



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

306308

March 13, 2023

ENTERED
Office of Proceedings
March 14, 2023
Part of
Public Record

The Honorable Elizabeth Warren
309 Hart Senate Office Building
Washington, DC 20510

Dear Senator Warren,

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 views about the potential impacts of the proposed merger on rail competition, service disruptions, jobs, and safety, especially as related to the recent Norfolk Southern Railroad derailment in East Palestine, Ohio.

In August 2022, the Board's Office of Environmental Analysis (OEA) issued a Draft Environmental Impact Statement (EIS) in this proceeding. The Draft EIS analyzed the potential environmental impacts of the proposed merger and provided an opportunity for public comment. During the comment period, OEA held seven public meetings, in-person and virtual, to ensure that all concerned members of the public had ample opportunity to participate in the environmental review process. Because of the magnitude of the proposed transaction and because of my interest in the issues raised by those who communicated their concerns to OEA and the Board, I and the other Board Members attended many of these meetings as observers. OEA received approximately 700 comments during the comment period on the Draft EIS.

On January 27, 2023, OEA issued a Final EIS for the proposed transaction. In the Final EIS, OEA considered and responded to all comments received on the Draft EIS from community members, interested agencies, and elected officials, which included comments on impacts to Metra commuter rail operations. The Final EIS also contains a thorough analysis of the potential impacts of the proposed merger on the transportation of hazardous materials, a matter of significant importance, especially in light of the recent derailment in Ohio. The Final EIS states that, to minimize the potential release of hazardous materials and prevent spills, CP and KCS have proposed voluntary mitigation measures, which, in addition to the federal regulatory requirements that apply to all railroads, include a commitment to notify appropriate agencies in the event of a reportable hazardous materials release and to conduct training workshops for emergency responders.

As you may know, between September 28, 2022, and October 7, 2022, the Board also 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 was essential that the Board hear directly from our stakeholders and did so in public. The Board is now evaluating the evidence in the record, including the data presented by the parties, and comments concerning rail competition, service disruptions, jobs, and safety, in reaching a final decision on the merits.

Because this case is pending, I cannot comment further at this time. However, please be assured that the federal safety regulations administered by the Federal Railroad Administration and other agencies that currently apply to railroads would continue to apply regardless of whether the entities merge.

Thank you again for contacting me with your concerns. A copy of your letter and this response has been placed in the public docket. 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 dark ink, reading "Martin J. Oberman". The signature is fluid and cursive, with the first name "Martin" being the most prominent part.

Martin J. Oberman
Chairman