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GaryChicago
International Airport

January 24, 2008

VIA E-Filing

Honorable Vernon A Williams, Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

**Re: Canadian National Railway Company and Grand Trunk Corporation
– Control – EJ&E West Company
STB Docket # FD-35087-0**

Secretary Williams

I am the Director of the Gary/Chicago International Airport and I provide this response on behalf of the Gary/Chicago International Airport Authority (GCIAA). This letter is provided to you in response to the Railroad Control Application filed by the Canadian National Railway Company on October 30, 2007 (STB Docket # 35087) concerning its intent to acquire the EJ&E West Company. The Gary/Chicago International Airport is a Party of Record and provides this letter in opposition to the proposed acquisition based on its negative impact that increased rail traffic will have on safety and economic development at the Gary/Chicago International Airport (Gary/Chicago Airport).

The GCIAA has commenced a runway expansion project to increase the overall length of its primary runway to address both expansion and safety issues. Part of this Project will require relocating a portion of the Elgin, Joliet & Eastern (EJ&E) rail line that runs directly at the northwest end of our current runway. The GCIAA recognizes that any rail line relocation will result in some inconvenience to the EJ&E, however, over approximately the last six years, the GCIAA has strived, in good faith, to obtain their consent for a 2.3 mile line relocation that would allow the Gary/Chicago Airport to construct a critically needed safety improvement for flight operations at our airfield. Unfortunately, execution of an agreement outlining the general specification of the EJ&E relocation has proved very difficult. The overall consistent theme of negotiations has been inconsistency and often-changing demands by the EJ&E to make the railroad "whole" on this transaction. To be sure, the GCIAA understands that the EJ&E has an obligation to protect its interest and has been flexible to alter proposed designs to meet the needs of the EJ&E, however, in recent meetings the EJ&E has unreasonably requested reimbursement

in perpetuity for additional fuel used for their trains to traverse the 5,263 feet of additional track in the relocation plan. Such requests are not helpful and show a lack of "good faith" negotiating.

The proposed acquisition of the EJ&E by the Canadian National Railway ("CN"), according to their filing with the Surface Transportation Board, will greatly increase rail traffic on the line segment proposed for relocation. This change will significantly impair the ability of the GCIAA to fund and complete this badly needed runway improvement by further complicating the proposed track changes and raising additional compensation issues that are beyond the ability of the GCIAA and our community to fund. Without the safety changes to our Airport runway, we will be unable to compete for air traffic in this very congested region, further impacting delays already endemic in the Chicago area which in turn impacts the entire national air traffic system.

At present, the existing EJ&E right-of-way comprises the property boundary along the northwest quadrant of the airport. Runway 30 (300 degrees to the northwest) is approximately 7000 feet long and is located approximately 270 feet from the edge of the EJ&E's right-of-way. The railroad's tracks are located at an elevation approximately 15 feet above the grade plane of the runway's end. Federal Aviation Administration ("FAA") safety and flight procedure regulations require the railroad embankment to be considered as having a 23 foot train height obstruction added to the track elevation. The total obstruction height is thus 38 feet above the runway end elevation and approximately 270 feet from that end. **The runway does not meet current FAA standards and has received a temporary exemption with a mandate to correct the safety deficiency.**

The aeronautical operating activity at the Gary/Chicago Airport has been increasing over the last ten years in terms of aircraft size and weight. Commercial passenger service has been initiated and is expected to grow. Corporate traffic is steadily increasing in terms of weights and size. The Boeing Corporation has relocated its corporate fleet operations to the Airport. Cargo traffic also continues to be an important activity factor. Runway 30 must be used for this type of traffic, however, during certain wind and temperature conditions these aircraft are precluded from using Runway 30 because of the railroad obstruction condition. In fact, for certain aircraft with certain atmospheric conditions train operation precludes use of the Airport. If the vertical obstruction imposed by the railroad were not there, these aircraft restrictions would not exist.

In addition, it is important not to lose sight of the tremendous economic development benefit the Gary/Chicago Airport represents to the City of Gary and the entire northwest Indiana region. Gary currently has a population of 102,000 citizens of which 88% are minority. Like many urban cities, Gary has struggled with challenges relating to economic redevelopment of industrial areas. Beyond the fact that absent agreement with the EJ&E, the economic potential of the Gary/Chicago Airport will be lost, it is our understanding that rail traffic will increase within Gary. This will raise likely environmental hazards associated with this type of industrial activity. As such, it would be our recommendation that an environmental impact study as to the increased rail traffic through the City of Gary be required prior to any formal consideration.

Most importantly, regardless of the negative impact on Airport operations and economic development in northwest Indiana, the primary issue is safety. A fifteen foot high embankment at

some two hundred and seventy feet from a runway end is no longer acceptable. The fatal aircraft accident at Little Rock, Arkansas in the late 90's, which involved runway end obstructions, highlighted the concern with such conditions. It was that accident which alerted the FAA to mandate removal of the grandfathered obstruction conditions. The Airport together with the FAA has worked since 2000 to develop a feasible plan. Since that time the Airport has been discussing and negotiating in good faith with the EJ&E and other carriers for the rerouting of its tracks, which would require EJ&E trains to travel an additional 5,263 feet. The proposed reroute has been vetted through a lengthy and exhaustive full Environmental Impact Statement. The proposed plan to reroute EJ&E rail traffic, was designed with the review and general approval by the EJ&E, received a record of decision in early 2005. The Airport, using federal, state, City of Chicago, and local monies will pay for the relocation. The relocation planning began over six years ago during which time the EJ&E has gone through ownership and management changes, which has further delayed resolution. Now, as the need is most pressing, the EJ&E is proposing more changes.

Time is of the essence and safety is the primary issue. As noted in the STB filing, the CN proposes to nearly triple the number of train operations on the railroad embankment, and with longer trains. These were never the assumptions used for the GCIAA physical and operation planning, nor did the EJ&E ever project such an increase in frequency and type of train operations. It is the position of the GCIAA, that if the EJ&E had been more engaged and upfront in their participation in assisting with removal of this public safety hazard that is represented by the railroad embankment, we would not be here today with yet another changed condition on the part of the railroad that can be added to their negotiating delays previously imposed. If there is anything that all parties can agree, it is that safety is paramount and is a genuine concern of all. The Gary/Chicago Airport cannot continue to operate and grow to meet the air traffic needs of the Chicago region with trains on the embankment and the EJ&E, and potentially CN, cannot continue to operate and grow with the real potential of an accident based upon Canadian National's proposed increased use.

As required in their Railroad Control Application, CN, in citing to 49 C.F.R. Part 1180.6(a)(2), makes the representation that the proposed transaction will have "no adverse, safety, or other effects." *See Railroad Control Application* at 23. It defies common sense to suggest that having multiple commercial aircraft landing, on a daily basis, 270 feet from a rail line that will now service a substantial increase in rail traffic, does not have an adverse effect on safety. Numerous plans have been proposed to address this safety issue, however, the GCIAA has yet to receive approval by the EJ&E. To allow this merger to be completed without addressing the GCIAA's legitimate safety concerns leaves a substantial risk to the public that could be avoided.

Based on these current conditions at the Gary/Chicago Airport, the Gary/Chicago International Airport Authority opposes the proposed acquisition and planned increased rail traffic. Without resolution of the safety issues that will be caused by substantially increased train traffic, the STB would be exasperating a known problem and increasing the potential of a major accident. The GCIAA in good consciousness and as a fiduciary of the public safety and trust cannot support such an action. The GCIAA believes that this finding will best serve the overall public interest in keeping a vital transportation asset in northwest Indiana safe and operable.

while keeping whole the operation of the EJ&E and its future role with the Canadian National Railway

Respectfully submitted,

A handwritten signature in black ink that reads "Chris Curry". The signature is written in a cursive style with a large, stylized "C" at the beginning and a long, sweeping tail that extends to the right.

Chris Curry
Director Gary/Chicago International Airport

Certificate of Service

I hereby certify that on the 25th day of January, 2008, a copy of the Gary/Chicago International Airport's Letter raising safety issues, was served by first class mail on:

Secretary of Transportation
1200 New Jersey Ave., SE
Washington, DC 20590

Attorney General of the United States
c/o Assistant Attorney General
Antitrust Division, Room 3109
Department of Justice
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and upon each party of record as currently appearing on the web site of the Surface Transportation Board.