



The following comment is adapted from remarks made on behalf of Commissioner Rodney Ellis during a virtual Environmental Impact hearing held on September 19th, 2022.

Harris County Commissioners Court, a five-member body that represents nearly 4.7 million people in and surrounding Houston, Texas recently passed a resolution (attached as an appendix) affirming our commitment to seeking equitable and proportional mitigation should the board approve this merger.

General Complaints about EIS process

Before getting into specifics of the draft Environmental Impact Statement (EIS), I want to unpack the quality of the community engagement process. On three occasions my office requested, in writing, a site visit or public hearing in Harris County so that Surface Transportation Board staff and board members could understand the impacts of the merger on our 4.68 million residents. My office did not receive a formal response and a visit was only arranged after my appearance before the board at a hearing on the transportation merits of the merger.

Black residents of Harris County, Texas have born a unique and terrible burden of pollution and contamination from freight corporations and while I appreciate the board moving the only public hearing in Texas from Vidor, a sundown town, to Beaumont, the 180-mile round trip from Houston on a weekday evening was simply not realistic or accessible for my constituents and can hardly be called “the fair treatment and meaningful involvement”.

Insufficient Standards

The standards set forth in 49 CFR 1105.7e are inadequate and inconsistent with the current administration’s stated commitment to environmental justice. These standards diminish our confidence in the conclusions reached in the draft EIS.

Like many others, we disagree with the conclusion that noise will be the primary environmental impact. Harris County is home to many federally designated environmental justice communities, however, because of the conclusion that noise is the primary impact the full effect of the proposed merger on the American’s third largest county is not accounted for in the draft EIS.

Crude Oil Spill Risk

Canadian Pacific has had four derailments this year alone. A single railcar can carry up to 27,000 gallons of crude oil. **I am particularly concerned about the potential for a spill of crude oil extracted from tar sands which is widely regarded to be the most difficult oil to clean up.** A derailment of a Kansas City Southern train several years ago resulted in a weeks-long cleanup of corn, which was delayed due to difficulty contacting Kansas City Southern operators. **The results of a derailment in Harris County would not be negligible, minor, and/or temporary.**



Cumulative Impacts on Air Quality

The increase in freight traffic associated with the proposed merger will result in increased emissions that must be considered cumulatively and mitigated wherever possible. Through litigation and other interventions our region has fought to improve its air quality, however **Harris County is remains in non-attainment for clean air standards due to ozone levels. Our attainment status has been revised downward to Severe during the course of this comment period, and a similar change in status related to PM2.5 may be forthcoming. This change in nonattainment status is a material change in circumstances which the OEA relied on that warrants the development of a supplemental Environmental Impact Statement.**

Stalled Trains

There are 897 at-grade crossings in Harris County, many of them in poor condition. Already daily commutes, essential public services like waste removal and emergency response are complicated – sometimes for hours – by stopped trains.

At one location in my Precinct where children already climb between stalled railcars to make their way home from school, the number of trains crossing through a residential area will increase to 51 a day if this merger is approved. At another location a little over a mile away, fire trucks have had to reroute three times in the last month at a critical crossing because of a stalled train. **Over the last three years, the City of Houston has recorded over 3,000 such delays and re-routes of emergency vehicles – the inability to conduct emergency response constitutes a serious threat to public health. Disappointingly, the applicants have not voluntarily suggested any capital improvements projects to reduce these delays and reroutes.**

Traffic Levels

Throughout the consideration of this merger concerns have been raised about the capacity of the freight rail network in the Harris County region to accommodate an increase in traffic. Without a capacity study to consider alongside the projections submitted to the board it is difficult to determine the reasonableness of various mitigation efforts. **I urge the board to 1) require the merging entities to jointly commission an engineering study to identify needed infrastructure improvements to alleviate regional congestion as part of a supplemental EIS and 2) mandate that no additional trains should be introduced into Houston system until study recommendations are acted upon and financed by the rails.**



Closing

A supplemental EIS is necessary to fully account for and develop a proportional and equitable mitigation plan around the impacts of the proposed merger on Harris County environmental justice communities. The complexity of possible mitigation (multi-party negotiation, track ownership in the Houston complex etc.) cannot be considered an appropriate reason not to study, mandate, and develop meaningful mitigation across this proposed merger's many impacts.

A handwritten signature in black ink that reads "Rodney Ellis". The signature is fluid and cursive.

Commissioner Rodney Ellis
Harris County Precinct 1



RESOLUTION

WHEREAS the proposed merger of two freight corporations, Canadian Pacific and Kansas City Southern has the potential for major impacts on the air quality, chemical security, climate resilience, and mobility of residents of Harris County, Texas; and

WHEREAS the merger is anticipated to bring an additional eight trains through Harris County daily, adding 31.5 tons of nitrogen oxide emissions to our air annually; and

WHEREAS, these trains, in addition to polluting our air, will also carry hazardous materials associated with the extraction of tar sands through our region; and

WHEREAS, Harris County is one of only two non-attainment areas for clean air along the pathway of the proposed merger; and

WHEREAS, the federal officials considering the merger have declined a site visit to Harris County to understand the impacts of the proposed merger despite Harris County being the largest population center; and

WHEREAS the draft Environmental Impact Statement analyzing the impacts of the proposed merger does not include Harris County in its Environmental Justice analysis, despite the presence of several environmental justice communities in our county; and

THEREFORE, BE IT RESOLVED that Harris County Commissioners Court hereby calls for appropriate consideration by the Surface Transportation Board in assessing the environmental impacts and transportation merits of the proposed merger on its population of 4.681 million residents.

BE IT FURTHER RESOLVED Harris County specifically requests proportional and equitable mitigation should the merger of Kansas City Southern and Canadian Pacific move be approved by the federal government.

It is hereby ordered that this resolution be **ADOPTED** on this **13th day of September 2022** by Harris County Commissioners Court, Harris County, Texas.