



02221.021408 - MANNING - LOCAL - 60187.0.N. REVISED

Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-

7204 • TTY 800.526.0857

February 14, 2008

Surface Transportation Board
395 E. Street, SW
Washington, D.C. 20423
Attention: Phillis Johnson-Ball
Environmental Filing
STB Finance Docket No. 35087

Surface Transportation Board

CN-EJ&E EIS - FD-35087

Log and Distribution

Date Recd: _____

HDR File No: _____ ✓

REVISED (Initial): _____

STB ECT #: _____

Cc: Original - Job File

Ms. Johnson-Ball:

HDR

The Forest Preserve District of DuPage County ("District") respectfully submits the following in response to an invitation to comment on a draft "Scope of Study" contained within the December 21, 2007 Surface Transportation Board issuance of a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS). This EIS is for the Canadian National Railway Company Proposed Acquisition of the Elgin, Joliet and Eastern Railway Company (EJ&EW). The District submits, as a matter of record, the following documented concerns raised during the Open Scoping Process pertaining to a range of issues that should be examined and assessed in the EIS.

It is important to note at the outset that the District's attorneys have advised that the District does not have the statutory authority under Illinois law to voluntarily sell or otherwise convey its property to the Canadian National Railroad Company. Furthermore, the attorneys have advised that the Canadian National has no eminent domain authority to acquire the District's property. In this regard, section 5e of the Downstate Forest Preserve District Act, 70 ILCS 805/5e (West 2006), specifically provides that forest preserve district property "shall not be subject to eminent domain or condemnation proceedings...." There is nothing in Illinois law that permits the Illinois Commerce Commission to authorize Canadian National to take public property through eminent domain. Additionally, the District is not aware of any Federal law authorizing an involuntary taking. Accordingly, the District does not believe that Canadian National can acquire the property identified in its proposal in the Pratt's Wayne Forest Preserve at the intersection of the EJ&EW and CC&P rail lines.

This document first contains a brief "Background" about the District. Secondly, based on the District's initial review of the Proposed Action, the District defines which forest preserves appear to be included in the "Affected Environment" and may have potential negative impacts. The third section is the main body of the "District's Issues of Concern Requested to be Examined and Assessed in the EIS" providing specific details in addressing the "Environmental Impact Analysis"



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

and the “Environmental Impact Categories” outlined in the draft Scope of Study. The fourth section provides specific “District Requests Concerning Participation in the NEPA Process” and is followed by proposed “District Commitments” to the NEPA process. Finally the District provides an “Appendix” and “Exhibit” containing relevant reference information applicable to underpinning the District’s comments and concerns.

Background:

The Forest Preserve District of DuPage County, a body politic and corporate, derives its power and authority from the enabling legislation granted by the Illinois General Assembly as provided in the Downstate Forest Preserve District Act (70 ILCS 805/0.001 *et seq*) (West 2006). The purpose of the Forest Preserve District is best described in the Downstate Forest Preserve Act which states:

- “Any forest preserve district organized under this Act shall have the power to create forest preserves, and for that purpose shall have the power to acquire in the manner hereinafter provided, and hold lands containing one or more natural forests or parts thereof or land or lands connecting such forests or parts thereof, or lands capable of being forested, or capable of being restored to a natural condition, for the purpose of protecting and preserving the flora, fauna, and scenic beauties within such district, and to restore, restock, protect and preserve the natural forests and such lands together with their flora and fauna, as nearly as may be, in their natural state and condition, for the purpose of the education, pleasure, and recreation of the public.”

An elected District President and Board of Commissioners has approved and adopted policies to guide the District in matters including, but not limited to, Land Preservation, Land Use, and Land Management and has approved and adopted by ordinance or resolution various programs including, but not limited to, Preserve Master Planning, Natural Areas Management, Scientific Investigations and Studies, Ecosystem Monitoring, Adaptive Management, and Habitat Restoration.

To this end, the District possesses certain knowledge, information, data, and professional expertise unique to the preserves owned, operated, and managed by the District and is well suited to participating and engaging in any environmental review and assessment of potential impacts that may affect these preserves.



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

Affected Environment (District Preserves):

The District previewed information provided at Public and Agency Scoping Meetings hosted by SEA and facilitated by representatives of HDR Engineering (selected third party contractor) concerning the Proposed Action submitted by the Applicant. The District found that the EJ&EW rail line bisects, adjoins, or lies adjacent to portions of four (4) forest preserves owned and operated by the District. These forest preserves are:

1. Pratt's Wayne Woods (Bisects)
2. West Chicago Prairie (Truitt-Hoff State Nature Preserve) (Adjoins)
3. Roy C. Blackwell (Adjoins)
4. Night Heron Marsh (Adjacent)

The District's initial assessment is that each of these preserves will be exposed to potential negative effects stemming from the Applicants' projections for the changes in rail operation (train frequency and freight tonnage) as a result of the acquisition set forth in the Proposed Action.. Installation of a second track adjacent to portions of Night Heron Marsh is also proposed. Additionally, the Applicant proposes a direct land take of a portion of Pratt's Wayne Woods Preserve and intends to construct a new rail connection from the EJ&EW to the CC&P rail line.

Each of these preserves contains ecologically sensitive wetland habitat types in close proximity to the EJ&EW rail line. These wetlands are valuable and protected District resources supporting various wildlife communities. Some of these wetlands contain Federal and/or State listed species, State designated Species in Greatest Need of Conservation, and Species of Special Concern considered rare in DuPage County. Several of the wetlands are designated Illinois Natural Area Inventory sites and the West Chicago Prairie is dedicated and granted the highest protection afforded by the State of Illinois as the Truitt-Hoff Nature Preserve.

In addition, the Pratt's Wayne Woods Preserve has specific public recreational land use areas in close proximity to the EJ&EW and CC&P rail lines. These recreational amenities comprise the primary developed and programmed use facilities for this Preserve.

District Issues of Concern Requested to be Examined and Assessed in the EIS:

The following represents Specific Environmental Concerns of the District requested to be examined and assessed in the EIS. The District concerns are



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

organized and presented below in reference to the existing sections and subsections presented in the Draft Scope of the EIS (DSEIS).

Environmental Impact Analysis

DSEIS Item 1:

The Applicant's projections for rail operations indicate anticipated changes in average number of trains per day (t/d) on the EJ&EW rail lines near the preserves reviewed and listed below. All projected changes exceed the Surface Transportation Board's threshold for environmental review in 49 CFR 1105.7:

1. Pratt's Wayne Woods (Munger, IL) change from 5.5 t/d to 22.5 t/d;
2. West Chicago Prairie change from 4.4 t/d to 23.4 t/d;
3. Blackwell change from 10.7 t/d to 31.6 t/d; and
4. Night Heron Marsh change from 15.7 t/d to 39.5 t/d

DSEIS Item 3:

The "Proposed New Connection" depicted on the "Project Track Improvements - Munger, IL" aerial imagery illustrating the Proposed Action are found located at the Pratt's Wayne Woods Preserve. The "Proposed New Connection" is depicted as a rail connection between the EJ&EW line and the CC&P line. To accomplish this proposed connection, it would appear from the information provided that the Applicant seeks to acquire a portion of the Preserve and will likely need temporary construction access, as well as additional land area beyond that which is proposed. The proposed land take, physical rail construction activities, loss of an INAI site, loss of federally regulated wetland and floodplain, potential impacts to state listed species, and the permanent and temporary impacts to District protected resources are viewed by the District as significant. Careful assessment and analysis of environmental impacts is warranted.

The Munger, IL proposed land take and proposed connection also has potential significant adverse impacts to the recreational improvements at Pratt's Wayne Woods Preserve. The primary public recreational amenities within the Preserve are generally located south of the CC&P rail line and are found both east and west of the EJ&EW rail line. The proposed improvements indicated on the "Project Track Improvements - Munger, IL" illustration (Exhibit A) of the Proposed Action, depict the "Proposed New Connection" of track in direct alignment and conflict with an existing public access road leading to an underpass of the EJ&EW rail.



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

This underpass services an east parking lot and public and service access to two public use facilities. It would also appear apparent that in order to construction the new connection, the second rail constructed from the EJ&EW to the CC&P may block and foreclose access/egress to the EJ&EW underpass. The District is granted "...permission and authority to maintain and use an underpass structure beneath the right of way and tracks of the Railway and the access road thereto for purposes of ingress and egress to and from District's property situated on either side of said right of way..." by an Agreement between the District and the Elgin, Joliet and Eastern Railway Company executed June 29, 1976. These potential impacts to public recreational facilities and amenities are viewed by the District as significant. Careful assessment and analysis of environmental impacts is warranted.

West of the "Proposed New Connection" at Powis Road, the CC&P rail line lies directly north of several public recreational facilities and amenities. If the new connection to the EJ&EW rail line is completed, the CC&P line west of the connection would likely experience increased rail operational changes. The District can find no CC&P west line data depicted within the "Anticipated Changes to Rail Volumes" illustration provided by the Chicago Operating Rules Association (C.O.R.A.) concerning the Proposed Action. As such, the District seeks an expansion of the environmental impacts analysis to include this west section of CC&P rail line as well as subsequent inclusion of the land-use and recreational amenities along this CC&P west corridor at Pratt's Wayne Woods as a potentially "Affected Environment".

Environmental Impact Categories

DSEIS Item 1: Safety

- B. The District is concerned about the general increase in system-wide rail traffic increases as they approach the proposed rail line connection at Pratt's Wayne Woods (Munger, IL). There is, presumably, a rail merge system and signal design improvements addressing the traffic control on both the EJ&EW and CC&P lines. In addition, the curved connection and down-slope transfer of grade separation from the EJ&EW line merging to existing grade of the CC&P line will likely require a regulated train speed reduction. Finally, the curved connection merger between rails is completed very near an existing "at grade" crossing of Powis Road. Concerns are expressed regarding



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

downstream rail traffic compression, train traffic control technologies to be implemented, speed regulation, and associated risk to the protected environments and public vehicular traffic.

1. How will system-wide train traffic assessments be analyzed to address impacts at the EJ&EW and CC&P connection?
 2. How will such design elements and construction improvements be assessed concentrated near Powis Road in the safety analysis?
 3. How will accident and derailment probability assessments determine acceptable risk to the environment and general public welfare?
 4. What state of the art and practice technologies are available in rail design, traffic control and signalization, spill containment, and safety contingency planning that can be implemented as conditions to minimize risk and potential environmental exposure?
- D. The District is concerned regarding quantity and type of hazardous materials proposed to be transported on the EJ&EW line affected by the Proposed Action. All Preserves have sensitive wetland communities in proximity to the rail line. Studies have indicated a surficial geology comprised of common and extensive sands and gravels exhibiting near surface water tables and high hydraulic conductivities throughout the rail corridor landscapes in proximity to the four Preserves. The shallow nature of these sands and gravels create the potential for ground water contamination by spills from rail accidents. The near surface groundwater has the potential for contamination and the potential for rapid movements of contaminants is high.
1. How will the fate and transport of various hazardous materials anticipated to be carried as freight under the Proposed Action be evaluated for movement and contamination within the surficial geology, shallow aquifers, nearby water wells, and sensitive ecosystems dependent on hydrology?
 2. How will the fate and transport of various hazardous materials anticipated to be carried as freight under the Proposed Action be evaluated for movement and contamination within the exposed creeks, catchment drainages, and portions of the Preserves functioning as water recharge zones and discharges



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

where there is susceptibility to concentrating pollutant contamination and accumulation of some contaminants is high?

3. How might the development of spill response plans best achieve effective performance in preserving and protecting groundwater recharge zones?

DSEIS Item 2: Transportation Systems [No District Comment]

DSEIS Item 3: Land Use and Socioeconomics

- A. The proposed construction of a rail connection of the EJ&EW to the CC&P rail lines contained in the Proposed Action requires a land take of a portion of Pratt's Wayne Woods Forest Preserve (subject area) by the Applicant. The subject area is designated by the District for use in preserving and protecting valuable natural resources.

In addition, the primary public recreational amenities of the Preserve are located directly south of the CC&P rail line and both east and west of the EJ&E. A new lake and recreational facility is opening in 2008 northeast of the EJ&E and CC&P intersection. These designated land uses are supported by the District's enabling legislative authority, policies, Preserve Master Planning, and management programs implemented by the District (Appendix A).

1. The District has no authority granted by the Illinois General Assembly to divest itself of land resources originally acquired for designated Forest Preserve District purposes by sale to a private entity.
2. The District used federal grant funds to assist in the original acquisition of Pratt's Wayne Woods and, in doing so, agreed to restrictive conditions that prevent land uses other than forest preserve purposes.
3. District approved Master Plans for this Preserve designate the land-use of the subject area for natural resource "Conservation" and the primary public recreational amenities within the preserve.
4. As per the District's Land Management Policy the subject area is designated as "Accessible Nature Conservancy" for preservation and protection of the resources based on plant and wildlife scientific assessments conducted by ecologists.



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

5. District approved Natural Areas Management Program allocated funding resources toward the restoration and management of the subject area and surrounding wetland resources.

D. The proposed rail connection at Pratt's Wayne Woods is generally surrounded by various recreational facilities. The primary public recreational amenities of the Preserve are located directly south of the CC&P rail line and found both east and west of the EJ&E rail line. A new lake and recreational facility is opening in 2008 northeast of the EJ&EW and CC&P intersection as well.

1. What are the changes to rail traffic anticipated from the Proposed Action resulting along the portion of the CC&P west of the rail connection to the EJ&EW?
2. What increases in frequency, magnitude and duration of noise disturbances will occur because of increased rail traffic?
3. How will increased noise disturbance impact the preserve usage by wildlife that is viewed by the public?
4. How will the Proposed Action affect the experience of preserve users within the recreational area at Pratt's Wayne Woods?
5. How will increased noise disturbances affect the desirability of utilization of the youth campground, picnic facilities, off-leash dog area, model aircraft area, and other specialized uses by the public and subsequent revenues derived from these permits?

DSEIS Item 3: Energy [No District Comment]

DSEIS Item 4: Air Quality

District preserves are found within the Chicago Metropolitan Air Quality (CMAQ) region. The Chicago metropolitan area, inclusive of all DuPage County, is currently classified as moderate non-attainment for ozone and non-attainment for PM 2.5. As such, the District participates in solutions toward improving regional air quality. The District's Alternative Fuels Program is evidence of a commitment to the replacement of vehicles that use alternative fuel technologies such as CNG, Propane, Ethanol-85, Hybrid-electric, and B20 Biodiesel fuels in all fleet vehicles. The District has received national recognition for this program commitment and documented actions. Various District studies and analysis document the significance of emission reductions from alternative fuel fleet



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

modifications, net carbon sequestration estimates resulting from management of the District's natural resources and land use policy, and the general air quality benefits emanating from District preserves related to localized oxygen production and air temperature cooling.

1. What are Applicant's plans to utilize clean fuel railway locomotive technologies along the EJ&EW rail lines so as to join in accomplishing CMAQ goals and stakeholder efforts and commitments in reducing local mobile pollutant emissions?

DSEIS Item 5: Noise and Vibration

The District has concerns regarding how the anticipated increased frequency, magnitude, and duration of noise and vibration disturbances resulting from the Proposed Action may negatively affect the experience of public users within the preserves. Fragmentation of preserve areas by transportation corridors are known to negatively affect user view-scapes, solitude, enjoyment, and other attributes the public is seeking from preserve experiences.

1. How can train noise and vibration be moderated through regulatory speed controls and/or through rail design technologies that would moderate peak-decibel level exposure to public receptors in recreational areas?
2. How will the increased frequency, magnitude, and duration of anticipated noise annoyances from trains to sensitive public receptors (preserve users) be assessed?

DSEIS Item 6: Biological Resources

The District has concerns regarding how the anticipated increased frequency, magnitude, and duration of noise and vibration disturbances resulting from the Proposed Action may negatively affect localized fauna known to occur within the Preserves. Fragmentation of habitat by transportation corridors is a documented environmental stressor to sensitive fauna known to negatively affect including, but not limited to, fright response and energy expenditure, breeding success, nesting proximity, masking of calls, and predator awareness.

The proposed construction of a rail connection of the EJ&EW to the CC&P rail lines contained in the Proposed Action requires a land take of a portion of Pratt's Wayne Woods Forest Preserve by the Applicant. The land take would result in a direct loss of valuable and regulated biological resources currently protected, preserved, and managed by the District.



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

1. How will Illinois Natural Areas Inventory (INAI) sites be assessed and valued for loss if taken by the Applicant?
2. How will remaining INAI site areas be assessed for potential impacts and afforded protection?
3. How will potential impacts be assessed and analyzed for District ecosystems in all four preserves which are considered environmentally important and utilized by known species of plants and wildlife (mammals, birds, reptiles and amphibians), most notably federal and state threatened and endangered listed and regulated species which successfully breed or occur within these ecosystems?
4. How will the Applicant address consultation of impacts to critical wetland habitat and associated buffers with known federal and state listed and regulated threatened, endangered and other conservative species nesting and/or occupying sites?
5. With respect to the land take of the Proposed Action, how will the Applicant address the hydrological connectivity between the subject area and remaining contiguous resource outside the subject area to provide protection of critical wetland habitat?
6. How will the Applicant address future maintenance, management and control issues along the EJ&EW and CC&P rail line including, but not limited to rail system technology upgrades, expanded containment improvements, proper disposal of waste materials such as replaced track timbers.
7. How will the Applicant address future maintenance, management and control issues along the EJ&EW and CC&P rail line regarding regulated and responsible procedures for vegetative management and herbiciding programs?
8. How will the Applicant achieve insulating and buffering design and management programs that avoid or minimize negative impacts during the construction and permanent rail operations that are sensitive to spatial and temporal dependent activities of wildlife?
9. How will train traffic speed be regulated with controls and/or signage that are consistent with District management goals for protecting wildlife migrating over rail lines?
10. How will the Applicant address migration corridors that are over/under rail lines between the subject area and remaining contiguous resources outside the subject area to protect and conserve state listed and regulated threatened, endangered and other conservative wildlife breeding and/or occupying sites?
11. How will the Applicant address invasive/noxious species on rail corridor property to prevent the spread into natural areas?



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

DSEIS Item 7: Water Resources

Each of the preserves referenced as “District Affected Environment” protect important surface and subsurface water resources. Important water recharge zones, wetland complexes, and tributary drainages to stream, lakes, and rivers are documented within these Preserves.

1. How will the fate and transport of various hazardous materials anticipated to be carried as freight under the Proposed Action be evaluated for movement and contamination within the surficial geology, shallow aquifers, nearby water wells, and sensitive ecosystems dependent on hydrology?
2. How will the fate and transport of various hazardous materials anticipated to be carried as freight under the Proposed Action be evaluated for movement and contamination within the exposed creeks, catchment drainages, and portions of the preserves functioning as water recharge zones and discharge where there is susceptibility to concentrating pollutant contamination and accumulation of some contaminants is high?
3. How might the development of spill response plans best achieve effective performance in preserving and protecting groundwater recharge zones?
4. How will emergency spill response plans be developed and assessed to ensure that groundwater recharge zones, critical wetland complexes, and surface drainages to streams, lakes and rivers are protected?
5. How will awareness, education and knowledge transfer conditions be addressed including, but not limited to, the posting of railways with signage indentifying preserve and state park boundaries, wetland habitats, notable wildlife crossings and groundwater protection zones?

DSEIS Item 8: Environmental Justice

[No District Comment]

DSEIS Item 9: Cultural and Historic Resources

Historical and cultural resources are documented within Preserves about District holdings. The subject area referenced in the Proposed Action for land take within Pratt’s Wayne Woods has not been evaluated for historical and cultural resources. Deep organic soils found within the subject area are similar to other soils within Pratt’s Wayne Woods where important paleontological findings were recently discovered and documented.

1. How will historical and cultural resources be assessed?



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

2. If encountered during construction operations, how would cultural and historical artifacts including paleontological resources be handled?
3. What procedures and oversight by professionals with relevant scientific disciplines will be used to preserve important findings?

DSEIS Item 10: Secondary and Cumulative Effects

Upon review of the Proposed Action, the District is advising the STB/SEA of the potential for significant environmental impacts to the affected preserves. These potential significant environmental impacts warrant an assessment for secondary and cumulative impacts. Four areas of concern are expressed herein:

- Secondary and cumulative impacts to the public user experiences within planned, designed and constructed preserve recreational amenities including, but not limited to, trails, permitted camp ground, picnic areas, permitted shelters, permitted off-leashed dog area, permitted model aircraft area, permitted special uses for weddings, equestrian events, cross country events, and general visitation use for fishing, hiking, biking, equestrian riding, wildlife observation, and other passive enjoyments.
- Secondary and cumulative effects from the proposed construction of a rail connection from the EJ&EW to the CC&P resulting from access, temporary damage, and damage to the remainder resulting from a land take containing significant biological resources that are currently protected and preserved by the District.
- Secondary and cumulative effects from the increased frequency, magnitude, and duration of train traffic as fragmentation and resultant deterioration of wildlife habitat and response of sensitive wildlife species in proximity to the Affected Environment.
- Secondary and cumulative effects resulting from a potential spill of hazardous materials and due to the fate and transport of this material, the negative impacts to significant biological resources, critical flora and fauna habitats and water resources.

1. Will the Proposed Action by the Applicant to be assessed and evaluated for essential improvements required in the interest of all the public?
2. Will the Proposed Action and subsequent improvements be assessed and evaluated as benefits for a private and profitable venture that is subject to the exclusion of the general public and present land uses?



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

3. How will the valuation of temporary damages and land take losses of protected biological resources be assessed?
4. How will the Applicant incorporate best management practices regarding storm-water management and related chemical and sediment loading challenges anticipated during and after construction?
5. How will the Applicant address extensive temporary construction and accessibility easements to perform the constructed development?
6. How will the Applicant address areas of impact beyond that which is proposed, but viewed by the District as likely necessary, in order to construct the rail connection and to address potential engineering and construction challenges?
7. How will detention and compensatory storage designs address indirect impacts to adjoining critical wetlands?
8. How can emergency spill containments be developed and control structures be incorporated in to the design so as to protect adjacent critical wetlands, important groundwater recharge zones, and associated wetland habitat remaining?
9. How will the Applicant incorporate native vegetation restoration within the construction zone to avoid impacts to remaining biological resources?
10. How will the Applicant address filling the floodplain and regulatory wetlands, which will require compensatory storage and mitigation?
11. How will the Applicant address the poor subsurface soils within the proposed construction footprint that will likely require significant under-cutting and backfill placement?
12. How will the District retain review of engineering plans and, in particular, the sheets dealing with construction access, erosion control, drainage, and restoration to ensure they are managed appropriately?
13. Is there a mechanism for how construction oversight would be managed to ensure construction compliance to approved engineering design plans?
14. How will the south branch tributary of Brewster Creek, that flows immediately south of the subject area of concern, be protected?
15. How will train traffic speed be regulated with controls and/or signage that are consistent with District management goals for protecting wildlife migrating over rail lines?
16. How will the Applicant address migration corridors that are over/under rail lines between the subject area and remaining



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

contiguous resources outside the subject area to protect and conserve state listed and regulated threatened, endangered and other conservative wildlife breeding and/or occupying sites?

17. How will the Applicant address invasive/noxious species on rail corridor property to prevent the spread into natural areas?

District Requests Concerning Participation in the NEPA Process:

District Request – Agency Stakeholder

The District requests of the Surface Transportation Board (STB) through the Section of Environmental Analysis (SEA), to participate as an agency “Stakeholder” in the NEPA process and offers participation toward achieving the following:

1. A collection of data and information applicable and relevant to the Proposed Action,
2. An assessment of the Affected Environment within District preserves,
3. An analysis of potential impacts and Environmental Consequences, and
4. Determination of appropriate avoidance, minimization, and/or compensatory mitigation strategies to address impacts as findings and/or through conditions established within the Environmental Impact Statement (EIS) and Record of Decision (ROD) of the STB.

District Request - Improved Fact-Finding Tools

The District requests utilization of Improved Fact-Finding Tools as stated in the October 2007, Council on Environmental Quality (CEQ) Guidance Document concerning Collaboration in NEPA, A Handbook for NEPA Practitioners: “Innovative tools such as joint fact-finding (an inclusive and deliberative process to foster mutual learning and resolve disputes over scientific and technical issues), collaborative monitoring (where the collaborative group participates in the monitoring of environmental impacts), adaptive management (a process that emphasizes learning from the outcomes of management actions), and others can bring parties to a common understanding of the facts that underlie issues being tackled by a collaborative group. If the parties cannot agree on a decision, they may at least be able to agree on the methodology for producing technical information.” These tools are viewed as extremely useful within a transparent and consensus building approach for stakeholders. The intent of using these Fact-Finding Tools would be to ensure a NEPA process grounded in an effort toward fostering technical education and knowledge for all stakeholders involved in the collaborative work.



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

District Request - SEA Holding "State of the Science" Workshops

The District requests as an opportunity for collaboration within the NEPA Process, that SEA hold public "State of the Science" workshops concerning two areas of interest:

1. Review of the current technologies and best management practices for railway construction/maintenance/management including, but not limited to, containment technologies, advance signalization and traffic monitoring systems, vehicle and pedestrian safety technologies at crossings, wildlife crossing designs, and noise abatement.
2. Review of surficial geology, bedrock topography, soils and near surface hydrogeology adjacent to the EJ&EW proposed project corridor in order to determine the likely surface and subsurface hydrology within the surrounding landscape so as to predict the fate and transport of any potential hazardous material release that may be applicable (freight, maintenance, and/or management) and to identify potential secondary or cumulative impacts to the natural environment and/or the public/private water well supplies in the shallow aquifers.

Commitments:

The District has conducted numerous studies and analysis regarding resources within preserves. The District maintains flora and fauna assessments of ecosystem units throughout each preserve. Ecosystem units are spatially referenced on several imagery platforms and contain attribute tables concerning ecological assessments, inventories, monitoring data, and some management history. All District studies, reports, and data will be made available to facilitate the assessment of potential impacts during the NEPA process in an effort to collaborate with SEA in achieving a robust and accurate EIS and fair and equitable ROD from the STB.

The District looks forward to being an active stakeholder in the NEPA process and is ready to provide District data and information upon your request. Thank you for your consideration of our comments and concerns.

Respectfully,

Brent Manning
Executive Director



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-
7204 • TTY 800.526.0857

cc: President Dewey Pierotti and Commissioners
Bob Vick, Deputy Director
John "Ole" Oldenburg, Director of Natural Resources
Bob Mork, General Counsel
Jim Knippen, Attorney



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

Appendix A

District Enabling Legislation, Policy, Acquisition Purposes, Land Use Planning, and Program Management References: The following are applicable governing references concerning the Forest Preserve District of DuPage County.

Illinois Downstate Forest Preserve Act, 70 ILCS 805(West 2006):

- Sec. 5. Any forest preserve district organized under this Act shall have the power to create forest preserves, and for that purpose shall have the power to acquire in the manner hereinafter provided, and hold lands containing one or more natural forests or parts thereof or land or lands connecting such forests or parts thereof, or lands capable of being forested, or capable of being restored to a natural condition, for the purpose of protecting and preserving the flora, fauna, and scenic beauties within such district, and to restore, restock, protect and preserve the natural forests and such lands together with their flora and fauna, as nearly as may be, in their natural state and condition, for the purpose of the education, pleasure, and recreation of the public.
- Sec. 5e Forest Preserve District property "shall not be subject to eminent domain or condemnation proceedings."

Review of District Land Use Ordinances, a Statement of Policy:

- The Land: "Now Therefore Be It Resolved, ...that the forest preserve lands were acquired for certain specific purposes, that under the law no power is granted [by the Illinois General Assembly] for the District to divest itself of title of such lands ..."
- The Land: "Be It Further Resolved, that for essential highway needs, for essential sewer, water, or other public utility, underground, surface, or overhead improvements required in the interest of all the public, the District may accede to such grants in court, or otherwise, on the basis of full fair market value of the land and full value of the vegetation as determined by the formulas established by the Rights of Way Ordinance and Contract on the ecological communities and of any improvements thereon."
- Land Management: "Class III, Accessible Nature Conservancy - This includes communities rating between 40 and 59 [determined by the District's Natural Areas Rating System based on Plants of the Chicago Region, published by the Morton Arboretum in 1979]. If properly managed many will improve rating to over 60. They are areas of high ecological value where public facility development will be limited..."



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

Federal Grant Restrictions, Pratt's Wayne Woods Acquisition:

- In 1969, the portion of Pratt's Wayne Woods proposed as a take by CNRR was acquired partially using grant money from the U.S. Dept. of Housing and Urban Development Grant Contract No. ILL. OSA-76 (G). On page 1 of Part I, Sec. 2 (b), it states "The Public Body agrees to retain said land, as developed, for permanent open-space purposes, and the open-space use of said land shall be for park and recreational purposes, conservation of land and other natural resources, or historic or scenic purposes." Page 3 of Part II, Sec. 104 (D), states that any change in the use of the land requires the prior written approval of the Secretary of Housing and Urban Development. Additionally, on Page 4 of Part II, it lists conditions that must apply - it must be essential to the orderly development and growth of the urban area involved; it must be in accord with the comprehensively planned development of the urban area; and the open space must be replaced by land of at least equal dollar value and equivalent usefulness and location.

Forest Preserve District DuPage County, Pratt's Wayne Woods Master Planning:

- In 1992, the District Board of Commissioners approved the Pratt's Wayne Woods Master Plan and designated the subject area proposed as a land take as "Conservation" land-use purposes.
- In 2000, the District completed a unique and comprehensive resourced based master plan for PWW. The plan used as a foundation the physical and natural resources of the preserve to assess preservation and protection goals for long term health by examining the restoration potential and management investments being planned into the future.

Forest Preserve District DuPage County, Natural Areas Management Program:

- In 1992, the District Board of Commissioners authorized the Natural Area Management Program (NAMP) in order to invest in the restoration and management of District natural areas so as to enhance ecological health, sustainability, and biodiversity.
- The subject area is part of ecosystem unit EPR 31, a Monoculture Marsh with a Class III wildlife rating. The ecological health and condition of EPR 31 is a reflection of adaptive management investment by the District under the Natural Areas Management Program.



Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

Pratt's Wayne Woods Environmental Pressures Study (2005):

- In 2005, the District Board of Commissioners received the completed "Pratt's Wayne Woods Environmental Pressures Study" which examined the natural resources of this preserve, assessed master planning documents, collected new data, performed trend analysis and interpretation for forecasting purposes out to 2020. The report presents findings and makes recommendations concerning potential external and internal environmental pressures that may negatively impact the District's intent to preserve and protect those resources at the preserve. The study framework was used to forecast cause and effect relationships within six disciplines:
 1. Watersheds and Water Quality
 2. Transportation Corridors and Fragmentation
 3. Population Changes and Preserve User Demands
 4. Land-use Development of Open Space
 5. Wildlife Disturbance and Habitat Changes
 6. Viewsheds and Sense of Place

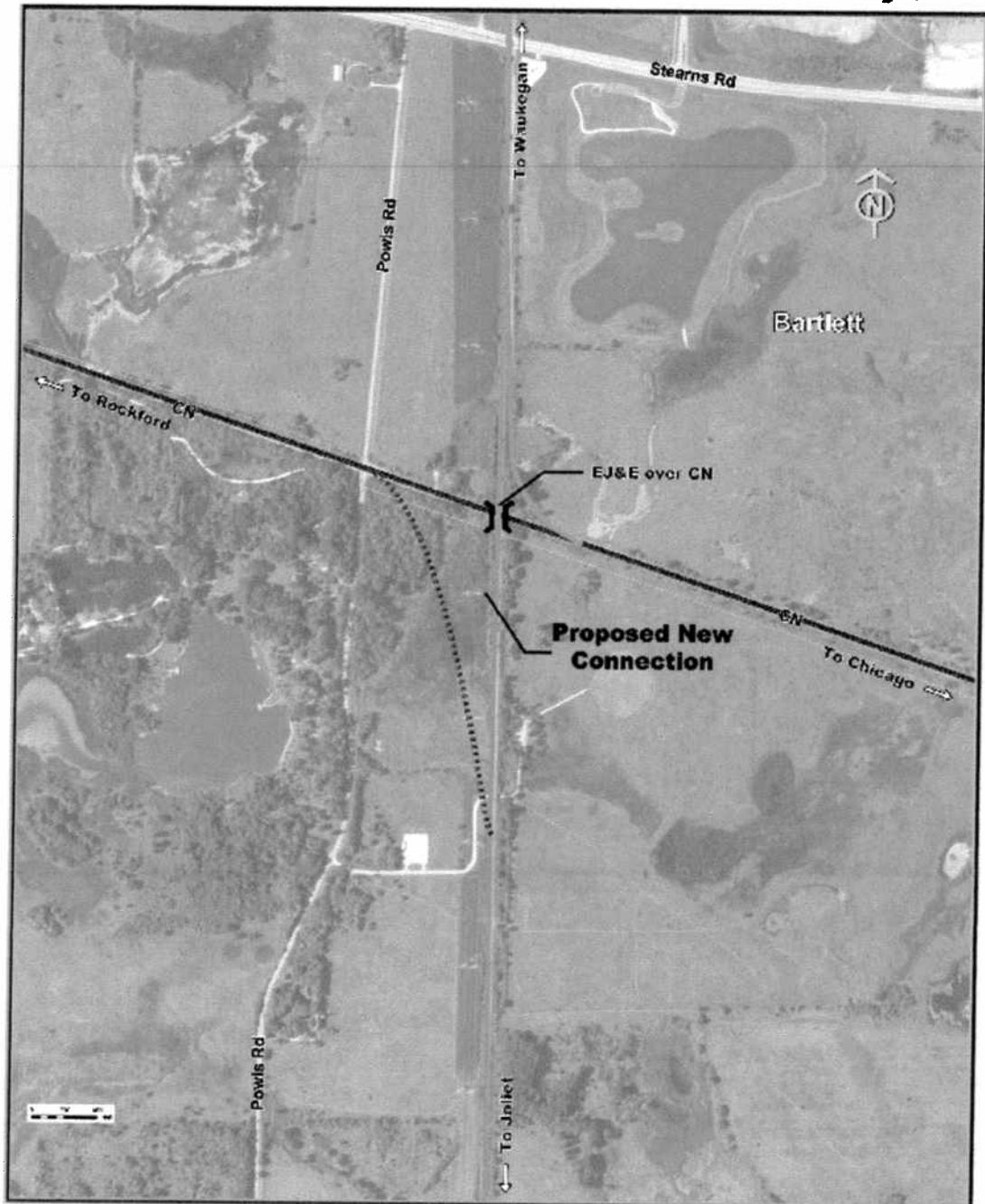


Forest Preserve District of DuPage County

3 S. 580 Naperville Road • Wheaton, IL 60187-8761 • 630.933-7200 • Fax 630.933-7204 • TTY 800.526.0857

Project Track Improvements

Munger, IL



Environmental Impact Statement for the Proposed Canadian National Railway Company Acquisition of the Elgin, Joliet and Eastern Railway Company

January 2008

January 2008



Exhibit A