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

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Dear Chairman Oberman,

I write to express my serious concerns about the draft Environmental Impact Statement (EIS) regarding the proposed merger between Canadian Pacific (CP) and Kansas City Southern (KCS) railroads. The largest metropolitan area in the country affected by this merger will be the Chicago area, and the area of Chicagoland most affected by the merger will be the towns and cities on the Milwaukee District West (MDW) line, running from Bensenville to Elgin, Illinois. These towns and villages comprising hundreds of thousands of people lie almost entirely within my congressional district (IL-08); therefore, I write to express, in part, the urgent and significant concerns of perhaps the biggest concentration of people anywhere in the country affected by this merger. I respectfully submit that unless and until these concerns are addressed, this merger should not go forward as currently proposed.

This merger, if approved, would *at a minimum* quadruple freight train traffic along the MDW line—from three to eleven freight trains.¹ Multiple stakeholders—including Metra, Canadian National, and the Coalition to Stop CPKC—have heavily disputed CP's train count projections and believe that the merger would actually increase freight traffic from three to eighteen daily trains.² These dramatic increases in freight traffic would have a significant impact on one of the most important transportation hubs in the country, and therefore it is of the utmost importance that the Surface Transportation Board (STB) work to ensure that the conclusions made in an EIS related to this merger are as accurate and thorough as possible.

However, the draft EIS, as written, does not adequately address the concerns that local residents, emergency response teams, Metra, and state elected officials have raised regarding the proposed merger's impacts on noise, emergency response time, commuter rail operations, the environment, and pedestrian safety in these communities. In addition, the draft EIS does not consider the accuracy of the data upon which it is based. Without a comprehensive analysis of

¹ Surface Transportation Board (STB) Office of Environmental Analysis (OEA), *Canadian Pacific Acquisition of Kansas City Southern: Draft Environmental Impact Statement*, August 5, 2022, Chapter 3: Freight and Passenger Rail Safety, Page 3.1-33.

² Coalition to Stop CPKC STB filing, June 9, 2022, Page 8.; Metra STB filing, March 15, 2022, Page 62.; Canadian National STB filing, September 6, 2022, Page 4.

CP's projections and their impact on the livelihoods and quality of life of our communities, the Board risks overlooking serious adverse impacts on these communities and necessary mitigation measures to address these impacts.

For these reasons, and the reasons outlined below, I respectfully request that the STB either 1) block the merger as proposed, or at the very least, 2) before making any further decisions, direct the Office of Environmental Analysis (OEA) to conduct a supplemental EIS for the Chicago area because the current draft EIS does not adequately assess the impact on this area. This supplemental EIS should address other feedback on the draft EIS related to CP's data and the Chicago area, while incorporating broader input and data from local stakeholders, agencies, and entities. I urge the STB to only approve the CPKC merger after closely examining the Chicagoland impacts and mandating strict and meaningful conditions for mitigation of significant harm.

Emergency Response Delay

First, the draft EIS does not adequately assess the merger's impact on public safety and on emergency vehicle delays from blocked crossings. Currently, the three freight trains traveling the MDW line already cause delays for emergency vehicles because freight trains—which average 10,000 feet in length—are long enough to block all the crossings in some communities simultaneously, including each of the four crossings in Itasca.³ Forcing responders to take lengthy alternate routes, these blockages prevent emergency responders from reaching emergencies in a timely fashion. According to Wood Dale's Fire Chief, freight trains cause delays to “double, and in some cases triple, both response times and travel distances to the farthest points in any response area.”⁴ And, according to Itasca's Fire Chief, if a freight train blocks the crossings in Itasca, a response that normally takes 1 minute and 15 seconds would take 14 minutes.⁵ These drastic delays put people's lives and homes at risk. Furthermore, emergency responders frequently need to cross the train tracks to reach emergencies. In fact, 60% of the nearly 13,000 emergency calls to the Itasca Police over the last two years were from the opposite side of the tracks from where the department is located.⁶ Increasing the freight traffic going through these communities by at least eight additional daily trains will dramatically increase the frequency of delays that our emergency responders currently face to an intolerable level.

However, in addressing emergency vehicle delays, the draft EIS only specifically considered the impact of increased delay on emergency vehicles on designated emergency routes as identified in the Federal Railroad Administration (FRA) database.⁷ The draft EIS only considered 28 such grade crossings across the entire country, *none of which are in Illinois*.⁸ Emergency responders in Illinois do not just use federally designated emergency routes—they use the route that is fastest to reach a crisis. Between Elgin and Bensenville alone, there are 54 crossings over approximately 20 miles of track,⁹ which emergency responders frequently use

³ Coalition to Stop CPKC STB filing, June 9, 2022, Page 10.

⁴ Wood Dale Fire Chief James Burke, STB Hearing on CPKC Merger, September 28, 2022.

⁵ Itasca Fire Chief Jack Schneidwind, Press Briefing in Schaumburg, October 4, 2022.

⁶ Itasca Police Chief Robert O'Connor, STB Public Meeting in Itasca, September 12, 2022.

⁷ OEA, *Canadian Pacific Acquisition of Kansas City Southern: Draft Environmental Impact Statement*, August 5, 2022, Chapter 3: Grade Crossing Delay, Page 3.3-6.

⁸ *Ibid.* Pages 3.3-8 – 3.3-12.

⁹ Coalition to Stop CPKC STB filing, June 9, 2022, Page 10.

to reach emergencies. The absence of any analysis of impact on emergency response vehicles at these crossings makes the OEA's analysis of emergency vehicles delays incomplete.

In addition, the draft EIS does not consider CP's checkered track record in adhering to federal rules that prohibit blocking crossings for over 10 minutes. The draft EIS states that CP has committed to "abide by federal rules requiring railroads to not block public crossings for longer than 10 minutes unless it cannot be avoided;"¹⁰ however CP freight trains frequently block public crossings for more than 10 minutes—and sometimes even up to 40 minutes—according to the Coalition to Stop CPKC and Metra employees.¹¹ In order to thoroughly assess at-crossing delays, the STB should analyze the current reality of how often CP exceeds this federal rule and the potential impact on our communities if CP continues its practices.

Therefore, I respectfully request that the STB work with our local police, fire, and other emergency departments to consider the impacts of the merger on delaying first responders in our communities. In addition, I request that the STB fully analyze CP's current track in blocking crossings to assess CP's credibility in being able to uphold its commitment to abide by federal rules for blocked crossings.

Metra

In addition, the proposed merger will have a substantial impact on commuters and Metra commuter rail operations in the Chicago metropolitan region. Advancing and expanding public transportation is a top federal priority, as demonstrated through the Infrastructure Investment and Jobs Act's (IIJA) historic investment of \$108 billion for public transportation;¹² however, this proposed merger works against these federal efforts by potentially decreasing public trust in the reliability of Metra and likely damaging Metra's finances.

CP's three freight trains that run on Metra's MDW and Milwaukee District-North lines already cause frequent Metra commuter train delays, and additional freight trains would significantly worsen these delays. According to Metra, CP, which has dispatching rights on Metra's lines, regularly violates its contractual obligation to allow Metra to operate during specified windows of time by giving preference to freight rail over Metra trains.¹³ These violations lead to Metra commuter delays of over 20 minutes even during peak periods.¹⁴ This proposed merger, Metra has suggested, would cause an almost 300% increase in delays, which would "break" its system.¹⁵ I am concerned these additional delays would encourage potentially hundreds of thousands of commuters to drive rather than take Metra trains, thus clogging our roads, harming the environment, and setting back public transit for decades.

The draft EIS, however, does not consider CP's track record in violating its operating agreement with Metra. In fact, the draft EIS concludes that "based on a review of the operating agreement between Metra and CP, OEA does not anticipate reasonably foreseeable changes to the Metra service in the study area by 2027."¹⁶ The draft EIS continues that "CP is obligated to

¹⁰ OEA, *Canadian Pacific Acquisition of Kansas City Southern: Draft Environmental Impact Statement*, August 5, 2022, Summary, Page S-10.

¹¹ Coalition to Stop CPKC, June 9, 2022; Metra STB filing, March 15, 2022.

¹² Federal Transit Administration, *Bipartisan Infrastructure Law*, June 7, 2022. <https://www.transit.dot.gov/BIL>.

¹³ Metra STB filing, March 15, 2022, Pages 11-12.

¹⁴ State of Metra Operations, August 2022.

¹⁵ Metra STB filing, July 8, 2022, Attachment B.

¹⁶ OEA, *Canadian Pacific Acquisition of Kansas City Southern: Draft Environmental Impact Statement*, August 5, 2022, Chapter 3: Cumulative Impacts, Page 3.14-3.

protect these windows to avoid interfering with scheduled Metra trains.”¹⁷ However, as Metra has stated, CP does not currently uphold its commitments and, without extreme intervention by the STB, there is little reason to believe that it would uphold these commitments should the merger be approved. Incorporating CP’s current track record in violating its agreement with Metra into the STB’s analysis would provide a better picture of the impact of this proposed merger, if CP’s current track record continues.

In addition, CP’s projected increase of additional trains would significantly harm Metra’s finances by preventing an expansion of Metra service to support the recovery of pre-pandemic ridership levels. Before the pandemic, Metra’s MDW line had almost 6 million annual passenger trips.¹⁸ While the pandemic caused a dramatic dip in ridership in April 2020 to about 3% of 2019 levels,¹⁹ Metra ridership has steadily rebounded to 45% today and is projected to reach 80% by 2024.²⁰ With Metra expecting the eventual return of ridership towards pre-pandemic levels and budgeting accordingly, its finances would be devastated with increased delays discouraging Metra ridership and with additional freight traffic limiting Metra’s ability to expand its service.

Therefore, I urge the Board to strongly consider these impacts on commuter transit in its review of the merger, and ensure that you provide strong, comprehensive mitigation and oversight measures, if the merger is approved.

Disputed Data Concerns

I continue to be concerned that the STB has not verified the data upon which the draft EIS is based. The draft EIS is solely based on CP’s own projections and does not assess the accuracy of CP’s train counts and tonnage, despite CP’s data being heavily disputed. In fact, as of now, there is no certainty how many freight trains the proposed merger would add to the MDW line. While CP’s filing projects that the merger would increase freight traffic in our communities from three trains per day to eleven,²¹ Metra and communities in my district have projected that there could actually be closer to 18.²² As recent as the September 28 STB hearing in Washington, D.C., Chairman Oberman asked CP whether there would be “an objection to a condition, which says that there will not be more than eight [additional] trains... at any time even during the transition period.”²³ However, CP provided no direct response and broadly stated that “in the short interim,... [CP would] not oversubscribe the network.”²⁴

As Chairman Oberman stated, “if you are Metra and these local towns, it is hard to plan if all of the information is what [CP has] said.”²⁵ In fact, CP stated that there would likely be even more “organic growth” on the line and, “it would be irresponsible for [CP] to make” commitments regarding future train counts” without knowing how successful CP will be in

¹⁷ Ibid.

¹⁸ OEA, *Canadian Pacific Acquisition of Kansas City Southern: Draft Environmental Impact Statement*, August 5, 2022, Chapter 3: Freight and Passenger Rail Safety, Page 3.1-28.

¹⁹ Metra, *Ridership Trends: 2021 Annual Report*, February 2022.

[https://metra.com/sites/default/files/inline files/2021%20Annual%20Ridership%20Report%20v6.1.pdf](https://metra.com/sites/default/files/inline%20files/2021%20Annual%20Ridership%20Report%20v6.1.pdf).

²⁰ Metra, *2022 Proposed Operating & Capital Program & Budget*, 7, 58 (2021),

https://metra.com/sites/default/files/inlinefiles/Brochure_8.5x11_ProposedBudgetBookElectronic_2022_VFFINAL.pdf.

²¹ OEA, *Canadian Pacific Acquisition of Kansas City Southern: Draft Environmental Impact Statement*, August 5, 2022, Appendix H2: Grade Crossing Delay, Page H2-212.

²² Coalition to Stop CPKC STB filing, June 9, 2022, Page 8.; Metra STB filing, March 15, 2022, Page 62.

²³ STB Hearing Day 1, September 28, 2022.

²⁴ Ibid.

²⁵ Ibid.

winning business beyond the three year build out period.²⁶ As CP plans to also expand and grow in the medium to long term, the proposed merger's three year projection period is too short for Metra and the communities to reasonably plan for future freight traffic growth. The draft EIS fails to reconcile the fact that there is significant uncertainty in the data, and without ensuring the reliability of CP's data, the STB cannot accurately assess the impacts of the proposed merger.

STB Chairman Oberman recognizes that there is little "anticipation as to what to expect" regarding the number of train counts.²⁷ Given that the draft EIS is based on uncertain data of what communities can actually expect, the conclusions made within the current draft EIS are invalid. Eight additional freight trains on the MDW line would already have significant negative impacts on our communities—15 additional trains would dramatically harm them. I, therefore, urge the STB to fully review the claims regarding continuing inconsistencies in CP's data within Metra, Canadian National, and the Coalition to Stop CPKC's filings with the STB, and work to ensure that OEA analysis and conclusions are based on verified, accurate data.

Freight Specific Data

In order to fully assess the impact of the additional freight train traffic on train lengths and delays, the STB should also include the freight specific data in its OEA analysis. The draft EIS currently analyzes Metra trains and freight trains together. However, freight trains, which can consistently reach 12,000 feet in length, are much longer than Metra trains (which are typically under 1,000 feet) and also travel slower. The draft EIS averages Metra and freight data, and because there are significantly more Metra trains than freight trains (58 Metra trains daily),²⁸ the averages may suppress the impact of the increased number of freight trains on at-grade crossing delays. Therefore, I request that the STB includes a freight-specific analysis to provide a better understanding on the freight specific impacts on delays.

The safety and livelihood of our Illinois communities must continue to be a top priority as the STB considers this merger. I thank the STB for its continued attention to this important issue, including coming to Itasca to listen to our communities' concerns. I urge you to fully consider these concerns as you evaluate the merger and to provide strong, comprehensive mitigation and oversight measures to address the merger's impacts, if the merger is approved.

Sincerely,



Raja Krishnamoorthi
Member of Congress

²⁶ Ibid.

²⁷ Ibid.

²⁸ OEA, *Canadian Pacific Acquisition of Kansas City Southern: Draft Environmental Impact Statement*, August 5, 2022, Chapter 3: Freight and Passenger Rail Safety, Page 3.1-28.