

11424

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The Honorable Anne K. Quinlan, Esq
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D C. 20423-0001
Subject: STB Docket No, FD-35097-0
Canadian National Railway Co , et at - Control - EJ&E
West Company. STB Finance Docket No FD-35087-0
and Draft EIS
cc: Attention: Phillis Johnson-Ball Environmental Filing

August 27, 2008

Reference the Preliminary EIS and my correspondence
dated January 28, 2008

Dear Anne K Quinlan, Esq and Phillis Johnson-Ball,

I continue to be interested in finding a solution that will address the Chicago Mega Region's U. S. Constitutional Rights. The DEIS authors and consultants appear to have done well given the constraints presented by CN and the Grand Trunk management.

I previously requested on January 28, 2008 that FD 35087 be reclassified from a minor EIS to a major review with the maximum resources applied to determine the facts.

The facts that do not show in the DEIS are:

The CN seasonality of their customer's cargo and resulting peak seasonality impact along within the Chicago Mega Region. An example is 28 average trains per day past specific mile post along the "J" communities is quite different than the peak trains moving past that exact mile post. The data suggests that CN has understated the peak trains volumes by a factor of 3 to 4 times. Week 33 shows 95,474 tons vs Week 1 at 19,751 tons. The Port of Prince Rupert portion of these numbers is easily determined. http://www.cn.ca/productsservices/en_index.shtml

Another CN use of partial information is based on the actual schedules for COSCO and connections to CN. If the authors of the DEIS matched the published schedule for COSCO from SHA to PRR they would determine that the ships leave on Wednesday for a 9 day transit arriving in PRR on the following Saturday.

Further, the CN container cutoff time is 15:30 on Thursday with the train departure scheduled for 15:30 on Friday with a transit time of 100 hours to the Chicago

Intermodal Yards. CN states that the containers are available at 0700 on Tuesday - however, the 100 hour of transit time actually means the CN train arrives at 19:30 on Tuesday or a 12.5 hour variance. Does this really mean the train transit time is only 87.5 hours and the containers are immediately available when the wheels stop rolling?

Of interest is the published schedule for the CN scheduled arrival in Memphis with containers being available at 11:00 on Wednesday. CN states that the transit time from PRR to Memphis is 132 hours. A train offloading Chicago containers starting at 19:30 on Tuesday would only not arrive at 11:00 on Wednesday if the transit time was in fact 32 hours. If the Chicago cars were instantly uncoupled and the CN left for Memphis with zero dwell time the earliest it could arrive in Memphis is 0730 on Thursday. The other possibility is CN is not taking as much time as they have stated to STB transiting Chicago Mega Region. If this is true then the whole basis for the EJ&EW purchase has a fatal flaw. When is CN presenting true data?

A Metra Curfew is in place every weekday which stops the CN during the commuter rush hours for temporal separation. All Eastbound CN trains must stop before Route 83 near Mundelein, IL. This is not disclosed to the STB as part of the story about the Chicago transit times. If multiple CN trains need to be held some must wait at Trevor, WI which impacts the CN data and is not disclosed to the STB for the DEIS.

The importers, such as WalMart, track their shipments very closely so for CN to publish a schedule and not provide that quality of service would be very clear to their customers. This may indicate that the STB has been provided inaccurate data and the DEIS is therefore based on flawed data.

The other factor in tracking a potential intermodal container (TEU) from SHA to Chicago or Memphis is CN never mentioned that there is a six day dwell time in PRR from Saturday until CN's 1530 Friday departure or 144 hours. The true elapsed time from SHA to Chicago is 454 hours if you trust CN published time or an additional 12.5 hours. To Memphis the time is 489 hours per the schedule or 20.4 days. (This excludes the inconsistencies in the PRR to Memphis 132 hours STB data. Again the customers would be up in arms if this schedule was not accurate. Therefore, the only logical conclusion is the CN provided data to the STB - DEIS is contributing to a the false perception that Chicago the problem and the only solution is to purchase the "J".

The rush for a conclusion by the STB to meet an arbitrary drop dead date of 12/31/08 is perhaps due to an effort to avoid this type of data scrubbing and Business Intelligence. Clearly, there are public data regarding CN and COSCO that would factually determine which part of CN's submission is accurate, true and a honest representation of their China to USA actual freight operations.

The USS & CN contract allows for extensions due to governmental review and is not a factual representation of the originally signed contract.

The "Minor EIS" status narrows the scope of the review and missed what was not disclosed regarding CN's ability to "redevelop the EJ&E" status at 100% double track capacity. CN has exposed their immediate plans for redevelopment of approximately two thirds of the "J" to double tracking. The Illinois ICC Train Safety Division has confirmed that CN can easily reach a daily capacity of over **200** 10,000' to 15,000' DST (double stacked trains) without one governmental approval or review as to the environmental impact. If CN wants it they simply proceed with construction.

The CN public statements regarding the Metra STAR line do not fully disclose that within the "J" 100 foot ROW there is not enough space by law to allow for a minimum 25 feet separation between track centerlines between a freight train and a passenger train. The option for temporal separation via a Metra curfew for the proposed light rail service to local airports is inconsistent with a "rush hour curfew" as is currently in place with Metra and CN on Metra's Chicago Services on various lines. Workers at O'Hare or passengers will require service 7 x 24 x 365. The O'Hare major expansion going on currently will create well paying jobs and Metra STAR has projected a need for the Chicago Mega Regional Growth correctly.

Congress has funded the Lincoln International Airport and ground has been broken. The Metra STAR service plan includes this newest United States Airport. The number of well paying construction jobs and ultimately Airport Service employment will benefit from commuter services provided by the Metra STAR line.

For CN to block Metra STAR knowing full well that the 100' ROW constraint will provide a legal basis to refuse Metra STAR from using the trackage. USS and Metra have been in discussion for some time regarding these plans and with the current utilization the temporal separation was clearly an option.

The Greater Public Good to the Chicago Mega Region is clear that by having two major international airports available the economy will benefit. The recent, 2008, U.S. Rail Study for the U.S. MegaRegions clearly identified the need for replacing single-occupant vehicle (SOV) usage when rail service is possible.

The purchase price between USS and CN is \$300M, this translates into a sub-market comparable valuation of \$27,500 per acre. Metra Star's only economic option therefore is to have access to the "J" on the same basis CN is able to lease the trackage from USS.

The question that the STB and the DEIS is what is motivating USS to sell an asset significantly below market comparable valuation unless there are perhaps confidential side agreements for providing CN or COSCO or PRR services at below market private contract rates.

The fact that USS has stated that the deal must close by 12/31/08 may expose another buyer is now willing to pay the comparable value for this asset. USS is clearly responsible to their owners to maximize their value for any asset sold.

CN's CEO Mr. Harrison has stated that he has a Plan B should the STB dictated mitigation cost for protecting the 100 plus grade crossing to protect the public and the railroad workers from Railroad Related Death, injury and property damage.

The implementation of a true Safety Corridor along the "J" to provide maximum separation and control is within the cost estimates for CREATE or \$1.5 Billion. The contrast for this Plan B is CN would be part of a partnership of all the Rail Road Carriers and would exchange gaining a unfair competitive advantage should the "J" option be approved without CN individually paying for all the mitigation costs. Combine CN & Mr. Harrison's \$40M or 5% offer with a per acre cost of \$27K and Chicago Mega Regional residents wonders who is the beneficiary of the greater economic good.

The DEIS completely eliminated CREATE as a reasonable alternative based on a very narrow reading of the CN's stated purpose in it's application. Where does an applicant gain the right to set conditions that only their solution is acceptable?

CN's apparent over riding desire to utilize the Kirk Yard for it's Port Rupert and Halifax to Memphis point-to-point cargo and non-US traffic remains an option by the current use of EJ&E tracks and yards. CN today offers their "Z" Train priority service which can meet the stated needs of the importers willing to pay the premium tariffs. This greater economic good of satisfying the needs of United States Consumers is meet with the status quo.

For CN and the DEIS to imply that over the next 3 construction period (3 years) CN will fully re-route their cargo away from their current routing is misleading to those communities which CN has stated in the DEIS that there are "winning and losing" communities. During those 3 years the increased import traffic carried on the remaining Railroad's will absorb any available capacity released by CN. Since CN know that the current route, without the benefit of CREATE, preclude any carrier from operating any DST or extended length trains. The economic advantage then tilts to CN with productivity per worker that is 2X due to the DST and another 2X for operating twice as long trains.

The fair and equitable solution is to deny CN and to then explore the CREATE option. Clearly Mr. Harrison in his initial webcast outlining this proposed purchase stated his optimum solution was to gain support for U.S. taxpayer funding for the CREATE project. By historical reasoning a Railroad only has to pay 5% for any mitigation CN's share of a \$1.5B project is only \$75M. If CN ends up paying for example a total of \$750M or 10X to achieve the same results as the CREATE Project they have a significant negative impact for their shareholders. As the CEO of CN Mr. Harrison has opened a conversation that was stalled on CREATE which is his obvious optimum economic solution.

By submitting partial information CN has disadvantaged the STB and the authors of the DEIS. It is in the public record that CN has consistently delayed providing critical requested information. The request from HDR for the 5th time from CN is a classic example. Subject: Kirk Yard. The correspondence to the STB from CN states that they had communication breakdown in complying with official request. Without STB penalties CN has continued a strategic plan to slow communications where it is to their benefit and to disadvantage the public and the STB. This is not working in good faith for the General Economic Good but rather for CN's corporate economic good.

CN has provided two sets of "books" regarding their freight trains projections. CN's narrowest projection submitted to the STB and used in DEIS presents statistics that under represent the number of trains, length of trains, speed of trains, environmental damage and Life Safety Risks to the public and to the railroad workers. The second set of "books" is represented to CN investors at this address on their website: http://www.cn.ca/investor/perfmeasures/en_invPerfMeasures.shtml.

Clearly the CN data is organized into statistics based on a 53 week year in 6 day segments. The data show also the type of cargo by tonnage and by association the valuation can be determined. The near term expansion of the PRR which will begin within months further clarifies the volume of cargo. The destination as described by CN is 90% other than the Chicago Mega Region. In fact 25% to 30% of the PRR freight has a destination beyond the United States since the COSCO vessels are Post Panama Class Ships. The argument that CN is bringing an increase general economic value to the Chicago Mega Region is false.

CN's stated goal is to set a 90% bypass of the Chicago Mega Regional Hub.

http://www.cn.ca/productsservices/intermodal/overseas/gateway_memphis/terminal/en_intermodal.shtml

COSCO's goal is the logistic support for their Chinese government. COSCO owns 70% of the Bank of China and is an integral part of China's industrialization.

The U.S. Constitution Amendment TEN states: The foundation for InterSTATE Commerce.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

Where does the economic interest of Canada and China supersede their "General Economic Good" at the exclusion of the the "People" mentioned in our U.S. Constitution. Where does the U.S. Constitution shift the economic playing field to make

Non U.S. companies like COSCO, CN or Grand Trunk entitled to an advantage over the "People" of the United States of America or our own Railroad Carriers?

There is no case law related to the Tenth Amendment that in any way for fashion has set a precedent allowing the STB to rule in any other way than to deny CN's request.

To have CN "hide" behind the American Railroad historical "5%" formula regarding surface separation mitigation for public and railroad workers safety is a completely obvious and vulgar utilization of international corporate greed. NAFTA clearly did not anticipate this unintended consequence that CN, COSCO and the Port of Prince Rupert and Port Halifax would be able to shift 95% of the Life Safety Cost to the United States tax payers.

CN and Prince Rupert and COSCO marketing all promote the tax saving for U.S. Importers by using their NON U.S. Ports. The avoidance of the Homeland Security Ad Valorem 1/4 of 1% tax reduces the general economic value of the CN purchase of the EJ&EW from USS.

The Westbound routing of the COSCO ships from Prince Rupert first make calls at Oakland and Long Beach before taking the southern route back to China. The Ad Valorem tax conveniently **only apply** to imported good so COSCO and CN gain the maximum tax avoidance for their cargo and then use the U.S. Ports to maximize the available Westbound loads.

CN conveniently only discusses the time saving of using the Port of Prince Rupert when in fact the COSCO ships **do not save the time represented within the CN statements to the STB** that one more round trip is possible. The fact is that there is no general economic good once the facts are found regarding the North and South Pacific COSCO Schedules.

According to the Feb. 2008 General Accounting Organization report **"America's port infrastructure is vital to U.S. foreign trade and a bulwark for national security. One way the federal government funds port-related programs is to levy user fees."**

WalMart has the potential to avoid paying this Ad Valorem tax into the Harbor Trust Fund by using Hallifax and Prince Rupert for their imported finished goods.

Where does the **General Economic Good benefit by Wal Mart avoiding this Homeland Security Tax in the amount of \$250M dollars per year** with potentially more based on their sourcing of finished goods and selectively routing via Canada and CN vs the U.S. Ports and U.S. owned Railroads?

Does the Chicago Mega Region benefit from a lack of funding for the Corp of Engineers for Lake Michigan required services and improvements? **NO!** Again, the U.S. Taxpayer will shoulder this loss of tax revenues.

The **KIRK Yard** is in Indiana and all the CN trains will shift refueling to this yard. The **State of IL DOT will loose fuel taxes currently received from CN**. The taxpayers of IL will then have to shoulder the burden of mitigation for CN in IL due to this loss of IL tax revenues. Again, is this a sign of the General Economic Good for the Chicago Mega Region?

The interstate commerce clause and the development of the U.S. Railroad Industry were all predicated first and foremost for the "People" of the United States.

To view the Global Impact and what is ahead for the next 20 plus years it may be worthwhile to read study: China: The impact of domestic policy on the future of Global Trade. Clearly COSCO, CN, Prince Rupert and Memphis have made huge bets on gaining a unfair competitive advantage over the U.S.A. The demographics illustrated in Mr. Chan's IMPACT study are very relevant to the DEIS and provide another data point to test the CN questionable data and assumptions.

If the Global Impact is this big and Chicago has a well thought out plan with CREATE to mitigate the impact on our Mega Region it appears to be counter productive to allow one foreign corporation to not participate and to buy an alternative that primarily benefits CN's Profit and Growth Goals at the expense of MILLIONS of U.S. Citizens.

The growth of the Latino population in Waukegan, Elgin, West Chicago and Joliet have not been fully considered. The total number is well over **212,000** according to the Norte Dame 2008 Study. Clearly the DEIS did not choose to investigate and report this significant community which is well documented with School Attendance record the exact addresses. Again, to use triangulation of several data sources allows the DEIS to discover that the low income housing is in fact adjacent to the EJ&E AND this community will be hurt by the CN purchase. The mitigation alternatives are not possible. CN and the DEIS have not include dual language signage and education plans. This community is therefore at a significantly higher risk for Life Safety impacts with potentially a higher than average loss of life or serious injury. **A train/car/person crash has a 40 times greater death rate at speeds as low as 5 mph.**

By under representing this group of effected residents the STB is not addressing fully the Social Justice requirement of President Clinton's Order NOT to adversely impact low income or minority group with the CN & USS transaction. The DEIS used 8 year old data and I personally gave the link to this University Study in my letter in January 2008. This was a federally funded study and has over come some of the issues about gaining access to this important community. Did HDR or the STB use any of the same technics to find and discuss the DEIS. Since some of this community may have issues with the Migration Laws they may not be eager to engage with a U.S. Agency.

The Latino community would be key beneficiary in Elgin, West Chicago and Joliet

for the Metra STAR light rail service and may impact their access to well paying positions. The Latino community actively works today in the Food and Service Industry and access to the expanded O'hare Airport will be an ongoing source of employment.

This report shows a population growth rate higher than China on a per family basis. Is it true social justice to give preference to a new jobs in China over new jobs in the U.S.A.? NO!

The DEIS has not completed the Social Justice requirement. Since the STB is part of the Executive Branch it appears that adherence to a Presidential Order would be of top priority.

The University of Norte Dame Institute for Latino Studies has completed a study of the Changing Face of Chicagoland Communities. **The finding is half of Chicagoland Latinos live outside of the City of Chicago.**

http://www.nd.edu/%7Echifacts/chi_comm.html.

As documented by Anthony Chan, Asian Sovereign Strategist, Global Economic Research for the Bernstein Journal's (Summer 2008 Volume VI, Number 1) China: The impact of domestic policy on the future of Global Trade.

https://www.bernstein.com/CmsObjectPC/pdfs/B50311_ChinaPolicyCrossroads.pdf

"In 1997 Chinese finished-goods exports averaged US\$10B per month. In 2007, the figure was close to US\$80B - an eightfold increase. Imports of raw materials have grown nearly sevenfold during the same period, from US\$3B per month to US\$20B. With a current population of 1.3B the United Nations has projected China will add 69 Million net new non agrarian jobs by 2018. These new workers have been born and will be entering the work force. From 1996 to 2006 11 million rural inhabitants per year have moved into the cities for a total of 122 Million. The rural population is still 55% of the total population. The projection by the UN is that 15M rural workers will move to the cities."

"In the next 10 years China needs to create 69 million net new jobs just to support it's working-age population. Therefore, China must - and will- expand its industrial capacity at all costs"

To Recap:

If CN gains control of the "J" they will be automatically entitled to use the provision to reinstall previously installed double tracks along the 198 ROW. CN will be able to proceed at will. The capacity of the "J" will then exceed 200 trains plus per day without limit to length other than the physics available with the number of locomotives pulling the trains. The previously removed tracks & trains have damaged the soil and the FRA regulations allow an operator to return to a previous number of tracks.

The further triangulation of data from COSCO web site details their schedule from Shanghai to the Port of Prince Rupert provides the statistics that support the cargo volumes. Since CN is the exclusive railroad carrier from PRR it is clear that the area being evaluated by the DEIS will be effected by these trains.

The current option of utilization of the CN rights to lease EJ&E tracks appears to be the only available choice. A denial by the STB of the CN purchase will provide the optimum general economic advantages to the citizen's of the United States.

Thank you

Respectfully

A handwritten signature in cursive script that reads "Richard D. Burkhart".

Richard D. Burkhart

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ATTACHMENT TO DCN 11424 (AUG 27 2008)

THE FOLLOWING ATTACHMENT (JAN 28 2008)

IS FROM POST-SCOPING COMMENT

DOCUMENT 01914 ; EI 4667



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January 28, 2008

The Honorable Anne K. Quinlan, Esq

Acting Secretary

Surface Transportation Board

395 E Street, S.W.

Washington, D C. 20423-0001

Subject: STB Docket No, FD-35097-0

Canadian National Railway Co , et at - Control - EJ&E

West Company. STB Finance Docket No FD-35087-0

cc: Attention: Phillis Johnson-Ball Environmental Filing

Dear Acting Secretary Quinlan and Phillis Johnson-Ball

My firm has reviewed the transportation impacts of the proposal by Canadian National Railway Company (CN) to acquire control over the EJ&E West Company, and have concluded that this transaction will cause irreparable damage to the environment. An initial change of routing of 26.2% of all the current Chicago hub rail traffic to the EJ&JW is far from being a minor event to the current environment. The

traffic projected is 10,000 trains per year on top of the current 2,555 operated by the EJ&E. This is a Class II system which was created to support US Steel during WWII and was never planned by the communities adjacent to become a Class I railroad owned by foreign interest. The past projection for traffic was about 80% increase by 2020 for about 20,000 trains per year. Based on CN own information their plans to redirect Asian intermodal from the US Port will clearly dramatically increase the past 80% projected increases over the next decade. Perhaps 2X increase over the current projections. Thus the EJ&EW traffic could actually be 18,555 per year if the current EJ&E had zero growth which does not match their current growth.

The EIS is not a minor event but rather a major event. The best and highest use of the EJ&E right of way is to not allow the CN transaction to occur. Please give your utmost consideration to reclassify STB Docket No. FD-35097-0 as a MAJOR EIS event.

The STB's clear objectives, as stated in your Final Report 2008, must be ensuring that mobility is enhanced for minority and lower income communities, and benefits of transportation policies are distributed equitably among all the Nation's citizens.

(1994 Presidential Executive Order directed every environmental justice include the

minority populations and low income populations.) The University of Notre Dame has studied the Chicago Megaregion and has found that the immigration destination is in fact some of the same communities along the EJ&E 198 mile route. Waukegan, Elgin, West Chicago, Aurora, and Joliet from 1990 to 2008 all have seen 3 digit growth in minority and low income populations according to the Chicago Area Facts link (see below).

The University of Norte Dame Institute for Latino Studies has completed a study of the Changing Face of Chicagoland Communities. The finding is half of Chicagoland Latinos live outside of the City of Chicago.
http://www.nd.edu/%7Echifacts/chi_comm.html

Due to the fact that all of the CN data is based on averages it clouds the fact that the retail sales merchandise for WalMart and other China and Asian importers tend to have a seasonality bent toward the last 4 months of the year late August thru early December.

<http://investor.walmartstores.com/phoenix.zhtml?c=112761&p=irol-irhome>

Based on the annual numbers of CN and other public reports greater than 60% flows with in those seasonally high months. This projects that during those 120 days 83 trains will operate on average on the EJ&EW lines on top of current 7 for a total of 90 trains per day if each of the days of week are equal which based on the arrival of the ships is not likely. The option will be to extend the length of the trains from 50 to 100 cars in length to keep the number of trains consistent with their projections. (CN conveniently does not mention seasonality, double or triple stacking or length of

the planned trains). They are measured by their customer by the elapsed shipping time from Asia to the customer's door. WalMart, Home Depot, and other Big Box Retailers are constantly trying to improve the Supply Chain cost without any apparent concern for the environmental impact.

The unintended consequences of NAFTA which opened CN rights to the USA did not include in the legislation the environmental impact of changing the intermodal routing via Canada.

The second unintended consequence of CN's plan will negatively impact the United States Harbor Maintenance Trust Fund. This impacts Chicago since the Corp of Engineers maintain the St. Lawrence and Lake Michigan Ports, etc. By diverting import traffic via the CN routes the USA General Revenue Fund forever loses this source of taxation for our citizen's benefits. This will hurt the Mayor of Chicago and the citizens of the Great Lakes with higher taxes only to benefit WalMart and other influential importers.

As reported in the STB Final 2008 Report:

"The Federal Government participates in the cost of port feasibility studies, construction, and operating and maintenance (O&M) expenses. The maximum Federal share for harbor navigation projects varies depending on the size of the harbor, ranging from 80 percent for harbors less than 20 feet to 40 percent for harbors greater than

45 feet. These funds come from general revenues. The Federal Government pays 100 percent of O&M costs for harbors less than or equal to 45 feet in depth and 50 percent of the cost for deeper harbors. The O&M costs come from the Harbor Maintenance Trust Fund, which receives proceeds from a 0.125 percent ad valorem tax on commercial port users collected by U.S. Customs.”

What is the economic impact to the US Taxpayer as a result this CN transaction?

The Prince Rupert Port current has the capacity of 500,000 TEU's and has announced expansion to 2,000,000 TEU's and 1,000,000 TEU's; **Halifax** The prime destination is CN's new Memphis, TN with a plan to handle 4,000,000 TEU's (annually) for overnight transport to 60% of the US Residents via 321 Trucking Companies. The new primary origin of is China and India for Rupert and Halifax according to CN. CN is promoting better, cheaper, faster than any USA alternatives to Mid America.

Homeland Security environmental issues.

“In a study of all types of incidents between 1990 and 2003, the U.S. Nuclear Regulatory Commission estimated that

a large-scale evacuation of at least 1,000 people occurred every three weeks.” STB 2008 Report.

“In 1975, rail-related fatalities totaled 1,492 nationally. That number had declined to 892 fatalities by 2005. About 97 percent of these deaths were at grade crossings or related to trespassing on railroad tracks. Trespassing is a major problem for the railroad industry and the Nation as a whole, accounting for two-thirds of all rail-related fatalities. Greater steps must be taken to limit access to railroad tracks and discourage trespassers from entering railroad facilities.” STB 2008 Report.

The facts are the Chicago Train Hub Safety Corridor is in place. With the CREATE plan to create the new “fly overs” the entire national rail network will see improved productivity based on the expert studies done over the years regarding the environmental impacts.

The fact is CN has made some claims that are not documented. The transit time they have stated is 12 hours via the EJ&EW. A total distance of 198 miles makes up the route. The claim that the average speed will be 45 mph for the train which will allow the train to clear the road intersections faster. The math works out to be about 5 hours at 45 miles if the entire distance were traveled. Since the end points are not part of the ARC it would be closer to 4 hours to travel 175 miles. The CN website shows that the average speed is much closer to 25 mph the transit time would be

about 7 hours. The average speed would be really 14.5 mph. The alternative distance from Rondout, IL to the St. Charles Airline is 60 miles.

The CN management at the STB meetings stated that the Chicago route takes 72 hours and the EJ&EW route would take 12 hours. The lack of real data is a key concern and the knowledge of what the alternative time via the CREATE alternative would be key to knowing the full environmental impact of the two routes. The data suggest that taking 72 hours to travel no more than 72 miles is equal to an average speed of 1 mph. The CREATE plan clearly identifies their computer projections indicate average freight train speed through the Chicago area would increase by about a third if all of the CREATE improvements are constructed. This would reduce freight train delays, along with the potential for interference with passenger schedules, and increase the throughput capacity of the network, thus opening additional slots that could be used by new high-speed train.

The environmental impact study of the cumulative effect of adding High Speed Intra City between MegaRegion is clearly beneficial to the U. S. Citizens.

The multiplier effects of these trade flows and services result in approximately 5 million jobs, \$782 billion in output, and \$217 billion in wages nationwide³. The traffic handled by the CREATE corridors accounts for about \$10 billion (29 percent) of the revenues earned by U.S.

Class I freight railroads. The enormous magnitude of the Chicago region's activity means that even very small percentage improvements in efficiency can produce very large public benefits. CREATE website.

The CREATE plan will open capacity for High Speed Trains which will reduce the fuel usage for SOV and aircraft moving those business travelers, tourist and military.

The environmental impact of focusing on two key programs is recommended to meet the common good of the U.S. Citizens and Residents.

The goal to separate passenger traffic from freight has proven by many countries with more advanced Surface Transportation to be the safest, cleanest, and more economical.

The Regional Airport of Milwaukee, Gary, Peotone and Chicago's O'Hare and Midway need public transportation according to the Metra STAR study. The fact that the EJ&E passes to the North of the new Abraham Lincoln National Airport should not be overlooked. The Mega-Region employment has been developing along the EJ&E ARC and if the STB's population growth projections of 125 M are solid then the Chi-

cago MegaRegion with the attraction of the immigrants to this area we would project significant increases in the area's population. The advantage of the access to Lake Michigan water is clearly going to be a factor as well to attract future residents.

By taking a short term view of the CN purchase of the EJ&EW the potential use for local residents is blocked for minimal congested usage of that trackage for the dedicated Star service and other high speed passenger service options that may be forthcoming. A safety corridor is necessary for either alternative.

A mitigation for the CN approval must be creation of an absolute Safety Corridor with the implementation of the state of the art safety and communication systems. The price tag for the change of grade is likely to be a minimum equal to the \$400M CN is planning on expending with a strong probability that it will be closer to \$ 1B for a true MegaRegion Safe Passage System.

While Chicago has included in the CREATE plan the Critical Crossing intersections the crossing along the EJ&EW must be a concern with any mitigation plan. Those Chicago Critical Crossing are enhancement to

the existing capital spending that has occurred over the years with state of the art improvements.

A change of grade plan for crossing of the UP and the EJ&EW for the 8 Barrington crossing include few options. Constructing an underpass for the CN would require a very long decline thru residential communities. The depth of the underpass with the planned double stacked TEU's would require a minimal depth of some 40+ feet or equal to a 4 story building. The fact that the UP intersect the EJ&EW is another factor that must be mitigated. The grandfather status of the EJ&EW would dictate that the UP freight trains will have to be granted permission from the CN to proceed. The option of a flyover is of course an option.

Does it make sense to give CN more of an advantage over UP in elapsed transit time benefits? The role of the United States STB is to consider the environmental impact to U.S. Corporations as well.

The noise and vibrations of the intermodal trains compared to the Metra Star light rail electric alternative also seems to be a key environmental issues. A shared trackage with peak season CN trains (at least 100 per day within 2 decades or less competing with a STAR commuter line to

the Lincoln National Airport appears to be what is being offered without any force of law that when a conflict occurs the Metra interest are not protected.

The public safety issues of Trespass Accidents based on the available statistics is another area that no mitigation appears to be available. The alternative Chicago CREATE option already has in place the trespass issues resolved with fences and CN police headquarter in Chicago. Policing the 198 mile of trackage is another cost to be borne by CN.

The probability of accident is elevated with the dramatic change of traffic on the existing trackage. Deer and Horses are highly probable of causes of a derailment in along this route compared to the Chicago CREATE alternative.

The UPS Distribution Center in Palatine, will have during the same higher seasonal period that CN will have extra truck on the road which even today have become problems for the local gridlock. At 9 AM a steady stream of Brown Delivery Cars depart many cross the EJ&EW tracks. The recent CN and UPS truck accident is an real life example of how a highly trained professional driver can be killed by a CN train. The

immigrant driver with less experience with driving near trains is of course a concern along with all drivers in the community.

The accidents that will occur will demand the services of the local communities that are near the EJ&EW. Many have volunteer fire companies and limited stations and equipment. The nature of a Car/Truck & CN train wreck required much more advanced training with Chemical and Hazardous material that is normally not in the community today.

Chicago has in place due the historical connection with the trains the skills, experience, staffing, location of firehouse and staffing to meet this environment.

The CN mitigation would involve replication of those assets along the EJ&EW.

The fact that CN has held back certain confidential information it is important to bring the issue of the planned transportation of the radioactive waste from the closed Zion Nuclear Plant to Nevada or other designated sites. Clearly CN does specify that one of the 3 main reason for approval is to support the local Electric Utility Company. Since no local coal

generating plants exist the only logical support would be to move this extremely controversial waste via the proposed EJ&EW route. Clearly the Chicago Mayor wishes to shunt this beyond his jurisdiction.

The fact that Mayor Daley lives just two blocks from the St. Charles Air Line make one wonder if he has other hidden reasons for supporting CN's position. The recent Sunday Evening April 1st bulldozing of Meigs Field is not a distant memory. The FAA was never advised and many laws were broken. Again, Mayor Daley home was mere blocks away. In his letter he acknowledges that CN must mitigate the community concerns along the EJ&EW.

He is one of many Mayors around the World that MAY win the bid for the 16 day 2016 Olympics. Nothing is guaranteed that Chicago will earned the bragging rights for the City of Chicago. There of course is the chance that Mr. Daley will no longer be the Mayor.

The environmental impact is clearly acknowledge by one and all. The impact to the environment with School Children not being able to reach their schools or reach their homes is one concern that does not appear to have any possible way of mitigation.

The full impact of the IDOT road work that is currently planned will compound the gridlock for the Barrington Area for one or more years. The construction of EJ&EW safety corridor mitigation will take multiple years and influence detours and local community disruptions and economic damage that can not be mitigated.

The Life Safety Impact to Good Shepard Hospital (Trauma Designation) impact will be felt by those involved with CN accidents and derailments. It would be a key indicator of the CN management skills and experience to have them have at a minimum 1 year without a derailment or major accident caused by not managing their currently owned trackage.

The Good Shepard Hospital must have 30 minutes or less access to retain their Trauma status. The quality of the care is therefore a factor that does not have a mitigation alternative. Many of the suburban hospital are in similar situations. The historic traffic pattern of a hub and spoke has been the environment which all traffic planning for decade have been predicated upon. A huge change would occur should CN approval go forward.

The CN CEO advertised that the local community could get their flat screen TV faster because of his purchase from U.S. Steel of the "J". A purchase made 2 days latter is not a logical trade off for all the environmental damage and impacts. A purchase like this is typically done once a decade - it may be worth something to WalMart to demand speed from their vendors but it more likely the shareholders will benefit vs the customers or the people adversely impacted.

The impact to the Great Lake Port and the East and West Coast Ports are all important to our National Security. By enabling CN to divert tax dollars from our Ports will increase our Federal Taxes since the Ad Valorem tax is included in the General Treasury Funds. The Supreme Court validated that the importation of good is constitutional - CN is enabling the importer to AVOID this important tax. The impact is that the remaining importers going via our US Port will shoulder a greater tax rate due to the approximate 4M TEU worth of intermodal taxes going via CN to Memphis for example.

The size of the train is another mitigation requirement. A length of 25 unit train should be a grandfathered requirement to gain approval with a

single TEU limit which would permit a restricted change of grade impact for the Safety Corridor.

The use of Electric Switching Locomotives will mitigate the environmental impact of the diesel engines. Check www.ge.com for example of low impact locomotives alternatives.

The fact that so many commuter lines are bisected CN must agree to having the lowest priority for any intersection with current Railroads.

The economic cost of decreased home values due to this CN purchase is perhaps the most devastating to the children of the community. The fact that the Norte Dame has found that the Latino Immigrants value education and have chosen to move to locations with adequate schools for their children and their futures in the US.

Since the property values and local taxes support the CUSD 220 district for example the quality of the education will be adversely impact due to lower taxes being collected based on the EVA. This along with the increased cost for busing will directly impact the operating cost for many of the school districts. Teachers will be delayed for school and may

elect not to participate in optional coaching or leadership in many other after school functions due to the CN impact on their commute.

The fact that the Chicago CREATE can by their own study improve by one third the transit time with a \$1.5B capital investment it would appear that the economic reality for CN that the cost estimate for purchase of the EJ&EW is not a wise choice. It may be an superior alternative to use some of the One Billion Dollars plus that will necessary to mitigate that environmental impact of the proposed purchase.

The City of Chicago is going to spend some money to compensate CN for the exchange of the St. Charles Airline right of way. The local interest of Chicago are not any more important than the MegaRegion's interest. The fact that local developers have a desire to develop a new part of Chicago is what must be factored against the total population environmental impact.

The Olympics may easily be held in another country. The STB's EIS is the hope of the Mega Region's prayers for attainment of the full potential applied equally and fairly to one an all U.S. Residents. Giving CN this

advantage over U.S. Corporations and at the expense of taxes not being collected is truly the crux of this process.

The Department of Homeland Security must be part of this EIS since it is unclear how the CN police force in Prince Rupert will be able to thwart illegal immigrants, coming from Asia hiding in Intermodal TEU's onboard China flagged vessels. The movement of a dirty bomb into our Mega-Region and setting it off on the EJ&EW is clearly a threat to the entire population.

The recent U. S. Naval conflict in Hong Kong with the Kitty Hawk being refused to come in for planned holiday leave and the tracking of the KH back to Japan with the Chinese Sub is clearly a sign and warning that we must stay alert to our Home Land and to protect and defend it.

http://www.navytimes.com/news/2008/01/kyo_china_080115/

The CN Two Tier Intermodal Train cars will create a virtual ARC blocking the hundreds of major intersections, which very few are grade separated today. Approval of FD-35087-0 create one of the USA's Un-Safest train corridors (the current grade separations already in place in Chicago). The type of crossing and types of warning devices at public at grade crossings must be included in the actual costs. These capital expenses and the time it would take to fully duplicate the alternative path is judge to not be a sound economic choice. At \$10M average for the top priority grade separations would amount to \$800M. The CN plans call for improvement to the EJ&EW for operational improvement of \$100M. IDOT in their 2008 budget has a total of \$2M for Railroad Safety improvements. They are the responsible party for protecting trespass onto the CN right of way.

The Midwest High Speed Rail Association is advocating for fast, frequent and dependable trains linking the entire Midwest. <http://www.midwesthsr.org/promote.htm>

The cumulative impact of this proposal does create Grid Lock for our MegaRegion and the excellent planning done by IDOT, CREATE, FAA, Home Land Security and

the EPA all have to be evaluated as part of this EIS. The fact that Lake Michigan precludes a population evacuation via the current transportation spokes from the Chicago Hub is the most pressing issue.

The STB's clear objectives, as stated in your Final Report 2008, must be ensuring that mobility is enhanced for minority and lower income communities, and benefits of transportation policies are distributed equitably among all the Nation's citizens.

(1994 Presidential Executive Order directed every environmental justice include the minority populations and low income populations.) The University of Notre Dame has studied the Chicago Megaregion and has found that the immigration destination is in fact the communities along the EJ&E 198 mile route. Waukegan, Elgin, West Chicago, Aurora, and Joliet from 1990 to 2008 seen 3 digit growth in minority and low income populations.

The University of Norte Dame Institute for Latino Studies has completed a study of the Changing Face of Chicagoland Communities. The finding is half of Chicagoland Latinos live outside of the City of Chicago.
http://www.nd.edu/%7Echifacts/chi_comm.html

The Mayor of Chicago correctly states that congested rail corridors exists. The St. Charles Air Line is a key railroad link that starts at approximately 1600 South and the Chicago River. It proceeds east for seven-tenths of a mile, terminating at Michigan Avenue, where it curves south under McCormick Place and joins another CN line.

The historical hub and spoke network for Chicago has 2,796 miles of existing rail network encompassing 16,000 acres. Currently 37,500 average rail cars travel thru the Chicago hub each year with this number expected to increase to 67,000 an 80% increase.

The CREATE plan is most likely the optimum solution by keeping the freight and commuter traffic separated. The trade off by CN in spending \$400M to shift their traffic to the EJ&EW will be partially if fully funded by the income from selling the St. Charles Air Line to the City of Chicago or investors. The economic value of the property is not an equitable proposition for the entire MegaRegion of Northern Illinois, Southern Wisconsin, and Northwestern Indiana.

The continued priority for developing CREATE is not inconsistent with the Mayor's goal to potentially attract the 2016 Olympics.

The trade off of seven - tenths of mile for all the environmental damage does not meet the standard of meeting the MegaRegion's needs.

The STB 2008 Report states:

"The effects of congestion are worst in the Nation's largest communities. In the 14 largest urban areas, annual delay rose from 21 hours per peak-period traveler in 1982 to 54 hours in 2005. Gridlock, however, is no longer just a "big city problem." The average traveler in an urban community, regardless of size, wasted 38 hours stuck in traffic in 2005, compared to 14 hours in 1982. This means that motorists in metropolitan regions are wasting the equivalent of an entire workweek stuck in traffic. Americans in mid-sized communities are dealing with congestion that was once limited to the largest regions, and those in the largest communities are suffering through traffic jams that would have been unimaginable to many commuters a generation ago."

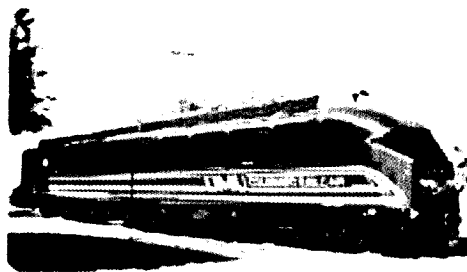
"The Regional Plan Association convened the National Committee for America 2050, which examined the growth of "megaregions" that will contain more than 70 percent of the Nation's growth by mid-century"

According to the 2007 Urban Mobility Report, drivers in metropolitan areas in 2005 experienced 4.2 billion hours of delay, enough for 105 million weeks of vacation. Americans in these areas wasted 2.9 billion gallons of fuel, enough to fill 58 super-tankers. The combined "congestion cost" was a staggering \$78 billion

- Make it possible for the City of Chicago to realize its goal of seeing CN trains vacate the St. Charles Air Line more quickly, under CREATE's Central Corridor scenario so that redevelopment plans for the area may progress, including the site's use in connection with the City's bid for the 2016 Olympic Games. The St. Charles Air Line is a key railroad link that starts at approximately 1600 South and the Chicago River. It proceeds east for seven-tenths of a mile, terminating at Michigan Avenue, where it curves south under McCormick Place and joins another CN line. This area has been targeted for significant redevelopment.

The Metra Star Project has been planned with the Council of Mayors and other Planning organization that have fully incorporated the cumulative impact of this new commuter service. The primary user of the EJ&E would be the Metra Star and the current US Steel traffic. The use of DMU's as pictured below is one of the choices presented by Metra.

Metra Star DMU's are used for commuter service between Chicago and the surrounding area. The use of DMU's is one of the choices presented by Metra.



Hopefully the EIS review will take these key factor into consideration. Our group has taken the effort to complete alert you to example of each of the factors you are charged with evaluating the impacts.

A SIXTEEN DAY event in 2016 and a seven tenth of mile RR line appear to be an example of a short sighted plan to do non compensable damage to the United State, The MegaRegion and to Chicago itself. The Harbor Trust Fund tax implications is perhaps one area all can agree is key.

CN is of course allowed to twist the legal system and benefit their shareholder and a select few influential shipping customers. A level playing field in America is NOT to much to expect and demand.

CN and the City of Chicago along with US Steel seem to have the view of entitlement to do whatever they choose and to ignore the rest of the World. US Steel has of course recently gained approval to dump toxic waste into Lake Michigan and our drinking water supply for the MegaRegion so it does not surprise anyone they have little concern for the Environmental Impact of the sale of the EJ&E.

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.

Thank you for holding the public meeting in the MegaRegion and thank you in advance for completing the EIS to meet the needs of all concerned.

The request to raise this to a Major Study from a Minor Study is of course very important and I hope we have given you and your team additional information to base this change of status upon.

Respectfully,

R. D. Burkhart

CEO and Founder
i-Fi Personal Broadband, LLC.