



Founded June 19, 1962

DUPAGE MAYORS AND MANAGERS CONFERENCE

an association of municipalities representing 1,000,000 people

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Ms. Phillis Johnson-Ball
Section of Environmental Analysis
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

February 7, 2008

RE: Environmental Filing, STB Finance Docket No. 35087 (via E-Filing)

Dear Ms. Johnson-Ball,

The DuPage Mayors and Managers Conference (DMMC) is a coalition of cities and villages located within DuPage County, Illinois, including the cities of Aurora, Naperville, Warrenville and West Chicago and the villages of Bartlett and Wayne. DMMC is concerned about the potential for negative impacts in the above municipalities that may result from an increase in freight rail traffic proposed in Canadian National Railway Company's (CN) application to purchase the Elgin, Joliet and Eastern (EJ&E) West Company.

DMMC does recognize that the proposed acquisition may have a positive impact on the Chicago region, and some communities in DuPage County, and encourages the Surface Transportation Board to thoroughly examine both the positive and negative impacts of the proposed action. Further, the STB is encouraged to work closely with local communities and transportation agencies throughout the preparation of the Environmental Impact Statement (EIS), to identify mitigation strategies that can be implemented to provide positive benefits throughout the region.

In particular, DMMC would like the STB to consider in the EIS:

- Obtaining long term (beyond three years) rail traffic projections from CN to be analyzed with respect to long term vehicular traffic projections contained in the Chicago Metropolitan Agency for Planning (CMAP) 2030 Regional Transportation Plan (2030 RTP). If CN cannot provide long term projections, the STB should draw on past experience to estimate long term freight rail traffic.
- Conducting all analyses based on existing conditions (traffic volumes, transit routes, roadway and rail networks, land use, etc.) and future conditions (as planned in the 2030 RTP, local government comprehensive plans and transportation agency plans),

- as is the standard practice for environmental analysis of projects for other modes of transportation. In particular, DMMC is concerned about impacts to the planned Metra Star Line and other planned public transit projects included in the DuPage Area Transit Plan.
- Determining the “purpose and need” for the proposed acquisition, including identifying existing rail congestion that CN seeks to alleviate, as well as examining additional alternatives to alleviate that congestion, such as utilizing other existing rail lines, the construction of new rail lines or some combination of alternatives.
- Imposing limits on the amount of freight traffic allowed on the EJ&E line until impacts identified in the EIS process can be properly mitigated.
- Determining the estimated cost to the public as a result of the acquisition, including the need for relocation or addition of emergency response facilities and personnel due to blockage or delays caused by increased freight traffic and increased throughput of hazardous materials.
- Determining the estimated cost to the public as a result of the acquisition, including the need for new or modified roadway, bicycle/pedestrian and public transit infrastructure due to blockage or delays caused by increased freight traffic, and indirect public costs such as travel time delays.
- Determining the impact of the proposed acquisition on existing and planned Quiet Zones
- Involving local communities in the preparation of the draft EIS, and extending the public review of the draft EIS beyond 45 days due to the extent of potential impacts.

In addition to the above general comments, specific comments on the draft scope of the EIS are attached in strikethrough/underline format.

DMMC, through its staff and Transportation Technical Committee looks forward to remaining involved in the EIS process and the STB’s review of the proposed acquisition. If you have any questions regarding the comments included with this letter, please contact Kama Dobbs, Transportation Project Manager. Ms. Dobbs is available to assist the STB project team with local coordination and data gathering throughout the review process.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth P. Johnson". The signature is fluid and cursive, with the first name "Kenneth" and last name "Johnson" clearly legible.

Kenneth P. Johnson
President, DuPage Mayors and Managers Conference
Mayor, City of Wood Dale

APPENDIX A

Draft Scope of the EIS

Proposed Action and Definition of Alternatives

Applicants' proposed acquisition of the EJ&E would result in shifting of rail traffic from rail lines in Chicago to rail lines on the EJ&E. Rail traffic on CNR lines inside the EJ&E arc would generally decrease. These decreases in rail traffic would be offset by substantial increases in the number of trains operated on the EJ&EW line outside Chicago. The increase in train traffic on the EJ&E would vary from approximately 15 to 27 additional trains per day. Applicants state that the proposed transaction would not impair CNR's ability to handle commuter trains, passenger trains, or trackage/haulage trains currently operating on its lines. Finally, on the integrated CNR/EJ&EW system, four train pairs would be added to EJ&E terminals: three inbound and three outbound switch trains at Kirk Yard, and one inbound and one outbound switch train at East Joliet Yard. Applicants' projections for the changes in rail operations as a result of the acquisition are set forth in the Application, available on the Board's website.

The proposed transaction also includes construction of seven rail connections, siding extensions, and installation of second track (double-tracking).

Reasonable or feasible alternatives that will be evaluated in the EIS are (1) approval of the transaction as proposed; (2) disapproval of the proposed transaction in whole (No-Action alternative); or (3) approval of the proposed transaction with conditions, including environmental mitigation conditions.²

~~If deemed necessary, a~~ Alternative configurations of proposed connections ~~may~~ shall be considered. Proposed modifications to the proposed transaction as requested by other parties in their inconsistent or responsive applications will also be addressed in the EIS.

Environmental Impact Analysis

Analysis in the EIS will address proposed activities and their potential environmental impacts, as appropriate. Existing rail operations are the baseline from which the potential environmental impacts of the proposed transaction will be evaluated. SEA will evaluate only the potential environmental impacts of operational and physical changes that are directly related to

² The Board has broad authority to impose conditions in railroad control transactions under 49 U.S.C. 11324 (c). However, the Board's power to impose conditions is not limitless: there must be a sufficient nexus between the condition imposed and the transaction before the agency, and the condition imposed must be reasonable. *See United States v. Chesapeake & O. Ry.*, 426 U.S. 500, 514-15 (1976); *Consolidated Rail Corp. v. ICC*, 29 F.3d 706, 714 (D.C. Cir. 1994).

the proposed transaction. SEA will not consider environmental impacts relating to existing rail operations and existing railroad facilities.³

The scope of the analysis will include the following types of activities:

1. Anticipated changes in level of operations on rail lines (e.g., an increase in average trains per day) for those rail line segments that meet or exceed the Board's thresholds for environmental review in 49 CFR 1105.7.
2. Proposed changes in activity at rail yards to the extent such changes may exceed the Board's thresholds for environmental analysis in 49 CFR 1105.7.
3. Proposed physical construction of improved rail connections, siding extensions, and installation of second rail track (double-tracking).

Environmental Impact Categories

The EIS will address potential impacts on the environment that will include the areas of safety, transportation systems, land use, energy, air quality, noise, biological resources, water resources, socioeconomic effects related to physical changes in the environment, environmental justice, and cultural and historic resources, as described below.

1. Safety

Utilizing existing and future (2030) traffic and transportation network data contained in the Chicago Metropolitan Agency for Planning (CMAP) 2030 Regional Transportation Plan (2030 RTP), and other transportation and transit agency short and long term regional plans, The-the EIS will:

- A. Consider at-grade rail crossing accident probability and safety factors. This will generally include grade crossings with existing or future (2030) average daily traffic levels of 2,500 or more trips. Accident probability analysis will:

(1) Accident probability analysis will address the potential for rail and vehicle accidents;

³ In proceedings similar to this proposed acquisition, the Board's practice consistently has been to mitigate only those environmental impacts that result directly from the transaction. The Board, like its predecessor, the Interstate Commerce Commission, has not imposed mitigation to remedy preexisting conditions such as those that might make the quality of life in a particular community better, but are not a direct result of the merger (i.e., congestion associated with the existing rail line traffic, or the traffic of other railroads).

- (2) Address the potential for rail and bicycle and rail and pedestrian accidents, with focused analysis conducted at crossings located near schools, libraries, parks, and other uses that attract bicycle or pedestrian activity;
- (3) Consider applicants' relevant safety data on derailments, accidents and hazardous materials spills.

- B. Consider increased probability of train accidents and derailments due to increased traffic on a system-wide basis.
- C. Address potential effects of increased freight traffic on existing and planned commuter and intercity passenger service operations.
- D. ~~Discuss~~ Address the potential environmental impacts of the proposed transaction on public health and safety with respect to the transportation of hazardous materials, including:
 - (1) Changes in the types of hazardous materials and quantities transported or re-routed;
 - (2) Nature of the hazardous materials being transported;
 - (3) Applicants' safety practices and protocols;
 - (4) Applicants' relevant safety data on derailments, accidents and hazardous materials spills;
 - (5) Contingency plans to address accidental spills;
 - (6) Probability of increased spills given railroad safety statistics and applicable Federal Railroad Administration requirements; and
 - (7) Location and types of hazardous substances at hazardous waste sites or hazardous materials spills on the right-of-way of any proposed connection or rail line abandonment site.
- E. Address local truck traffic increases attributable to increased intermodal activities.
- F. Address safety issues associated with the integration of differing rail operating systems and procedures.
- G. Address potential effects of increased freight traffic on emergency response times throughout the region.
- H. Evaluate the sufficiency of warning devices at rail crossings.

2. **Transportation Systems**

Utilizing existing and future (2030) traffic and transportation network data contained in the CMAP 2030 RTP, and other transportation and transit agency short and long term regional plans, the EIS will:

- A. Describe system-wide and localized effects of the proposed operational changes, construction of improved connections, siding extensions, and installation of second track, and evaluate potential impacts on existing and planned commuter rail service and intercity passenger (Amtrak) service.
- B. Evaluate ~~those existing and planned~~ commuter rail line segments and junctions that would experience increased freight traffic as a result of the proposed transaction for the capability of the rail line segments to accommodate the reasonably foreseeable addition of commuter trains.
- C. ~~Discuss-Evaluate~~ potential effects on proposed passenger rail service where such future rail operation inception or expansion is reasonably foreseeable (i.e., where capital improvements are planned, approved, ~~and-or~~ funded).
- D. ~~Discuss-Evaluate rail and highway congestion resulting from~~ potential diversions of freight traffic from trucks to rail and from rail to trucks, ~~as appropriate.~~
- E. Address vehicular delays at rail crossings, ~~and~~ intermodal facilities and on the surrounding existing and future roadway network due to increases in rail-related operations as a result of the proposed transaction. Estimates of typical delays at grade crossings will be made for crossings that have existing or future (2030) vehicle traffic levels of 2,500 ADT or more and that exceed train traffic increases of three trains per day for non-attainment areas or eight trains per day for attainment areas.
- F. Discuss potential effects of increased train traffic on railroad bridges that cross navigation channels to the extent that such bridges allow only one mode of transportation to pass at a time.
- G. Propose mitigative measures to minimize or eliminate potential adverse impacts to the transportation system.

3. Land Use and Socioeconomics

Utilizing existing and future (2030) land use and transportation network data contained in local government comprehensive plans, the CMAP 2030 RTP, and other transportation and transit agency short and long term regional plans, The-the EIS will:

- A. Describe whether the proposed construction of improved rail connections, siding extensions, and installation of second track (double-tracking) are consistent with existing and future land use plans.
- B. Describe environmental impacts associated with the proposed changes in

freight activity, construction of improved rail connections, siding extensions, and installation of second track (double-tracking) as to acres of prime farmland potentially removed from production.

- C. Discuss consistency of proposed construction of improved rail connections, siding extensions, and installation of second track (double-tracking) with applicable zoning requirements.
- D. Address socioeconomic issues related to changes in the physical environment and changes to train traffic as a result of the proposed transaction.
- E. Propose mitigative measures to minimize or eliminate potential project adverse impacts to social and economic resources, as appropriate.

4. Energy

The EIS will:

- A. Describe the potential environmental impact of the proposed transaction on transportation of energy resources and recyclable commodities to the extent that such information is available.
- B. Evaluate potential changes in fuel use arising from the transaction.

5. Air Quality

The EIS will:

- A. Evaluate air emissions increases where the proposed post-acquisition activity would exceed the Board's environmental thresholds in 49 CFR 1105.7(e)(5)(i), for air quality nonattainment areas as designated under the Clean Air Act. Thresholds are as follows since the Chicago Metropolitan area is a nonattainment area⁴:
 - (1) A 50 percent increase in rail traffic (measured in gross-ton miles annually) or an increase of three trains a day on any segment of rail line affected by the proposal; or
 - (2) An increase in rail yard activity of at least 20 percent or more in carload activity (rail car switching and block swapping).
 - (3) Increase in truck traffic greater than 10 percent of ADT or 50 trucks per day.

⁴ Nonattainment areas are areas that do not comply with one or more ambient air quality standards. Ozone non-attainment areas are further classified as Marginal, Moderate, Serious, Severe, or Extreme Areas. These classifications are based on the level, in parts

per million (ppm), of ozone measured for each area. Moderate areas are defined as .092 to .107 ppm, Serious Areas are defined as containing 0.107 ppm to 0.120 ppm, and Severe Areas are defined as containing 0.120 to 0.187 ppm. The Chicago area is currently classified as moderate non-attainment for ozone and non-attainment for PM 2.5

B. Discuss the net increase in emissions from increased railroad operations associated with the proposed transaction. Net emissions changes will be calculated for individual counties and the Chicago non-attainment area with projected transaction-related emissions increases of:

- 100 tons per year or more of any pollutant and the precursors of ozone

C. Discuss the following information regarding the anticipated transportation of ozone depleting materials (such as nitrogen oxide and freon):

- (1) Materials and quantity;
- (2) Applicants' safety practices;
- (3) Applicants' safety record (to the extent available) on derailments, accidents, and spills;
- (4) Contingency plans to address accidental spills; and
- (5) Likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

D. Discuss potential air emissions increases from vehicle delays at rail crossings where the rail crossing is projected to experience an increase in rail traffic over the thresholds described above in Section 5(A) for attainment and maintenance areas, and in Section 5(B) for non-attainment areas, and which have an existing or future average daily vehicle traffic level above 2,500. Such increases will be factored into the net emissions estimates for the affected area.

E. Examine local impacts from the transaction caused by increases or decreases in diesel particulate emissions.

F. Examine potential air emissions increases or decreases from diversion of freight from trucks to rail and rail to trucks, as identified in sections 1.E and 2.D.

6. Noise and Vibration

The EIS will:

A. Describe potential noise and vibration impacts of the proposed transaction for those areas that exceed the Board's environmental thresholds identified in Section

5A of the Air Quality discussion.

- B. Identify whether the proposed transaction-related increases in rail traffic will cause an increase to a noise level of 65 decibels L_{dn} or greater. If so, an estimate of the number of sensitive receptors (e.g., schools, ~~and~~ residences, parks and hospitals) within such areas will be made.
- C. Identify transaction-related activities that have the potential to result in an increase in noise level of 3 decibels L_{dn} or more which occur in areas exposed to less than 65 dBA L_{dn} .
- D. Assess potential impacts on existing and proposed Quiet Zones.
- ~~D~~E. Assess potential vibration effects based on Federal Transit Administration (FTA) vibration methodology in areas where it appears there may be vibration sensitive receptors (e.g., schools, ~~and~~ residences, parks and hospitals) within or immediately adjacent to the railroad right of way.

7. Biological Resources

The EIS will:

- A. Discuss the potential environmental impacts of proposed construction of improved rail connections, siding extensions, and installation of second track (double-tracking) on federal, state and local endangered or threatened species or designated critical habitats.
- B. Discuss the effects of proposed construction of improved rail connections, siding extensions, and installation of second track (double-tracking) on federal, state and local wildlife sanctuaries or refuges, and national or state parks or forests.
- C. Discuss the effects of air quality, noise and vibration changes due to increased freight rail traffic, as identified in sections 5 and 6, on federal, state and local endangered or threatened species, designated critical habitats, wildlife sanctuaries or refuges, and national or state parks or forests.

8. Water Resources

The EIS will:

- A. Discuss whether potential impacts from proposed construction of improved rail connections, siding extensions, ~~and~~ installation of second track (double-tracking), and increased train traffic may be inconsistent with applicable federal ~~or~~, state or local water quality standards.

- B. Discuss whether permits may be required under Sections 404 or 402 of the Clean Water Act (33 U.S.C. 1344) for any proposed construction of improved rail connections, siding extensions, and installation of second track (double-tracking), and whether any such projects have the potential to encroach upon any federal state or locally designated wetlands or 100-year floodplains.

9. Environmental Justice

The EIS will:

- A. Report on the demographics in the immediate vicinity of any area where major activity such as construction of improved rail connections, siding extensions, and installation of second track (double-tracking) is proposed.
- B. Report on the demographics in the vicinity of rail lines with projected rail traffic increases above eight trains per day.
- C. Evaluate whether such activities potentially have a disproportionately high and adverse health effect or environmental impact on any minority or low-income group.

10. Cultural and Historic Resources

The EIS will:

- A. Address potential impacts from proposed construction of improved rail connections, siding extensions, ~~and~~ installation of second track (double-tracking), and increased train traffic on cultural and historic resources that are on, or immediately adjacent to, a railroad right-of-way.

11. Secondary and Cumulative Effects

The EIS will:

- A. Address secondary and cumulative effects of environmental impacts that have regional or system-wide ramifications. This analysis will be done for environmental impacts that warrant such analysis given the context and scope of the proposed transaction. The environmental effects to be analyzed include air quality, water quality and energy.
- B. Evaluate secondary and cumulative effects, as appropriate, for other projects or activities that relate to the proposed transaction, where information is provided to the Board that describes (1) those other projects or activities, (2) their interrelationship with the proposed transaction, (3) the type and severity of the

potential environmental impacts; and SEA determines that there is the likelihood of significant environmental impacts. This information must be provided to the Board within sufficient time to allow for review and analysis within the schedule for the preparation of the EIS.

- C. Discuss the potential environmental impacts of construction or facility modification activities within railroad-owned property affected by the proposed merger, and additional environmental impacts related to the proposed transaction but not subject to Board approval, in order to identify secondary and cumulative impacts.