



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

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The Honorable Amy Klobuchar
425 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Tina Smith
720 Hart Senate Office Building
Washington, DC 20510

Dear Senator Klobuchar and Senator Smith,

Thank you for your recent letter regarding Canadian Pacific Railway Limited, Canadian Pacific Railway Company, Soo Line Railroad Company, Central Maine & Quebec Railway US Inc., Dakota, Minnesota & Eastern Railroad Corporation, and Delaware & Hudson Railway Company, Inc.—Control—Kansas City Southern, the Kansas City Southern Railway Company, Gateway Eastern Railway Company, and the Texas Mexican Railway Company, Docket No. FD 36500. I appreciate hearing your concerns about the potential impacts the proposed transaction could have on Minnesota, and the importance of consulting with Minnesota's community leaders and Tribal Nations.

As you are aware, between September 28, 2022, and October 7, 2022, the Board held several days of public hearings on the transportation merits of the proposed merger. In light of the significant issues involved in the Board's consideration of the proposed transaction, it is essential that we hear directly from our stakeholders and do so in public. Moreover, on August 5, 2022, the Board's Office of Environmental Analysis (OEA) issued a Draft Environmental Impact Statement (Draft EIS) for the proposed acquisition, on which the public was invited to comment, both in writing and at various public meetings. OEA will respond to all comments received on the Draft EIS, including the concerns you raise in your letter, and will consider those comments in making its recommendations to the Board in the Final EIS. It is anticipated that the Final EIS will be issued in late winter.

As part of the environmental review process under the National Environmental Policy Act (NEPA) and historic preservation review under Section 106 of the National Historic Preservation Act, OEA conducted extensive outreach to and consultation with tribes that may have an interest in the areas that could be affected by the proposed merger. During the scoping process for the Environmental Impact Statement, OEA contacted Tribal Historic Preservation Officers and tribal governments for 68 federally recognized tribes in fifteen states, including the White Earth Nation and other tribes in Minnesota, and invited those tribes to participate in government-to-government consultation, Section 106 consultation, or both. OEA held additional consultation meetings with those tribes that decided to participate in the Section 106 process, including the Cherokee Nation, the Choctaw Nation of Oklahoma, the Miami Tribe of Oklahoma, and the Osage Nation. OEA will continue to engage and consult with any tribes expressing an interest in the NEPA or Section 106 processes for the proposed merger.

I also appreciated hearing your views about utilizing idle railroad corridors for public trails. The Trails Act permits a railroad to preserve established railroad corridors for future reactivation of rail service, a practice known as “railbanking,” while allowing the right-of-way to be transferred to a sponsor for interim use as a trail. The Board’s role under the Trails Act is limited, and a railroad must voluntarily agree to railbank a line and work directly with the trail sponsor. A railbanked line remains part of the national rail network and subject to the Board’s jurisdiction.

A copy of your letter and this response has been placed in the public docket. Because this case is pending, I cannot comment on the merits at this time. However, please be assured that the Board will fully consider all comments and submissions in this proceeding regarding the potential impacts of the proposed merger. If you or your staff have any questions, please contact Ms. Janie Sheng, Director of the Board’s Office of Public Assistance, Governmental Affairs, and Compliance, at 202-245-0238.

Sincerely,

A handwritten signature in cursive script, reading "Martin J. Oberman".

Martin J. Oberman
Chairman