction But the efforts of certain affluent suburban communities to defeat the proposed transaction without any decision by the STB on its merits is not only a transparent and narrow-minded attempt to prevent an efficiency-producing shift in CN traffic from congested inner-city lines to EJ&E's under-utilized lines, it also ignores the fact that the proposed transaction promises critical transportation benefits for the region and nation, as well as substantial environmental benefits for the more populous urban areas where there would be significant reductions in train traffic
- 4 Given the risk to the transaction that now exists as a result of the STB's lengthy environmental review process, we applaud CN's August 14 petition as offering a solution that is plainly in the public interest The proposal would allow for a final decision on the merits of the transaction, which the STB is required by law to approve unless it would cause substantial harm to competition, while maintaining the environmental *status quo* until the STB completes its review of the transaction's potential environmental impacts This would permit CN to close the transaction, if approved, while preserving the STB's rights to impose any lawful environmental mitigation that it might determine is appropriate, as well as protecting all rights of both opponents and supporters of the proposed transaction
- 5 We disagree with the claims of some transaction opponents that CN's proposal would somehow truncate the STB's review process The competition issues in the proceeding are *de minimis*, have nothing to do with environmental issues, and have for months been fully briefed and ready for decision Further, the solution proposed by CN would allow the environmental review to continue to its conclusion, without any change in the environmental *status quo*
- 6 We also take issue with the argument of some transaction opponents that CN's petition should be rejected because it would prevent the STB from rejecting the transaction outright on environmental grounds We cannot see how the STB could possibly reject a transaction with such obvious transportation benefits on



Bertling Logistics, Inc

environmental grounds, when the environmental benefits of the transaction offset and in some cases exceed the environmental detriments. In any event, the important point is that the environmental *status quo* would be maintained under CN's proposal pending the STB's completion of its environmental review, and the STB would still retain whatever authority it has to prevent or mitigate environmental impacts. Thus, CN's requested modification of the procedural schedule poses no threat either to the environment or to the STB's ultimate authority to protect it.

- 7 In short, in light of CN's proposed solution, there is no need and no sound reason for the STB to risk the loss of the benefits expected from CN's proposed transaction based on the STB's failure to make a timely decision on the merits of that transaction. Accordingly, we urge the STB to recognize that CN's request is in the public interest and to grant CN's petition for modification of the procedural schedule. Indeed, given the fact that the risk to the proposed transaction is rooted in the STB's own failure to adhere to binding statutory deadlines for a final decision on a "minor" transaction, we believe that a rejection of CN's proposal would not only be unwarranted, it would be a derogation of the STB's statutory duty.

Respectfully yours,

A handwritten signature in black ink that reads "Keith Lincoln". The signature is written in a cursive, flowing style.

Keith Lincoln
Director of Logistics

Cc All Parties of Record