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Surface Transportation Board
 REPLY TO THE ATTENTION OF
 CN-EJ&E-Docket
 Log and Discussion
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Victoria J. Rutson, Chief
 Section of Environmental Analysis
 Surface Transportation Board
 395 E Street, SW
 Washington, D.C. 20423

**Re: Detailed Scoping Comments for the Canadian National Railroad
 Proposed Purchase of the Elgin, Joliet and Eastern West Railroad
 in Northeastern Illinois and Northwestern Indiana, Docket No. 35087**

Dear Ms. Rutson:

Phillis Johnson-Ball and Dick Gorton arranged a tour of the subject rail line on March 12, 2008 and have scheduled a subsequent stakeholder meeting here in our Chicago office for April 28, 2008. We sincerely appreciate the tour, which was highly informative, preparing us for further discussions. The following detailed scoping comments are provided in light of the National Environmental Policy Act (NEPA), and Section 309 of the Clean Air Act, to inform the anticipated stakeholder meeting here, and for consideration in preparation of the project Environmental Impact Statement (EIS).

The proposal as presented in the Surface Transportation Board (STB) filing includes the Canadian National Railroad (CN) purchase of the Elgin, Joliet and Eastern West Railroad (EJ&E) existing infrastructure. New construction would include approximately 19 miles of second rail at strategic segments of the existing right-of-way (ROW). Six new connections between present CN rail lines and the EJ&E ROW are also proposed.

Our detailed comments are focused in three areas: Level of Analysis and Alternatives, Environmental Impacts (as General Local Impacts, Site-Specific Impacts, and Regional Scale Environmental Impacts), and Avoidance, Minimization and Mitigation.

LEVEL OF ANALYSIS AND ALTERNATIVES

The U. S. Environmental Protection Agency (U.S. EPA) anticipates that an initial scoping level of analysis will be done of the proposed project to identify where alternatives for the proposal may need to be considered. Once a set of alternatives are developed, a second more detailed level of analysis will be used to study each alternative for helping to determine how they might perform. The following "Levels of Analysis" section discusses both preliminary and detailed analyses and is followed by our comments on "Alternatives".

Level of Analysis

Regarding the initial screening Level of Analysis, the present market conditions support traffic levels as proposed in the scoping announcement. However, it is reasonable and foreseeable that a for-profit company will use its resources to maximize its investment returns. Therefore, we recommend that the EIS assess direct and indirect impacts from the maximum freight traffic volumes that the ROW could handle following modifications of the ROW as outlined in the proposal. Two modes of analysis may be warranted regarding train lengths and speeds. An "average" value may be used for each of these for the open stretches of track, while maximum train length and minimum speed are recommended for points where tight curves, connections, yard entrances and exits, and a second or passing track are considered. The impacts of these factors on adjacent crossings and communities should be evaluated for potential direct, indirect and cumulative impacts of this purchase. Please identify sensitive or vulnerable sites that may warrant consideration of additional planning alternatives by the railroad and/or regional communities.

We understand that the rail and rail bed within this ROW are compatible with grade I rail service. Analysis of impacts should be provided for operation at this service level, and compared to present service level operating parameters.

The EIS should evaluate the project's impact on current passenger services (Metra and Amtrak), as well as reasonably foreseeable future passenger service enhancements that are included in the regional Transportation Implementation Plan (TIP). These would include the Metra STAR Line and other Metra expansions (Northwest, West and Southeast Lines).

Regarding initial screening thresholds, the Surface Transportation Board December 21, 2007 Decision Appendix A, for Docket No. 35087 (STB Decision) specified:

1. traffic safety and delays at crossings with roadway average daily traffic (ADT) levels greater than 2,500 vehicles;
2. air emissions in the Chicago non-attainment area for areas where there is an anticipated increase in rail traffic of 50% or three (3) trains per day; a 20% increase of rail yard activity; a truck average daily traffic increase of 10% or fifty (50) trucks per day; net emissions from rail operations exceeding 100 tons per year per pollutant per county; and vehicle delay emission increases at crossings with greater than 2,500 daily vehicles;

3. where traffic increases meet thresholds described above for air emissions, noise levels will be analyzed for potential receptors when a threshold of 65 decibels (dB) could be exceeded; or if the ambient level of noise does not reach 65 dB, then where an increase of 3 or more dB is projected;
4. vibration within the ROW or adjacent parcels;
5. environmental justice determinations will be made in areas where train traffic is expected to increase greater than eight (8) trains per day.

The thresholds for: 1) safety and delays ADT, 2) air emissions for vehicle increases, and 3) noise levels are acceptable to the U.S. EPA using rail traffic and the other considerations discussed above. Noise analysis should consider the differential impact of proposed rail traffic running on segmented track sections versus continuous welded rail, as well as areas where heavy switching operations occur.

The STB scoping document stated that vibrations will be analyzed according to the Federal Transit Administration (FTA) Noise and Vibration Guidance Manual. However, based upon Table 10.1 and Figure 10.1 of the Manual, we see no justification for limiting analysis to only receptors within and immediately adjacent to the ROW. Rather, the natural curve for distance fall-off should be utilized with the appropriate correction factors from the table.

Consideration of the environmental justice threshold is discussed below under Environmental Impacts.

Alternatives

Based upon our review of scoping materials provided, we recommend consideration of alternatives that would extend the second tracking segments so that the anticipated longer trains, i.e. up to 10,000 or 12,000 feet, can be fully accommodated, and thus avoid potential blocking of the main line track with subsequent crossing and community impacts. We further recommend investigating possible alternatives for some of the key connection curve radii to be increased to allow faster speeds and reduced impacts. Junctions, such as the north CN main line with the EJ&E ROW in Mundelein, the connections at Matteson, and the connection in Griffith where trains turn off the CN main line to enter the Whiting and Kirk yards, are a few points where long, slow trains would have significantly greater impacts.

ENVIRONMENTAL IMPACTS

General Local Impacts

All environmental impacts need to be addressed in the EIS, but several appear as prominent direct or indirect consequences of this proposal. These include issues related to railroad and highway crossings, stormwater run-off, air quality analysis, and environmental justice.

Railroad and Highway Crossings Related Issues

Where two rail lines cross, potential delays may arise as one train waits for another to clear the crossing. This in turn can back up additional following trains that can not advance past a clearing point until sufficient open track can accommodate their progress. Such train movements within the greater Chicago area are monitored and cleared through the Chicago Transportation Coordination Office (CTC). Train movements (around the city's periphery, interacting with freight and passenger services) should be modeled with the CTC and the MPO, Chicago Metropolitan Agency for Planning (CMAP), to determine traffic levels and congestion impacts for both rail and roadway vehicles, under current and future conditions, with and without the proposed CN acquisition of the EJ&E.

At-grade road crossings have the potential for multiple impacts. While many lesser crossings will mostly need attention to safety issues, the following crossings may experience a broader range of possible impacts.

We recommend that evaluation of major crossings in the EIS include: roadway and rail traffic interruptions (frequency and duration), blocking of community emergency services, potential for congestion creating a local emissions "hotspot," pedestrian, bicycle and vehicle safety, and dimensional adequacy of existing grade separations for future proposed uses, e.g. double stack containers and added passenger services. The EIS should evaluate the impacts and benefits of at-grade and grade separated crossings for these major intersections.

Suggested Prominent Crossings: (This list may not be all inclusive.)

- Griffith, IN Main Street and Broad Street at the connection of CN's mainline to Kirk Yard and Whiting Yard
- IN State Route 41 with double RR crossing
- CN Junction at IL State Route 1 and Conrail crossings
- Matteson/Markham Yard and CN's south rail line connections, with Central Park Avenue and Governor's Highway
- Richton Park I-57 crossing (dimensional adequacy)
- Washington Street, Joliet
- At-grade crossings between the Joliet Yard and the Matteson Connection
- DuPage River crossing at IL State Route 59 (dimensional adequacy)
- Illinois River Spur crossing US Route 30 in Plainfield
- US Route 34, Ogden Avenue crossing
- Aurora Wolfs Crossing Road
- West Chicago UP Rail yard outlet and METRA crossing at Washington Street
- EJ&E connection with the Chicago, Central, and Pacific line within Pratt's Wayne Woods Forest Preserve
- Army Trail Road
- West Bartlett Road
- Schaumburg Road future crossing
- Stearns Road future crossing

- Metra Milwaukee Road West line crossing southeast of Elgin at Munger
- US 20 at Elgin (dimensional adequacy)
- I-90 crossing at Prairie Stone (dimensional adequacy)
- IL State Route 72 crossing (dimensional adequacy)
- IL State Routes 62 and 68 co-crossing (dimensional adequacy)
- Barrington, closely spaced crossings of IL State Route 59, Lake-Cook Road, US Route 14 and Union Pacific-Metra Northwest line
- IL State Routes 60 and 83 in Diamond Lake
- IL State Route 176 in Mundelein.

Stormwater Run-off and Water Quality

The EIS should address impacts of the various project alternatives on water quality, including run-off and spills to aquifers, wells, and surface waters. The EIS should identify a water body's designated use, impairment status, and compliance with State Water Quality Standards. Storm water detention basins and run-off channels should not be located in wetlands nor discharge directly into wetlands or waters of the U.S. without appropriate pretreatment. Because most of the existing infrastructure within the proposed purchase was built prior to passage of the Clean Water Act in 1972, existing methods of handling run-off should be analyzed in this EIS and appropriate alternatives proposed. If proponents do hydrostatic testing, then water source and discharge areas should be identified and impacts evaluated. Details of the testing methods should be included in NEPA documents. The NEPA documentation should discuss whether Clean Water Act Section 402 National Pollution Discharge Elimination System (NPDES) storm water permits are required. All public and private water supply wells should be identified, potential impacts to these resources discussed and evaluated, and precautionary safety measures proposed. All potentials for spills and reasonable spill prevention and containment measures should be considered and evaluated. One recommendation for reducing spills would be a commitment to frequent rail inspections to minimize derailment risks.

Air Quality Impacts

This project will be subject to general conformity with the Clean Air Act State Implementation Plan for the Chicago region. The air pollution consequences of the project (rail and highway sources) should be evaluated on a regional, county and local basis. We further recommend that an appropriate threshold should be designated for any localized concentrations, i.e., "hot spots," so such impacts can be recognized. Please disaggregate diesel emissions by source (i.e., locomotive, truck and off-road equipment). Discussion should be provided regarding air toxics.

The cumulative air quality analysis should consider recent and reasonably foreseeable changes to the rail system in the Chicago region, especially for diesel emissions. Recent rail developments in the Chicago region include the Burlington Northern Santa Fe Logistic Park near Joliet, and the Union Pacific Global III Yard in Rochelle. Norfolk Southern and CSX are contemplating revisions including relocation of their freight operations in the region. These developments may change the volume and

patterns of freight movement, including intermodal operations. This proposal may induce land use changes causing additional air quality impacts, e.g. trucking, warehousing, and industrial development, which should be addressed in the EIS.

Environmental Justice

When determining which low income and minority communities might be disproportionately affected by this project and thus qualify as impacted Environmental Justice Communities (EJC), a threshold of increased number of daily trains is a reasonable way to screen for some of the potential impacts. Additional circumstances should be considered where EJC might be disproportionately impacted, such as increased coupling noise at the Joliet yard and wheel squeal at the Matteson connection. Some EJC may experience reduced freight rail and truck traffic as a result of the CN proposal. The environmental and economic consequences of this reduced freight traffic should be documented in the EIS.

The following communities along the EJ&E ROW are likely environmental justice communities, including areas within:

- Griffith, Calumet, and Gary, IN
- Chicago Heights and Park Forest, IL
- Joliet, IL
- West Chicago, IL
- North Chicago and Waukegan, IL.

There may be additional small clusters (e.g., mobile home parks) that may also qualify as environmental justice communities.

Once the populations potentially impacted are identified, the techniques used to provide information and gather their input should be tailored to assure that effective two-way communication occurs. Because many in these groups may be illiterate, non-English speaking, without cars, without access to computer and other technologies or have other restrictions, the STB may need to provide information and select meeting sites to adapt to their cultural capabilities and channels of communication. By doing so, the STB can ensure meaningful public participation in the NEPA process for all potentially affected populations. These outreach techniques, the community participation and expressed concerns, and the STB response to those concerns should be documented in the EIS.

Site Specific Impacts

The EIS should address impacts to specific natural and man-made sites. These sites warrant specific mention because they have high potential for impacts or because they may be particularly vulnerable. This is not an exhaustive list and other sites may be identified by stakeholders or others through the scoping process.

Manmade Sites Warranting Specific Considerations:

- Gary Airport - surface water, wetlands and aircraft flight paths

- IM Canal in Joliet - historic structures, threatened and endangered species, park utility, toxic waste site(s)
- Joliet Yard - EJC, air quality, noise
- Fermi Labs accelerator ring - vibration, spill and contamination.

Natural and Open Spaces Warranting Specific Considerations:

These would include avoiding and minimizing impacts of stormwater run-off with appropriately designed channeling, water pretreatment prior to discharging in these areas, spill prevention and containment, possible threatened / endangered species considerations, ROW maintenance and invasive species control procedures.

- Kirk Yard in relation to the Indiana Dunes National Lakeshore
- Whiting wetlands and Wolf Lake
- Chicago Heights east wetlands
- Plainfield Lake Renwick complex with heron rookery
- Fermi Labs Prairie
- Wetlands east of Elgin related to Poplar Creek
- Barrington Hills lakes and wetlands
- Cuba Marsh and wetlands northeast of Barrington
- Des Plaines River and North Branch of the Chicago River basin
- Lake Michigan waterfront and harbor at Waukegan.

Regional Environmental Impact Considerations

Several impacts will impose more generally upon the region and should be addressed in the EIS including; project-related greenhouse gases and their impact on global warming, ROW maintenance practices, and concerns about invasive species.

Cumulative Impacts

The NEPA document should provide a cumulative impacts analysis. Cumulative impacts are impacts on a resource caused by past, present and reasonably foreseeable future actions, regardless of who takes those actions. The purpose of a cumulative impact analysis is to assess the incremental impacts on each resource of concern (e.g., wetlands, streams/rivers, water quality, air quality, land use, threatened/endangered species, historic sites) due to direct and indirect actions that take place in a geographic area over time. A cumulative impact analysis aids in identifying the significance of those impacts on a particular resource and the appropriate type and level of mitigation to offset the current proposal's impacts. The appropriate geographic area and time frame to use when assessing cumulative impacts will vary depending on the resource under consideration.

Greenhouse Gases and Climate Change

EPA recommends the EIS discuss greenhouse gas emissions associated with this project and the impact of those emissions on climate change.

Invasive Species / ROW Maintenance

CN transports a wide variety of freight to and through the Chicago region from around the globe. Freight traffic can be a means for introducing non-native species into an area. The EIS should discuss existing and proposed railroad procedures to avoid or minimize the loading, carrying and dispersal of invasive species to and from its railcars. CN proposed ROW maintenance procedures should be discussed including analysis and evaluation of their success. We recommend consideration of an adaptive management approach to this issue. These should include special precautions to be taken at very sensitive sites such as, but not limited to, the Indiana Sand Dunes, the Waukegan waterfront, wetlands, areas supporting already threatened or endangered native species, nature preserves and parks.

AVOIDANCE, MINIMIZATION, AND MITIGATION

CN is proposing this project to remove congestion from the metropolitan core, and by gained operational efficiencies, to reduce pollution. We recommend the EIS delineate how and where avoidance and minimization are to be achieved without simply moving these burdens to another community. Although most of the rail line and ROW is in place, the changes in service level and new connections require a hard look at avoiding and minimizing added impacts from these changes. We recommend this should include consideration of increasing connecting curve radii to permit higher speeds, extending proposed second track passing rail lengths to accommodate the longer trains anticipated, and strategic grade separations.

Where impacts can not be avoided, mitigation measures should be proposed in the EIS document. The mitigation should be described in detail and should include follow-up measures to maintain and evaluate the success of their mitigation. We encourage consideration of public-private funding as a possible approach to construction for some of the avoidance / mitigation measures for this project.

We appreciate the opportunity to comment on the scope of NEPA analysis for this proposed purchase. If you have questions regarding these comments, please contact me or my staff member, Norm West at west.norman@epa.gov or 312-353-5692 by phone. We look forward to meeting with you and your staff to discuss the development of NEPA documents for this project.

Sincerely,



Kenneth A. Westlake, Supervisor
NEPA Implementation



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Fax: as above

Date: 4/24/2008

**Number of pages,
including this cover sheet: 9**

Comments:

We sincerely apologize again for such an extended delay in getting these comments to you. We hope this at least gives you a heads up for our meeting Monday, although we realize the diminished value for that purpose at this late date. Norm's schedule today has him out of our office until about 4:00 this afternoon, but available all day Friday. Should you need to call today for any reason, please feel free to contact Ken Westlake to discuss immediate issues.

We do look forward to seeing you and the team Monday, April 28th at 1:00 at our office (above) in room 1910. We anticipate having some good coffee and deserts available, zero calories :).