

Beaumont, Texas
Rail Merger Meeting
Docket No. FD36500

Moderated by Candice Andre
VHB Engineering
Thursday, September 15, 2022
6:41 p.m.

Downtown Event Centre
700 Crockett Street
Beaumont, TX 77701

Reported by: Cynthia Pommier Smith
JOB NO.: 5420849

A P P E A R A N C E S

List of Attendees:

Dr. Joshua Whalen, Deputy Director, Office of
Environmental Analysis

Victoria Ruston, Office of Environmental Analysis

Alan Summerville, VHB

Martin Oberman, Chairman, Surface Transportation Board

Karen Hedlund, Member, Surface Transportation Board

Roy L. Malveaux, Founder and Director, People Against
Contaminated Environment

Hilton Kelly, Founder and Executive Director,
Community in-POWER and Development Association, Inc.

Ariana Akbari

Lydia Delacroix, Interpreter

Christina Hernandez, Interpreter

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C O N T E N T S

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Dr. Joshua Whalen

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P R O C E E D I N G S

MS. ANDRE: Hello, and welcome to the public meeting for the draft environmental impact statement on the proposed acquisition of Kansas City Southern by Canadian Pacific. The docket number for this proposed acquisition is FD 36500. I'd like to pass it over to Dr. Joshua Whalen, acting Deputy Director of the Office of Environmental Analysis, and project manager for this environmental review process for a brief presentation.

DR. WHALEN: Hi, everyone, and thanks for coming. As Candice said, my name is Josh Whalen. I think I've met most of you at this point. And I'm the acting Deputy Director of the Office of Environmental Analysis for the Surface Transportation Board. The Surface Transportation Board is the federal agency that is responsible for reviewing proposed railroad mergers, such as the proposed merger of Canadian Pacific Railway and Kansas City Southern Railway.

And my office, the Office of Environmental Analysis, is responsible for ensuring that the Board meets its responsibilities to conduct a thorough environmental review of proposed acquisitions like this one. As part of that process, we prepared a

1 document called an Environmental Impact Statement, or
2 EIS. And we issued the draft back in August. And we
3 are now in the process of getting public comments and
4 comments from agencies and other stakeholders on our
5 draft.

6 So today's presentation, I'm just going
7 to give you a very brief overview of the agency and
8 the proposed acquisition, some of the major findings
9 in the draft EIS. And then we're going to move into
10 the formal commenting portion of tonight's meeting.
11 Since we have such a small group, I think we probably
12 will not use up our whole time through the commenting
13 portion. And if everybody has had an opportunity to
14 speak, then I think we can just revert to the open
15 house format so we can interact directly again after
16 we're done with the comments.

17 I want to recognize my colleagues here,
18 Victoria Ruston with the Office of Environmental
19 Analysis, and Alan Summerville is with VHB. VHB is a
20 environmental consulting firm that's assisting us with
21 preparing the EIS. So these are the topics that I'd
22 like to cover in the presentation. First, I'm going
23 to provide an overview of the federal agency, the
24 Surface Transportation Board. Then I'll discuss the
25 applicants, Canadian Pacific Railway and Kansas City

1 Southern Railway. And I'll provide a little bit of
2 information about what the proposal is for this
3 railroad merger.

4 Next, I'll summarize the environmental
5 review process to date, how did it start, where are we
6 now, and what's going to happen next. Then I will
7 provide a very brief overview and a high level summary
8 of some of the major findings in the draft EIS in
9 terms of the environmental impacts of the proposed
10 acquisition. And then I'll talk about next steps,
11 what will happen after we finish the public comment
12 period on the draft EIS. And then I'll review
13 different ways that you can stay engaged throughout
14 the remainder of the EIS process, and most especially
15 how you can provide your comments on the draft EIS.

16 So I'll start with a review of the
17 federal agency. As I said at the beginning, I work
18 for an agency called the Surface Transportation Board.
19 It's an independent federal agency with broad economic
20 regulatory oversight of railroads, which includes
21 railroad constructions, railroad abandonments, and
22 railroad mergers and acquisitions. When considering
23 whether or not to authorize a proposed acquisition,
24 the Board has to first consider the potential impacts
25 of the merger on the environment, including impacts on

1 local communities.

2 And my office, the Office of
3 Environmental Analysis, is the office of the Board
4 that is responsible for conducting that environmental
5 review. And as I mentioned for this case, we're
6 preparing an EIS, we issued the draft on August -- we
7 issued the draft EIS on August 5th. So this proposed
8 acquisition is not a project that is being sponsored
9 by or funded by the federal government. It involves
10 two private applicants that are two class one
11 railroads that own and operate rail lines throughout
12 the United States. These are Canadian Pacific and
13 Kansas City Southern.

14 And from here on out, I'm going to use
15 their acronyms. I'll use CP to refer to Canadian
16 Pacific and all of its U.S. railroad subsidiaries, and
17 KCS to refer to Kansas City Southern and its rail
18 carrier subsidiaries. Back on October 29th of last
19 year, CP and KCS jointly filed an application with the
20 Board seeking authority from the Board, from the
21 Surface Transportation Board, for Canadian Pacific to
22 acquire KCS.

23 If this would happen, then the two
24 companies and their respective rail networks would
25 combine to form one company and one network that would

1 be known as Canadian Pacific Kansas City, or CPKC.

2 This would be the first rail network that would extend
3 all the way from Canada through the United States and
4 down into Mexico. This is what we call an end-to-end
5 merger, because currently the CP and KCS systems don't
6 overlap. There are several different changes that
7 could occur that could result in environmental impact
8 if this proposed acquisition were approved and
9 implemented.

10 It could result in changes in rail
11 traffic on a number of different rail lines throughout
12 the country. Rail traffic could increase on some rail
13 lines, and it could decrease on others. And some rail
14 lines would remain unchanged. The proposed
15 acquisition could also result in operational changes,
16 changes in operational activity at rail yards and
17 intermodal facilities. And then finally, CP and KCS
18 intend to add certain capital improvements within the
19 rail right-of-way to support the increased rail
20 traffic.

21 That would include things like adding
22 new passing sidings, or extending existing sidings.
23 And in a couple of instances, adding a second track.
24 And all that work would involve the existing rail
25 right-of-way. It would take place in the right-of-way

1 that already exists. But it does have the potential
2 for environmental impacts. According to the
3 applicants, CP and KCS, the purpose of this proposed
4 acquisition is to combine America's two smallest but
5 fastest growing class one railroads to build a more
6 efficient and more competitive rail network.

7 The applicants state that the proposed
8 acquisition would advance the interests of current and
9 future customers in reliable and more economical rail
10 transportation options, especially serving north south
11 trade flows. The applicants also state that the
12 proposed acquisition could result in environmental
13 benefits by removing trucks from the road, because
14 some freight that currently moves by truck would move
15 by rail instead.

16 Now, I'll discuss the environmental
17 review process. As I mentioned before, before the
18 Board can authorize a proposed acquisition like this,
19 it must first consider impacts on the environment.
20 This is a requirement of the National Environmental
21 Policy Act, or NEPA, which is intended to help inform
22 the Board as the decisionmakers, and the public and
23 other agencies, about the potential environmental
24 consequences of their decision. So my office, again,
25 OEA, we're responsible for complying with NEPA on

1 behalf of the Board, and also with other related
2 environmental laws and statutes, including Section 106
3 of the National Historic Preservation Act, and Section
4 7 of the Endangered Species Act, as well as executive
5 orders on environmental justice.

6 This slide shows the environmental
7 review process, the EIS process. This process began
8 back on November 12th of last year when we issued a
9 Notice of Intent to prepare an environmental impact
10 statement. The issuance of that Notice of Intent
11 started the scoping process. And during that time, we
12 conducted outreach to federal, state, and local
13 agencies, Native American tribes, affected
14 communities, and the public to learn about what the
15 concerns might be for potential impacts. We held a
16 number of online public meetings during that time. We
17 were unable to hold in-person meetings at that time
18 due to the pandemic. But we're happy to be able to be
19 with you now.

20 After scoping ended, we began preparing
21 the draft environmental impact statement. And I'll
22 talk a little bit about the findings of that EIS in a
23 little bit. And we issued that document on August 5th
24 of this year. So we're now in the public review and
25 commenting phase on the draft where we're asking for

1 comments on any aspect of our draft EIS from agencies
2 and the public. This public comment period will end
3 on October 14th. And then after that time, we will
4 prepare a final environmental impact statement.

5 And the final EIS will respond to each
6 and every comment that we receive. And we'll make any
7 changes that might be necessary to the draft based on
8 the comments that we receive. And it will set forth
9 my office's final conclusions about the environmental
10 impacts and our final recommendations to the Surface
11 Transportation Board members who are the ultimate
12 decision makers on whether or not to approve the
13 proposed acquisition. Then after that final EIS is
14 issued, the Board will issue its final decision. And
15 in making that decision, the Board will consider the
16 entire record.

17 So I'll turn now to discussing some of
18 the findings and conclusions in the draft EIS. The
19 draft EIS compares what would happen if the proposed
20 acquisition were approved to what we call the no
21 action alternative, which would occur if the Board
22 were to deny authority for CP to acquire KCS. The
23 draft EIS focuses on three types of outcomes that
24 could cause impacts on the environment: changes in
25 rail traffic, changes in vehicular traffic on

1 roadways, surveying intermodal facilities, and capital
2 improvements within the right-of-way like adding new
3 passing sidings.

4 And then the draft EIS sets forth our
5 preliminary recommended mitigation measures. We have
6 many of them set forth in chapter four of the draft
7 EIS. And just like every other part of the EIS, we're
8 requesting comments on that proposed -- on those
9 preliminary recommended mitigation measures. As I
10 mentioned before, the comment period will be open
11 until October 14th. The draft EIS focuses on
12 locations where increases in rail traffic would exceed
13 the Board's thresholds for environmental review.
14 Those thresholds are set forth in the Board's
15 environmental regulations and 49 CFR 1104.7E. And in
16 general, they state that environmental impacts are
17 analyzed when the increase in rail traffic would be
18 eight or more trains per day.

19 There's an additional threshold
20 specific to air quality impacts. And that states that
21 for rail lines in non-attainment areas under the Clean
22 Air Act, we analyze air quality impacts for an
23 increase of three trains or more per day. So the map
24 on this screen shows how traffic is projected to
25 change across the combined CPKC network if the

1 acquisition were to move forward. And the darkest
2 line represents rail lines where the traffic is
3 projected to increase by eight or more trains per day
4 and meet our threshold for environmental review.

5 The maximum increase across the entire
6 system would occur in the rail line that extends south
7 from Sabula, Iowa in eastern Iowa, down to Kansas City
8 where the two rail networks combine. And that
9 projected increase is approximately 14.4 additional
10 trains per day. This slide shows the different types
11 of impacts that we analyzed in the draft EIS. We
12 looked at passenger freight rail safety, grade
13 crossing safety and delay, truck to rail diversions,
14 intermodal facilities traffic, noise and vibration,
15 air quality and climate change, energy, cultural
16 resources, hazardous materials release sites,
17 biological resources, water resources, environmental
18 justice, and cumulative impacts.

19 And I'll talk about each of these very
20 briefly in the next few slides. But I wanted to
21 emphasize again that this is a high level summary in
22 order to reserve as much time as possible to hear your
23 comments, which is why we're here. But if you're
24 interested in learning more about our conclusions or
25 the types of assessment we did, the details of the

1 modeling for the different impact areas, I encourage
2 you to take a look at the draft EIS or just the
3 summary. Or if you're very interested, all of the
4 corresponding appendices.

5 The draft EIS concludes that the major
6 impact of the proposed acquisition would be train
7 noise caused by passing trains. That's important that
8 we note that we don't expect that individual trains
9 would become louder, or that they would be audible in
10 places where they are not currently. However, the
11 increased frequency of trains would increase the
12 average noise level that people could be exposed to
13 who live, work, or recreate near rail lines.

14 We have a definition of an adverse
15 noise impact that's also set forth in our
16 environmental regulations. An adverse noise impact
17 occurs when a noise sensitive receptor -- these are
18 places like residences, schools, places of worship,
19 nursing homes, and hospitals -- if a receptor
20 experiences an increase in average noise of at least
21 three decibels, and reaches an average noise level of
22 65 decibels or above, that's considered an adverse
23 noise impact.

24 Across the entire combined system, we
25 identified a total of 6,307 receptors that would

1 experience an adverse noise impact as a result of this
2 proposed acquisition. And those adversely affected
3 receptors are located in Illinois, in Iowa, Missouri,
4 and in Texas, including here in East Texas. We also
5 analyze vibration from passing trains. We found that
6 trains would create vibration, and that vibration
7 would be felt by people and it could bother people.
8 But we don't expect the vibration would be strong
9 enough to cause any damage to structures like
10 buildings outside of the rail right-of-way.

11 As part of the draft EIS, we
12 specifically assessed whether the proposed acquisition
13 could result in disproportionately high and adverse
14 impacts on environmental justice communities,
15 including minority and low-income communities. And we
16 concluded that it would not, in part because the
17 majority of adversely affected noise receptors are
18 located in non-environmental justice communities. The
19 draft EIS also assesses safety, including passenger
20 rail safety, brake rail safety, and safety at at-grade
21 roadway rail crossings.

22 Because freight rail traffic is
23 projected to increase, the probability of an incident
24 like a derailment, or a spill, or a collision with a
25 passenger train, or collisions with vehicles and

1 pedestrians at at-grade crossings would increase.
2 However, we think that the absolute risk of such
3 accidents would remain low throughout the entire
4 system. In terms of delay, we expect that for the
5 average delay at at-grade crossings could increase due
6 to the increased frequency of trains.

7 But for most grade crossings
8 throughout the network, we find that the average
9 amount of time that it would take a train to go
10 through the crossing, which we call the gate downtime,
11 would actually decrease, because the applicants are
12 projecting that the average train length would
13 decrease if the proposed acquisition were authorized.
14 However, due to the increased frequency of trains,
15 more vehicles would be blocked on any given day at
16 many of these crossings.

17 Across the whole network, the greatest
18 increase in average delay was approximate -- or would
19 be approximately 7.3 seconds per vehicle per day. But
20 keep in mind that's averaged across the day. So for
21 an individual vehicle that's stopped at the crossing,
22 it would be more on the order of several minutes for
23 the train to pass through. But some of the planned
24 capital improvements like the new sidings could also
25 result in delay impacts in locations where they would

1 be added.

2 Now, one of the reasons that the
3 proposed acquisition would result in increased freight
4 railroad traffic is because it would result in truck
5 to rail diversions. And this means that freight that
6 is currently moving by truck or some freight that is
7 currently moving by truck would move by rail instead.
8 The proposed acquisition is projected to remove
9 approximately 64,000 trucks from highways per year as
10 a result of these truck to rail diversions.

11 Local truck traffic could increase in
12 certain locations on roadways that serve intermodal
13 facilities where freight is transferred from truck to
14 rail. But we don't expect that those impacts would be
15 major. Due to the truck to rail diversions, we find
16 that the proposed that acquisition would have an
17 overall beneficial impact on energy efficiency.

18 And that's because rail transportation
19 is much more energy efficient compared to truck
20 transportation. Similarly, we expect that the
21 proposed acquisition would not result in an overall
22 increase in air emissions, including greenhouse gas
23 emissions. Again, because rail transportation results
24 in fewer emissions compared to truck emissions.

25 However, the proposed acquisition would

1 affect where emissions occur, which is important for
2 many types of air pollutants. For example, we found
3 that emissions of nitrogen oxides would increase in
4 three non-attainment or maintenance areas for ozone.
5 And that's important because nitrogen oxides are a
6 precursor chemical for ground level ozone. The draft
7 EIS concludes that impacts on other types of resources
8 would be minor.

9 For example, for cultural resources we
10 did not -- we found that the proposed acquisition
11 would not result in adverse effects on any cultural --
12 on any historic properties or archaeological sites or
13 other cultural resources that are listed in or
14 eligible for listing in the National Register of
15 Historic Places. We did find that several of the
16 planned capital improvements could be constructed in
17 locations where there's the potential to encounter
18 residual hazardous materials, such as in the soil.

19 And we are recommending mitigation
20 measures to ensure that those impacts -- that impacts
21 related to hazardous materials release sites would be
22 mitigated. For biological resources, we similarly
23 found that several of the planned capital improvements
24 would be located in suitable foraging habitat for
25 several protected bat species. And we're recommending

1 mitigation to ensure that those bat species would not
2 be adversely affected.

3 The planned capital improvements could
4 also affect waterways, because crossing structures
5 like culverts or bridges would be added or extended.
6 So we're also recommending mitigation measures to
7 ensure that those impacts would be minimized. Then
8 finally, we considered whether the proposed
9 acquisition could result in impacts on the environment
10 when considered along with other past, present,
11 ongoing, and potential future projects and actions.
12 And we did not identify any major cumulative impacts
13 through that analysis.

14 Again, this is a very high level
15 summary of some of our major conclusions. And all of
16 those are set forth in much more detail in the summary
17 of the draft EIS, the main body, and the many
18 accompanying appendices. I'll turn now to next steps.
19 As I mentioned before, we're currently in the public
20 comment portion of the EIS process.

21 After the comment period closes on
22 October 14th, we will begin preparing a final EIS.
23 The final EIS will respond to each and every comment
24 that we receive. We will make any modifications or
25 changes to the draft EIS in response to those

1 comments. And it will set forth our final
2 conclusions, including our final recommendations to
3 the Board for environmental mitigation.

4 At this time, we're expecting to issue
5 the final EIS this coming winter. And after that
6 final EIS is issued, the Board will be able to issue
7 its final decision on whether or not to authorize the
8 proposed acquisition. In making that decision, the
9 Board will consider the entire record, including the
10 record on the potential transportation merits of the
11 proposal, as well as the potential environmental
12 impacts, which would include the draft EIS, the final
13 EIS, and all the comments that we receive.

14 If the Board decides to authorize the
15 proposed acquisition, they may also decide to impose
16 mitigation including environmental mitigation, which
17 could include the environmental mitigation that we
18 recommend. So I'll turn now finally to reviewing the
19 different ways in which you can comment on the draft
20 EIS. The purpose of tonight's meeting is to hear
21 comments orally from you all. If you prefer to submit
22 comments in writing, there are several ways that you
23 can do so.

24 We do prefer electronic comments, or
25 written comments to be submitted electronically if

1 that's possible for you. You can do so through our
2 project website which is www.cp-kcsmergereis.com, or
3 through the Board's website, stb.gov. If you want to
4 mail in a written comment, that's also fine. You can
5 send them to me at the address shown on this screen.
6 We just ask that you please reference the docket
7 number for the case in any comments that you submit.
8 That would make my job a lot easier. The docket
9 number is FD36500.

10 Please note that any comments that we
11 receive will be made public on the Board's website.
12 And comments are due by October 14th, or postmarked by
13 October 14th. In addition to these ways of submitting
14 written comments, tonight is our fourth and final
15 in-person meeting during the comment period. But we
16 will be holding one more online public meeting to
17 provide opportunities for people to comment who
18 weren't able to come out in person. And that will
19 take place on next Monday, September 19th, also from 6
20 to 8 p.m. Central Time.

21 So I've mentioned the project website a
22 couple of times. It is a great resource if you're
23 interested in learning more about the environmental
24 review process and our findings. This is the public
25 involvement page from the website. And on this page,

1 you can type comments directly into the comment box
2 and submit them that way. This page also provides
3 instructions, by the way, for attending the online
4 public meeting next Monday. If you would like to
5 include an attachment with your comments like a PDF or
6 a Word document, you can do so through the Board's
7 website. That's tb.gov.

8 This slide shows a screenshot of our
9 environmental comment form. And after filling out the
10 information in here, you're given the option to upload
11 a file to attach to your comments. All right. And
12 then finally here, I'm going to just briefly review
13 the ways that you can stay engaged throughout the
14 remainder of the EIS process. Again, the project
15 website is a great resource to learn more about our
16 environmental review.

17 The Board's website will include all
18 the comments that we receive on the draft EIS, as well
19 as filings and Board decisions related to the proposed
20 acquisition. You can sign up for the email address,
21 and there's instructions for -- sorry, for sign up for
22 the email -- project email list. And there's
23 instructions for doing so on the project website.

24 If you sign up, then you'll receive
25 updates periodically about where we are in the

1 environmental review process. On the project website,
2 we also have a virtual meeting room. It's meant to
3 simulate this kind of space like the open house
4 portion of the meeting we had earlier where there are
5 different stations that you can navigate to virtually
6 and explore maps or the EIS document and other
7 resources. And then finally, if you have any
8 questions for us, you can reach out by email to the
9 project email address such as shown on this screen, or
10 contact the EIS information line.

11 We're going to move into the formal
12 comment portion of tonight's meeting now, and I'll
13 leave this up on the screen. Now, we have been
14 running these meetings. They all have to operate the
15 same way in each location that we go, even though
16 tonight's meeting we have a much smaller group than we
17 have at some of the others. But the way it's going to
18 work is people are going to be called up one by one in
19 the order that they registered to speak. And you'll
20 be given three minutes to deliver your comments.

21 At this one, we'll not be doing a
22 question and answer session. So these are just an
23 opportunity to provide oral comments. Now, since we
24 have such a small group, I don't think we need to
25 stick to that three minute timeline. So what we're

1 going to do is we'll have the timer on the screen so
2 you can see the three minutes. But if you have
3 additional comments that you'd like to make, I think
4 it would be all right to just reset that timer so that
5 you can continue on. And if we do get through
6 everyone who would like to speak tonight, then for the
7 time we have remaining, we'll revert to the open house
8 format that we started the meeting with.

9 So with that, I'll just thank everyone
10 once again for attending. It's great to see you all
11 here. I finally wanted to recognize that we do have
12 two members of the Surface Transportation Board here
13 to hear your comments. Surface Transportation Board
14 Chairman or Oberman, and Surface Transportation Board
15 Member, Karen Hedlund are both here. Thank you both
16 for coming. Now, I'll turn it back over to Candice to
17 facilitate the public comments. Thank you.

18 MS. ANDRE: Okay. Good evening. We
19 are looking forward to hearing everyone's comments. I
20 know Josh went through some of the ground rules for
21 us, so I'm just going to go through a couple other
22 ones. Please treat everyone with respect and listen
23 to people, even if their opinions may be different
24 than yours. We do want to make sure that everyone has
25 the time to provide their comments. So like Josh

1 said, we typically do a three minute comment timer,
2 but we'll be a little less strict on that tonight, of
3 course.

4 We do have team members that can
5 provide assistance with Spanish translations. So
6 please, if you need some assistance, just when you
7 come up to the mic let us know. And we have two
8 translators here that can assist with that. We're
9 going to start with pre-registered speakers, so people
10 who were able to pre-register prior to this meeting.
11 And then we'll get to the registered speakers that
12 registered when they came in this evening.

13 As a reminder, all the comments,
14 whether written, oral, transcribed, or electronically
15 filed all carry the same weight. We respond to all
16 the comments. So please, if you think of something
17 after this evening, we have until October 14th to
18 accept comments. So please feel free to add
19 additional comments through some of the ways that Josh
20 mentioned. So one last thing I would ask of you.
21 When you get up to the mic to provide your comments,
22 please just state your name clearly for the record.
23 We do have someone capturing all the comments this
24 evening, so we just want to make sure we have your
25 names correct in that record.

1 First, I'd like to start to see if
2 there's any federal, state, or elected officials that
3 would like to speak that are not pre-registered.
4 Okay. Well, we'll jump right in. Let me get to the
5 pre-registered list. So our first pre-registered
6 person is Sunshine Thomas Bear. Is he us tonight?
7 No, okay. Krista Kefauver. Okay. What about Roy
8 Malveaux.

9 MR. MALVEAUX: Malveaux.

10 MS. ANDRE: Malveaux.

11 MR. MALVEAUX: Malveaux.

12 MS. ANDRE: Malveaux, all right. Roy
13 Malveaux, please come up.

14 MR. MALVEAUX: All right. Can you hear
15 me? All right. My name is Roy L. Malveaux. And I am
16 the Founder and Director of People Against
17 Contaminated Environment organized in Corpus Christi
18 1987. Moved to Beaumont, Texas in 1994. I retired
19 some time during the year 2000. During the course of
20 my administration with PACE, I've had the pleasure to
21 address many environmental concerns across the nation.
22 And I even testified before Congress. And every time
23 it seems like I'm retired and out, police -- pollution
24 concerns is bringing me right back in. So I'm here
25 tonight.

1 When I testified to Congress that
2 pollution was having a detrimental effect on
3 industrial communities in the late 1980s, that it
4 wouldn't be long before it left its footprints all
5 over the nation, they laughed. But climate deniers
6 call me a crazy preacher. I didn't take no offense.
7 But climate change has had the last laugh. And it
8 seems like I wasn't wrong after all. And to many
9 people, they're not laughing anymore. I thought I was
10 out of the environmental movement. And now here I am
11 again.

12 The EPA has classified nearly all of
13 the communities that will have more trains in their
14 backyard as a disadvantaged community. That means me.
15 And that will have an effect on me. And therefore I'm
16 here tonight because we deserve to voice our concerns
17 about the merger's impact on our family scale, our
18 safety, and our well being. And I support all those
19 who oppose this merger, this acquisition. And here's
20 some of my concern. At least seven to eleven trains
21 per day are running through the City of Beaumont, some
22 at all hours of the night. Beaumont's added rail
23 crossing will add to the safety risk and increased
24 delays of emergency responses.

25 The merger will increase railway noise

1 upon the Jefferson County Courthouse, the Beaumont
2 Police Department, Family Violence Department
3 Building, and the Saint Anthony Cathedral Church.
4 This also includes low-income populations, and two
5 limited English speaking population. But I have some
6 other concerns. There was no engagement with this
7 community nor with Southeast Texas during the drafting
8 process. And you even engaged or tried to go around
9 the entire City of Beaumont to get it done. And that
10 concerns me.

11 But my most concern is the
12 transportation of bitumen. One of my concerns with it
13 is potential spills. Canadian Pacific has had four
14 derailments this year alone. And that concerns me
15 greatly. And with the fact that hearing was being
16 diverted around Beaumont, I'm deeply concerned about.
17 I don't want to appear that I'm operating on emotion
18 alone. So let me tell you what I know briefly about
19 bitumen. I know it's used for construction, roofing,
20 waterproofing. But in the long term, what concerns me
21 is that it's toxic, highly toxic. Exposure can cause
22 lung cancer, stomach cancer, changes in skin
23 pigmentation, bronchitis, emphysema, damage to the
24 liver, kidneys, and the nervous system.

25 It releases hydrogen sulfide gas, and

1 it releases it into the air. And even death may
2 occur. Breathing it can irritate the nose, the
3 throat, and the lungs, causing acute coughing,
4 wheezing, and shortness of breath. Now, I've done
5 just a little research, and I don't know everything.
6 I'm not a chemist, and I'm not a doctor. But I'm
7 somewhat concerned because I comprehend what this
8 proposal or this merger might mean to us.

9 Now is your chance to do a little
10 research. And when you do, you'll discover that PACE
11 often responds litigiously to threats on our health,
12 our welfare, our life, liberty, and pursuit of
13 happiness, which includes clean air and clean water,
14 and the right to have it. Now, please, as I close,
15 don't take this as a threat. Please understand, we
16 have a right to exercise our right. And we are
17 standing here in opposition to this merger or this
18 acquisition. Thank you, ma'am.

19 MS. ANDRE: Thank you so much, Roy.
20 The next speaker is Hilton Kelly.

21 MR. KELLY: Good afternoon, everyone.
22 Can y'all hear me pretty good?

23 MS. ANDRE: Yeah, you sound great.

24 MR. KELLY: My name is Hilton Kelly. I
25 am the Founder and Executive Director of the Community

1 in-Power, that's I-N dash P-O-W-E-R. Community in-
2 Power and Development Association, Incorporated,
3 located in Port Arthur, Texas. And I am here today
4 stated in opposition to this merger as well. For
5 generations, the health and safety and welfare or well
6 being of Houston poorest and most black and brown
7 communities have been sacrificed for corporate
8 interest.

9 The pending mega merger between
10 Canadian Pacific and the Kansas City Southern Railroad
11 is the latest blow to our already hardest hit
12 communities. The Environmental Protection Agency
13 classified nearly all the communities that will have
14 more trains in their backyards as disadvantaged
15 communities. Also, the Harris County region is one of
16 only two non-attainment areas along the project
17 pathway across the United States and Mexico.

18 Houston families already dealing with
19 the life and death consequences of railway merger
20 where the safety of our community was an afterthought.
21 We deserve a chance to voice our concerns about the
22 merger's impacts on our family's health, safety, and
23 well being. We support the Commissioner Ellis's
24 efforts for a public hearing in the City of Houston.
25 I think it's -- it's sad that we want to take away the

1 voices of the citizens who are going to have to bear
2 the brunt of these railroads going right through their
3 communities.

4 I think they should be given an
5 opportunity to speak, and that you should be able to
6 hear directly from the people who are going to have to
7 deal with this for -- probably for the rest of their
8 lives. I live in a railroad community in West Port
9 Arthur. I grew up right next to the railroad, the KCS
10 train that blew day in and day out. I've waited for
11 more than a hour as a kid going to school to cross
12 over to the other side so that I can go to class. And
13 many times I opted out of waiting, and I decided to
14 cross on my own. So therefore, we climbed between the
15 rails -- between the cars as they were moving slow,
16 and went to the other side and then jumped down.

17 A friend of mine didn't make it one
18 day. He fell between the cars, and he lost his right
19 leg. There are other kids that have died trying to do
20 the same thing. I've watched little girls waiting for
21 hours on end trying to cross to the other side coming
22 home from school. One little girl was maybe about 12,
23 the other was about six or seven. And her sister was
24 hold -- her big sister was holding her hand. And I
25 kept thinking of these little girls can't even go

1 home.

2 Who's to say that a predator wouldn't
3 come by and snatch them when they're waiting, trying
4 to get to the other side of the track. 1968, Port
5 Arthur, Texas, a young lady was pregnant. The train,
6 the Kansas City Southern Rail train was on the track
7 stretching all the way from the Port of Port Arthur
8 into the -- the Texaco gate just sitting there. She's
9 bearing a child, she's trying to hold on. But she
10 lost that baby because she couldn't get to the
11 hospital in time.

12 This is what the people of the Fifth
13 Ward are going to have to deal with. The trains are
14 going to be longer. The trains are going to be moving
15 backwards and forward through all the day and the
16 night. The noise pollution is going to be probably at
17 a all time high, and definitely increased by about 50
18 percent. How much is too much for one community? And
19 at the very least, I think that we can give the --
20 have the dignity to give them the opportunity to speak
21 and to hear their concerns.

22 In 1996, Union Pacific merged with the
23 Southern Pacific Railroad creating at that time the
24 largest railroad in the country. As part of that
25 merger, UP assumed ownership of a former industrial

1 facility near the historic black and Hispanic
2 community of the Fifth Ward. At that site prior to
3 the merger, wooden railroad ties were treated with
4 creosote, a chemical that likely causes cancer in
5 people.

6 Since taking responsibility for that
7 site, UP claims that they have been addressing the
8 groundwater and soil contamination all under the
9 oversight and approval of the Texas Commission on
10 Environmental Quality, TCEQ. Thousands of Houston
11 residents sued UP in late 2001, arguing that the
12 company did not adequately warn them about the soil
13 and groundwater contamination. Who's to say that the
14 truth is being told today about how traffic will flow
15 easily. How it won't add that much detriment to the
16 community. It won't disrupt that community as much.

17 I beg to differ. I think that there
18 will be a serious increase in rail incidents in that
19 community. I think there's going to be a serious
20 impact on the flow of traffic in that community. And
21 the flow of people, pedestrians walking, trying to go
22 to and from school, the grocery store, their lives
23 will be hindered because of the extension of those
24 railroads merging together, and the long passage of
25 those trains. Incidents will increase at the

1 crossroads where the cars have to cross over because
2 of the impatience.

3 I think we definitely owe it to that
4 community, the Fifth Ward, to hear the voices of the
5 people, because they are the ones that will suffer
6 because of the increased rail. The kids will suffer
7 because they can't get to school in time or can't get
8 home in time. We are putting people lives in danger
9 by increasing the length of the train and the amount
10 of time they could sit on the tracks. And not to
11 mention the emissions that are going to come from
12 these -- these diesel engines and what have you. So I
13 urge you, let's hear the voices of the Houston people
14 in the Fifth Ward. Thank you.

15 MS. ANDRE: Thank you, Hilton. Next on
16 the list is Ariana Ackman. Did I say your last name
17 correctly?

18 MS. AKBARI: You --

19 MS. ANDRE: Oh --

20 MS. AKBARI: It's okay. Ariana Akbari.

21 MS. ANDRE: Can you say it slowly for
22 the -- okay.

23 MS. AKBARI: Yes, absolutely. Hello,
24 everyone. Can you hear me in the back? Yes?

25 Amazing. My name is Ariana Akbari, but I go by Ari

1 for short. And I forgot my personal intro. So was
2 born and raised here technically in Nederland, Texas,
3 or between the city limits actually between Nederland
4 and Beaumont, Texas. My family has lived and worked
5 in Port Arthur, Port Neches, Nederland, Bridge City,
6 Beaumont, and all of these surrounding Southeast Texas
7 areas.

8 I'm a member of the Golden Triangle
9 Sierra Club, the Big Thicket Natural Heritage Trust,
10 the Big Thicket Biosphere Reserve. And I also work
11 with the Port Arthur Community Action Network. I
12 found out about this meeting this morning by an email
13 from Ellen Buchanan, who is the president of the
14 Sierra Club locally. And I was very surprised to have
15 not heard about this prior to this morning, because I
16 am extremely plugged into local environmental
17 happenings, as well as general local community
18 happenings.

19 And yeah, so I think one of my -- one
20 of my big issues with that is that there just was not
21 enough outreach. There wasn't nearly enough adequate
22 outreach for this event. You have two incredible
23 Spanish translators here. They're -- there's nobody
24 in the Spanish speaking community here. There's
25 almost nobody from my community here. And my

1 community does really care about our communities. So
2 the fact that there is no one here means that someone
3 on your end really messed up.

4 And I would really like that -- I think
5 you guys should do a do-over for this meeting,
6 actually, and try to reach more people. The virtual
7 one I don't think will be enough. But for -- you
8 mentioned that there's going to be 14.4 -- what did
9 you say, how many -- how many more trains -- 14.4 more
10 trains per day along this rail line. So I live right
11 next to the rail line. And also a couple of years
12 ago, my neighborhood was destroyed to make way for new
13 pipelines by Energy Transfer Partners.

14 And this isn't a not -- a not common
15 reoccurrence here. Like neighborhoods and communities
16 in Southeast Texas are frequently destroyed for new
17 pipelines. And we also are all next to the rail lines
18 which transport petroleum products I assume to the
19 refineries. So ever since that -- ever since my
20 neighborhood was destroyed by -- for this pipeline,
21 the sound of the rail line is so strong because it
22 echoes like through an echo chamber of the space. And
23 so now I sleep with ear -- like earplugs in. I can't
24 sleep through the night without ear plugs.

25 So if you're saying there's going to be

1 14.4 more trains per day, I mean, that's insane. Like
2 we're already way past the limit of what should be
3 acceptable, and that increase is just outrageous. I
4 also have a note about -- you -- in your presentation,
5 you mentioned that there's no cultural significance,
6 but that's also fundamentally incorrect. The Kansas
7 City Southern is actually inherent to the founding of
8 the City of Port Arthur.

9 Originally, the Kansas City Southern
10 was a passenger rail that ran from Kansas City to Port
11 Arthur, Texas. And I guess after some point after the
12 boom at Spindletop, it transferred to being a
13 commercial rail or something like this. So in all of
14 Port Arthur, there's a lot of like Kansas City
15 Southern signs around. So it's always been like
16 something that's deeply embedded in the local history
17 here. And like Port Arthur, where it used to run,
18 like the final ending point, it's like the entire
19 historical district of Port Arthur, too.

20 So like having been to Pompeiian Villa
21 or the Museum of the Gulf Coast, like all of these
22 places, Roseville Manor, all these places along the
23 seawall are part of that historical railroad line. So
24 this is a historic railroad line. And it's a historic
25 American railroad line. Which leads me to my next

1 point. Which is I have like fundamental concerns
2 about losing an American rail to a Canadian company.
3 Like Kansas City Southern has been a source of local
4 pride. I assume it's also been something that's
5 significant to the local economy, to the American
6 economy. So I was deeply concerned to see that it's
7 now being called the Canadian something.

8 And even visually, if you look at the
9 map and see how it runs from Canada all the way
10 through Mexico, I believe visually it looks like a
11 monopoly, like a railroad monopoly. So on those
12 grounds, it just feels fundamentally un-American. And
13 I also wanted to make a note that this is an area
14 that's extremely prone to hurricanes increasingly,
15 massive flooding. Like there was massive destruction
16 during Harvey. Every storm is a major emissions event
17 also for all of the local refineries and chemical
18 plants.

19 And we also had two chemical plants --
20 or one chemical plant, the TPC, refinery explode
21 twice, in 2019 and 2020. So I wanted to know if you
22 guys have run any, I guess, railroad accountability
23 studies for this increased traffic considering the
24 storm flooding and potential petrochemical plant
25 explosion conditions. Because those seem like

1 something you need to think about.

2 And I also wanted to say thank you so
3 much to the speakers who came before me, Hilton and
4 Roy, I believe. As well as to anyone else from the
5 community of Southeast Texas that showed up, to the
6 two translators who are from my community. And
7 hopefully, if you guys do do this again, I would love
8 to see someone on your end who is also from East Texas
9 or baseline familiar with East Texas. And by East
10 Texas, I don't just mean Houston. So that's all.
11 Thank you so much.

12 MS. ANDRE: Thank you. Okay. Who else
13 would like to speak? We are done with the
14 pre-registrations, so is there anyone else. If so,
15 please just raise your hand, and you're welcome to
16 come up to the mic.

17 A couple of things just as a reminder,
18 I know Josh mentioned this earlier. But we do have
19 another virtual public meeting on Monday, September
20 19th. It's very similar to this, a formal
21 presentation and then an open session where people
22 either pre-register or can raise their hand basically
23 virtually, and do their three minute comment session.
24 Same as tonight, if there's not commenters that run up
25 to the end of the meeting, people have an additional

1 time that they can fill.

2 So we are here to listen until eight.

3 If anyone does decide that they want to make a formal
4 public comment, we can kind of pause if we're talking
5 with each other, and you can come back up to the mic.
6 We also have the court recorder that if you don't feel
7 comfortable speaking in front of the crowd, she can
8 take your comment down. You just sit right with her
9 and she takes it down directly. It ends in the
10 transcript the same way as if you stood up here at
11 this mic.

12 So we are happy to walk people through
13 the project information some more this evening. And
14 then please, if you do decide you want to make a
15 public comment, feel free to just grab anyone with a
16 name tag, and we can make sure that that happens. So
17 we will be here until eight, so please feel free to
18 stay and chat with us. Other ways of making comments,
19 again, just a reminder, please grab one of the project
20 flyers on the way out.

21 That has every -- all the information
22 you would need to get any of the documents from the
23 project, project specific website email address, phone
24 number if you want to leave a voicemail. So please
25 use that. There's a QR code on that also. So please

1 grab that on the way out. Thank you guys so much for
2 being here tonight.

3 (Whereupon, the meeting concluded at
4 7:41 p.m.)

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CERTIFICATE OF DEPOSITION OFFICER

I, CYNTHIA POMMIER SMITH, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.



CYNTHIA POMMIER SMITH

Notary Public in and for the
State of Texas

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relative or employee of any counsel or attorney
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otherwise interested in the outcome of this action.



DENISE CROSS MOORE

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North Carolina General Statutes
Article V. Depositions and Discovery
Rule 30

(e) Submission to deponent; changes; signing.

The sound-and-visual recording, or the transcript of it, if any, the transcript of the sound recording, or the transcript of a deposition taken by stenographic means, shall be submitted to the deponent for examination and shall be reviewed by the deponent, unless such examination and review are waived by the deponent and by the parties. If there are changes in form or substance, the deponent shall sign a statement reciting such changes and the reasons given by the deponent for making them. The person administering the oath shall indicate in the certificate prescribed by subdivision (f)(1) whether any review was requested and, if so, shall append any changes made by the deponent. The certificate shall then be signed by the deponent, unless the parties by stipulation waive the signing or the deponent is ill or cannot be found or refuses to sign. If the certificate is not signed by the deponent within 30 days of its submission to him, the person before whom the

deposition was taken shall sign the certificate and state on the certificate the fact of the waiver or of the illness or absence of the deponent or the fact of the refusal or failure to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though the certificate were signed unless on a motion to suppress under Rule 32(d)(4) the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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