



Surface Transportation Board
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings
September 16, 2022
Part of
Public Record

MEMORANDUM

TO: Cynthia T. Brown, Chief, Section of Administration, Office of Proceedings

FROM: Martin J. Oberman, Chairman

RE: Ex Parte Communication Related to Docket No. FD 36500

DATE: September 15, 2022

On September 14, 2022, I received a letter from the Iowa Mississippi River Parkway Commission expressing views regarding the application by Canadian Pacific Railway Limited (Canadian Pacific) to purchase Kansas City Southern and its railroad affiliates (KCS). I have enclosed a copy of the letter to this memorandum. Because Canadian Pacific filed a notice of intent to file an application to acquire KCS on March 23, 2021, and an application to acquire KCS on October 29, 2021, in Docket No. FD 36500, this communication is a prohibited ex parte communication pursuant to the Board's decision in Petition of Fieldston Co., Inc. to Establish Procedures Regarding Ex Parte Communication in Railroad Merger Proceedings, Docket No. EP 619 (STB served Jan. 8, 1997). Please place this memo and the enclosed material in the public docket of Docket No. FD 36500.



Iowa Mississippi River Parkway Commission

Explore Iowa's Great River Road



Jim Janett
Allamakee County

Roger Thomas
Clayton County

Jared McGovern
Dubuque County

Paula Mayer
Jackson County

Leslie Webster
Clinton County

Ann Geiger, Secretary
Scott County

Paul Carroll, Treasurer
Muscatine County

Katherine Hammond
Louisa County

Lisa Walsh, Vice Chair
Des Moines County

Martin Graber, Chair
Lee County

Chairman Mr. Martin J. Oberman
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Dear Chairman Oberman,

The Iowa Commission of the Mississippi River Parkway Commission opposes the merger of the Canadian Pacific-Kansas City Southern railways on behalf of the Great River Road (GRR) in Iowa. If approved, this merger would add an additional 15 trains, ranging from one to two miles long and filled with bituminous crude oil, every day near the Great River Road.

The Mississippi River Parkway Planning Commission was formed in 1938 to develop plans for what was to become the Great River Road. It was to manage the Great River Road and provide education regarding the environment and history of the region. Secretary of the Interior Harold Ickes urged the governors of the 10 states along the Mississippi River to form what became the Mississippi River Parkway Commission at the behest of Joe Young, of Bellevue, Iowa. The governors of each of the states bordering the river signed the documents along with President Franklin D. Roosevelt. Each state manages its own portion of the parkway and in addition, the Iowa portion is designated as an Iowa Byway, a National Byway, and an All-American Road.

Iowa has 18 interpretive centers which provide history of the state and the Mississippi River and educate the public and provide access to the river and its ecosystems. In many locations, the railway runs less than 100 feet from the GRR and our interpretive centers.

On June 13, the Canadian Pacific railroad derailed and dumped five cars of coal into the Mississippi River near Lansing, Iowa. Originally the railroad said it was one car, but it was later found to be five.

Nahant Marsh, one of our interpretive centers, is a 305-acre preserve nestled in southwest Davenport. It is part of a 513-acre wetland complex that is bordered by the Mississippi River, Interstate 280, and Highway 22. During the pandemic, the manager of Nahant Marsh was notified by the Davenport Fire Department there was a used fuel oil spill from a Canadian Pacific train. It dumped into the marsh, down the road, and into the Mississippi River. The railroad did not notify him – it scooped out the marsh bottom, added soil without asking what type was appropriate, and trespassed on private property without notice. Nahant Marsh is part of Eastern Iowa Community college which educates approximately 23,000 students each year and has about 30,000 visitors.

The Canadian Pacific railroad has a very high incidence of derailments both in Canada and the U.S. Two years ago, a train derailed in LeClaire, Iowa in front of one of Iowa's interpretive centers, the Buffalo Bill Museum, making it unavailable to the public for some weeks. Both the Buffalo Bill Museum and the Sawmill Museum (Clinton, Iowa) are less than 100 feet from the railroad tracks, as are many homes and business which have settled along the GRR to enjoy the Mississippi River.

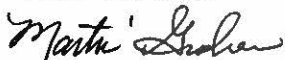
The National Transportation Safety Board noted shipments of crude oil by rail have risen by more than 400% since 2005, according to the Association of American Railroad's Annual Report of Hazardous Materials. Crude oil is considered a hazardous material. If inhaled, it can cause dizziness and its vapors can irritate eyes. Oil spilled in the Mississippi River, according to the Iowa Environmental Commission, will drop to the bottom and be almost impossible to remove. Oil spilled on land may also contaminate groundwater aquifers. Spilled oil can impair or destroy fish and wildlife habitat immediately and have a long-term effect on a larger area.

The federal government predicts that trains hauling crude oil or ethanol will derail an average of **10 times a year** over the next two decades, causing more than \$4 billion in damage and possibly killing hundreds of people if an accident happens in a densely populated area.

The 1990 Clean Air Act, Title IV – Noise Pollution shows the railroad clearly is in violation of this act. *The traditional definition of noise is "unwanted or disturbing sound."* Sound becomes unwanted when it either interferes with normal activities such as sleeping, conversation, or disrupts or diminishes one's quality of life. The train horns resonate at 120db (rock-concert level), and the wheels at 85db with 65db being the safe level for humans on an ongoing basis. Noise pollution adversely affects the lives of millions of people. Studies have shown that there are direct links between noise and health. Problems related to noise include stress-related illnesses, high blood pressure, speech interference, hearing loss, sleep disruption, and lost productivity. Noise-induced hearing loss is the most common and often discussed health effect, but research has shown that exposure to constant noise promises a lower overall quality of life in several ways.

In closing, the Iowa Mississippi Parkway Commission asks this merger be denied to protect citizens and businesses, as well as the Mississippi River, along the Great River Road.

Yours very truly,


Martin Graber, Chair