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April 29, 2024

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ENTERED
Office of Proceedings
April 29, 2024
Part of
Public Record

**Re: CANADIAN NATIONAL RAILWAY COMPANY AND GRAND TRUNK
CORPORATION—CONTROL—IOWA NORTHERN RAILWAY
COMPANY, Finance Docket No. 36744**

Dear Ms. Brown,

Canadian Pacific Kansas City Limited (CPKC) hereby files CPKC's Comments On Proposed Transaction in the above-captioned matter. CPKC will provide Board staff with workpapers separately. If you have any questions, please feel free to reach out to me.

Regards,

/s/ John M. Scheib

John M. Scheib

cc: All counsel of record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET No. FD 36744

**CANADIAN NATIONAL RAILWAY COMPANY
AND GRAND TRUNK CORPORATION
—CONTROL—**

IOWA NORTHERN RAILWAY COMPANY

CPKC'S COMMENTS ON PROPOSED TRANSACTION

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Dated: April 29, 2024

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Canadian Pacific Kansas City Limited, on behalf of its U.S. rail carrier subsidiaries (“CPKC”),¹ submits that the proposed control by Canadian National Railway Company (and its affiliates) (collectively “CN”) of the Iowa Northern Railway Company (“Iowa Northern” or “IANR”) (the “Proposed Transaction”) presents significant horizontal competitive issues that the Board should mitigate by imposing narrowly tailored conditions.

I. INTRODUCTION

CN has chosen to pursue the acquisition of a railroad that operates in the same region of east-central Iowa that CN already serves, whose lines are substantially parallel with CN’s existing network, that serves the same basic mix of commodities as CN, and that serves many of the very same shipper facilities to which CN has access. CN’s proposed acquisition of Iowa Northern will eliminate all present and future horizontal competition between CN and Iowa Northern, and in the process will substantially reduce competition in the transportation markets served by both CN and Iowa Northern.²

The loss of competition will not be limited to specific “2-to-1” shipper facilities as CN suggests. It will extend more broadly to encompass other facilities served by both CN and Iowa Northern. It will include customers that can use Iowa Northern’s independent transload facilities at Manly and Butler as an alternative to CN. And because CN and Iowa Northern’s lines are closely parallel throughout much of east-central Iowa, it will extend as well to shippers who will

¹ The U.S. operating rail carrier subsidiaries of CPKC Limited include Soo Line Railroad Company; Central Maine & Quebec Railway US Inc.; Dakota, Minnesota & Eastern Railroad Corporation; Delaware & Hudson Railway Company, Inc.; The Kansas City Southern Railway Company; Gateway Eastern Railway Company; and The Texas Mexican Railway Company.

² CPKC is committed to engaging in good faith with Applicants regarding the assignment of IANR’s trackage rights over CPKC on appropriate terms. That matter is unrelated to the issues raised by CPKC in these Comments regarding the merits of the CN control application.

lose the benefit of potential new reciprocal switching access to CN or Iowa Northern, potential build-outs to or build-ins from CN or Iowa Northern, and the geographic competition that CN's and Iowa Northern's proximate and independently-competitive lines provide.

In addition to the horizontal competition issues raised by the overlap of CN's and Iowa Northern's networks, the Proposed Transaction also raises vertical competitive issues, as CN acknowledges. For shippers served solely by Iowa Northern, for example, CN's acquisition would newly enable CN to extend its haul even in situations where the shipper's preference might be to use an existing Iowa Northern interline routing option. CN has proposed to remedy this set of concerns with a gateway-preservation condition it says is modeled after the commitment CPKC made in the CP/KCS proceeding. CPKC believes that, if imposed as a condition as the Board did in CP/KCS, such a remedy is the appropriate solution for potential vertical competitive issues.

As we demonstrate below, however, such a remedy *is not* an appropriate way to mitigate the horizontal competitive concerns. The Board's precedents – and longstanding competition agency policy – show that the appropriate remedy for losses of horizontal competition is structural relief that enables the continued existence of an independent competitor. In this case, such a remedy is readily available: targeted haulage rights between Nora Springs and both Cedar Falls/Waterloo and Cedar Rapids as well as to Iowa Northern's Manly and Butler transload facilities—each of which would enable CPKC or another independent carrier to step into the shoes of Iowa Northern to quote competitive rates for traffic moving to/from shipper facilities with pre-Transaction access to both CN and Iowa Northern. To supplement such rights, the Board also should impose a condition to preserve for customers served only by Iowa Northern or CN today the future opportunities they would have were IANR to remain independent of CN to

gain access to a competing railroad, whether via newly-imposed reciprocal switching (under Ex Parte No. 711 or otherwise), build-in/build-out, or some other means.

In **Section II**, we address the Board’s power to fully consider the competitive issues in this proceeding and impose conditions that mitigate potential competitive harms without the need to make any express finding that an *unconditioned* transaction would cause net competitive harm.

Section III reviews the Board’s long-standing concerns with impacts of railroad control transactions on competition, and demonstrates that those concerns extend well beyond the narrow class of situations where specific shipper facilities lose pre-existing access to one of the only two serving railroads – i.e., “2-to-1” situations. We also review Board precedents establishing the need to evaluate of whether the competitive options that remain post-Transaction (if any) would provide “effective” competition. The “mere existence of some alternative” is not enough. In other words, a competitive assessment must do more than simply count up the number of railroads with potential physical access to a shipper facility; it must assess whether the transportation options those railroads would offer would be as effective as the independent option that was extinguished by the Proposed Transaction.

Section IV addresses the substantive horizontal competitive concerns posed by the Proposed Transaction. We demonstrate that CN and Iowa Northern are head-to-head competitors today across many dimensions, and the Proposed Transaction would permanently eliminate that competition absent the Board’s imposition of conditions aimed at preserving that competition.

Finally, **Section V** addresses the appropriateness of the Board imposing conditions to mitigate the competitive harm threatened by the Proposed Transaction. As we explain in **Section**

V(A), the Board should couple its customary slate of conditions – including conditions holding the Applicants’ to their commitments and representations – with narrowly-tailored structural relief designed to mitigate the horizontal competitive harm that would arise from an unconditioned transaction. Specifically, the Board should condition the Proposed Transaction as follows:

(1) The Board should impose as a condition Applicants’ commitment to keep all gateways, including specifically the Nora Springs gateway between Iowa Northern and CPKC, open on commercially reasonable terms;

(2) The Board should require Applicants to negotiate and enter into a haulage agreement that grants a carrier independent of CN the right to determine and offer to shippers transportation via CN/IANR between Nora Springs (and between other IANR-served gateways) and (a) the points served by both CN and IANR pre-Transaction (*i.e.*, Cedar Falls/Waterloo and Cedar Rapids) and (b) IANR’s Manly and Butler transload facilities, in the latter case limited to traffic that would be transloaded at those points. This condition should provide for reasonable cost-based compensation to CN and require CN to adhere to appropriate service standards ensuring that CN/IANR could not defeat the competition that the haulage rights would preserve by degrading service levels relative to what was available in the pre- Transaction marketplace or discriminating against haulage traffic. Enabling an independent carrier – such as CPKC or CRANDIC – the capability to quote competitive rates to these customers using these haulage rights would preserve the best-available approximation of the independent competitive outcomes that IANR has provided prior to its acquisition by CN;

(3) The Board should impose a condition aimed at assuring that CN’s acquisition does not jeopardize solely-served CN or IANR shippers’ ability to obtain service from an

alternate rail carrier of future access by a competing railroad to shippers served today only by Iowa Northern, whether via newly-imposed reciprocal switching, build-ins or build-outs, or some other means. The Board could do this by: (a) reserving jurisdiction to conduct oversight in response to public comments—or at the Board’s own initiative—in the event CN’s rates, services or other actions diverge from the procompetitive portrait painted by the Application, including specifically invoking the Board’s authority under 49 U.S.C. § 11327 to issue Supplemental Orders to address Proposed Transaction-related issues; (b) providing that the haulage rights granted to CPKC would apply to any build-out from or build-in to an IANR-served facility from a proximate CN line; and (c) providing that any new reciprocal switching (or terminal trackage rights) remedy created by the Board in Ex Parte No. 711 (Sub-No. 2) or other docket would apply to IANR-served shipper facilities without regard to whether those facilities are formally deemed to be within terminal areas or otherwise covered by the specific generally-applicable terms of any Board order in such proceedings; and

(4) Finally, the Board should impose its customary slate of conditions establishing that the Board would retain its authority to conduct oversight of the implementation of the Transaction and its authority under 49 U.S.C. § 11327 to issue supplemental orders as necessary to address any Transaction-related harms that may materialize notwithstanding the conditions imposed to avoid those harms.

As we explain in **Section V(B)**, because the proposed conditions would not impinge on whatever alleged public benefits might flow from CN’s acquisition of Iowa Northern, there is no need to conduct a careful assessment whether those benefits are sufficiently weighty to overcome the competitive impacts of the Transaction. The Board’s conditional approval of the Proposed Transaction will enable the realization of those benefits (if any) alongside the continuation of the

kind of competition that Iowa Northern has provided. Nonetheless, as we also demonstrate, there is ample room for skepticism about many of the public benefits CN has claimed, which appear overstated or readily achievable via means short of an outright acquisition of Iowa Northern.

II. THE BOARD HAS THE POWER TO CONSIDER FULLY THE COMPETITIVE IMPACTS OF THE TRANSACTION AND IMPOSE CONDITIONS TO MITIGATE THOSE IMPACTS.

The Board has wide latitude to protect the public's interest in competition despite its preliminary determination that the Proposed Transaction would be considered as a "Minor" transaction.

When the Board accepted the Proposed Transaction as a "Minor" transaction, it made clear that any preliminary findings regarding the competitive impacts of the Proposed Transaction were not final and that the process was just beginning. *Canadian National Ry. Co. and Grand Trunk Corp. – Control – Iowa Northern Ry. Co.*, Finance Docket No 36744 (STB served Feb. 29, 2024) ("The Board emphasizes that this is not a final determination and may be rebutted by subsequent filings and evidence submitted into the record for this proceeding.") ("Acceptance Decision"). As the Board explained:

"[A]fter the record is fully developed, the Board will conduct a careful review before making a final determination as to whether the Proposed Transaction would substantially lessen competition, create a monopoly, or restrain trade, and whether any anticompetitive effects would be outweighed by the public interest. See 49 U.S.C. 11324(d)(1)-(2)."

Id. (emphasis added).

Subsequently, the Board again "stresse[d]" that "its findings regarding the Proposed Transaction's potential anticompetitive effects and/or contributions to the public interest remain preliminary and, as components of the statutory approval standard under 49 U.S.C. § 11324(d),

are subject to change following the development of the record.” Reconsideration Decision at 8. It specifically observed that the competition concerns raised by both CPKC and IAIS further noted that “[i]ndeed, although, the assertions made by CPKC and IAIS “warrant[ed] further and careful exploration” notwithstanding the classification of “the Proposed Transaction ... as minor.” *Id.*

Accordingly, there is no doubt that the Board must conduct a complete and “careful review” of the impacts of the Proposed Transaction on competition. Indeed, Applicants themselves have endorsed a searching review. Applicants’ Reply to CPKC’s Petition for Reconsideration, at 9 (“[T]he Board similarly made clear in its Classification Decision that it would be conducting its typical ‘careful review’ of the Proposed Transaction”). As part of that “careful review,” the Board may use all its powers, including its power to deny the Proposed Transaction (which CPKC is not suggesting), and to impose conditions on the transaction even if it elects to approve it. Acceptance Decision at 7 (noting that the Board “may also consider imposing conditions on the Proposed Transaction”); Reconsideration Decision at 13 (Fuchs and Schultz, concurring). Once a full record is developed, the Board may deny a “Minor” transaction if the Board finds that “as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States and the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.” 49 U.S.C. §11324(d).

Under 49 U.S.C. § 11324(c), the Board has broad authority to impose conditions on a transaction subject to § 11324(d). *See Bessemer and Lake Erie R.R. Co. — Acquisition and Operation — Certain Rail Lines of CSX Transp., Inc. In Onondaga, Oswego, Jefferson, Saint Lawrence, and Franklin Counties, N.Y.*, Finance Docket No. 36347 at 6 & 10 (STB Decided

Apr. 6, 2020) (citing *Grainbelt Corp. v. STB*, 109 F.3d 794, 798 (D.C. Cir. 1997) (the agency “has ‘extraordinarily broad discretion’ in deciding whether to impose protective conditions in the context of railroad consolidations”)) (“*Bessemer*”); *see also Reconsideration Decision* at 13 (Fuchs and Shultz concurring) (“[T]he Board has imposed competition-related conditions on minor transactions . . .”). The Board has repeatedly and consistently used its conditioning authority in non-Major control cases to ameliorate competitive harm that would result from the transaction. *Bessemer* at 6 (citing *Kan. City S. — Control — Kan. City S. Ry.*, FD 34342, slip op. at 16 (STB served Nov. 29, 2004)).

It is well established in Board precedent that the Board’s conditioning power in “Minor” control proceedings enables it to act to mitigate potential harms without needing to conclude that those same harms would support an outright disapproval of an unconditioned transaction. *See, e.g., Bessemer* at 6 & 10; *Village of Barrington v. S.T.B.*, 636 F.3d 650, 664-65 (D.C. Cir. 2011) (holding Board has broad discretion to impose conditions on “minor” transactions).

III. THE BOARD AND ITS PREDECESSOR HAVE LONG BEEN CONCERNED WITH SAFEGUARDING ALL FORMS OF COMPETITION.

The agency has long had an interest in protecting the public against losses of competition and ensuring that competition post-transaction is real, feasible, and effective. The Board evaluates competitive conditions in the market holistically, and examines whether competition in the market will be diminished by a transaction. The agency is as concerned with horizontal or parallel effects as it is with so-called end-to-end or vertical effects.³

³ “Railroad consolidations may involve competitive problems that can be identified in terms of parallel and end-to-end effects . . . Parallel effects may arise where the consolidating railroads run between common origin/destination pairs or corridors and generally involve the question of whether there is a reduction in the number of rail competitors serving transportation markets. End-to-end effects may exist where the consolidating railroads serve common destination points from different origins, or

CN would have the Board believe that there is no room for agency review of competition here, because it claims that there are no “2-to-1” losses—a claim that, as discussed below, is not accurate. But, the agency’s precedent plainly does not limit potential concerns to facilities that would suffer “2-to-1” losses of competition. It has been concerned with all forms of losses of horizontal competition: “3-to-2” situations (which Applicants have acknowledged in their April Supplement increased from three to four),⁴ reductions in the number of viable competing routing alternatives; the elimination of build-in or build-out opportunities; and reductions in geographic competition.

Reductions in Number of Serving Carriers for Specific Shipper Facilities and Origin-Destination Routes. The agency has concluded that a transaction that resulted in a change from three to two route options required a remedial condition. *See Union Pac. Corp. et al. – Control – Missouri Pac. Corp et al.*, 366 I.C.C. 459, 531 (1982) (“UP/MP”) (“After the consolidation the Omaha-Gulf market, which now has three competitive routes, will only have two (UP and BN). We conclude that this combination of effects results in a substantial lessening of competition which must be ameliorated as a condition to approval of the consolidation.”).⁵ Similarly, in considering options for reorganizing the Milwaukee Road (“MILW”) in the early 1980s, the

originate from common origins to different destinations, and these effects relate primarily to whether there will be a reduction in source competition or a vertical foreclosure of competition at commonly served gateways.” *Railroad Consolidation Procedures: Class Exemption for Transactions Subject to the Statutory Consolidation Provision*, Ex Parte No. 282 (Sub-No. 15), 1992 LEXIS 149 at *11-12 (ICC Served July 13, 1992).

⁴ Applicants’ Supplement in Response to Decision No. 2, at 11-12 (STB filed Apr. 12, 2024).

⁵ The Board protected competition, finding: “Service from Omaha to the Gulf is provided by MP direct, BN direct and UP with interchange at Kansas City, primarily with MKT. The consolidation of UP and MP directly eliminates competition between carriers with 13 percent and 38 percent respectively of the Omaha-Kansas City market (second and third behind BN with 42 percent of this market). The potential diversion of over 73 percent of the UP-MKT interchange at Kansas City substantially limits MKT as a competitive factor south of Kansas City. After the consolidation the Omaha-Gulf market, which now has three competitive routes, will only have two (UP and BN).” *UP/MP*, 366 I.C.C. at 531.

agency identified concern with “3-to-2” losses of competition. *Chicago, Milwaukee, St. Paul, & Pacific R.R. – Reorganization – Acquisition by Grand Trunk Corp.*, 2 I.C.C.2d 161, 1984 ICC LEXIS 287, *163-71 (1984) (“MILW”). Although it failed to reach a majority on a recommendation to the bankruptcy court, the agency unanimously found that if Chicago Northwestern’s (“CNW”) proposal were approved, conditions to address lost competition should be imposed. *Id.* at *15-16. The agency found that:

- Going from “3-to-2” by combining MILW and CNW, with Soo also remaining, “will be a significant adverse competitive impact on rail transportation in the Chicago-Milwaukee corridor if CNW’s proposal is approved without condition.” *Id.* at *167.
- Going from “3-to-2” by combining MILW and CNW, with Green Bay and Western (“GBW”) also remaining, would result in “a significant anticompetitive effect on rail transportation” in the Chicago-Green Bay corridor if CNW’s proposal is approved. *Id.* at *167.
- Going from “3-to-2” by combining MILW and CNW, with Burlington Northern remaining, would result in “significant anticompetitive impact upon rail transportation in the Twin Cities-Kansas City corridor in the absence of appropriate conditions.” *Id.* at *170.

In each of these instances, the agency dug deeper and did not simply conclude that the mere existence of another carrier would suffice to preserve effective competition as CN suggests that the Board should do here. And in these kinds of cases, the remedy chosen by the agency

involved structural conditions enabling another carrier to step into the shoes of the carrier being acquired. *Id.* at *272-75.⁶

Reductions in Other Forms of Horizontal Competition. The Board has explained that reductions in the number of active, current serving carriers is not the sole litmus test for assessing a transaction’s impact. The Board also requires remedies that offset, horizontal competitive harms, “including elimination of shippers’ build-out, transloading, plant siting, and production shifting choices when two railroads serving overlapping areas merge.” *Canadian National Ry. Co., et al. – Control – Kansas City Southern, et al.*, Docket No. FD 36514 (Decision No. 5), slip. op. at 19 (STB Served Aug. 31, 2021) (noting that the new merger rules require examination of these issues); *see also UP/SP*, 1 S.T.B. 233 (imposing BNSF agreement and other trackage rights as structural remedies to address loss of parallel competition and preserve build-in/build-out options).

Importance of Ensuring that Post-Transaction Competition Remains Real and Effective. The agency has been careful to ensure that purported competition remaining in the marketplace post-Transaction will be real and effective. That means that the remaining

⁶ The most common form of structural relief in railroad merger cases has been the grant of trackage rights that preserve access for an independent competitor, while simultaneously allowing the merging parties to pursue their merger-related synergies and efficiencies. Haulage rights, which harness the operations of the merging railroad while allowing an independent railroad to quote competitive rates, have also routinely been used to remedy horizontal competitive issues. *See, e.g., Union Pac. Corp., et al. – Merger & Control – Southern Pac. Rail Corp., et al.*, 1 S.T.B. 233 (Aug. 6, 1996) (Decision No 44); *Union Pac. Corp et al. – Merger and Control – Southern Pac. Rail Corp. et al.*, 1 S.T.B. 233, 392-393 (Aug. 6, 1996) (Decision No 44) (imposing BNSF agreement and other trackage rights as structural remedies to loss of parallel competition) (“UP/SP”); *Union Pac. Corp. et al – Control – Missouri-Kansas-Texas R.R. Co. et al.*, FD No. 30800, 4 I.C.C.2d 409, 456 (ICC Decided May 13, 1988) (“UP/MKT”); *Union Pacific Corp., Pacific Rail System, Inc., and Union Pacific R.R. — Control — Missouri Pacific Corp. and Missouri Pacific R.R.*, 366 I.C.C. 459 (1982) (remedying horizontal anticompetitive effects with trackage rights conditions), *aff’d Southern Pacific Transp. Co. v. I.C.C.*, 736 F.2d 708 (D.C. Cir. 1984) (“UP/MP”). In the railroad industry, granting competitive access over the merged carrier’s network via trackage or haulage rights is favored over divestitures, which necessarily would stand in the way of merger-related efficiencies. *See UP/SP* at 374-375.

competitive options (those independent of the merged railroad) must be sufficiently capable and attractive for customers such that they pose a realistic threat of winning the business to constrain the offers – in terms of price and service—of the merged railroad. *Market Dominance Determination and Consideration of Product Competition*, 365 I.C.C. 118, 129 (1981) (“*Market Dominance*”) (“Effective competition for a firm providing a good or service means that the care must be pressures on that firm to perform up to standards and at reasonable prices, or lose desirable business.”); *Dupont v. Norfolk Southern Ry.*, Docket No. NOR 42125 (STB served Mar. 14, 2014) (“*DuPont*”) (holding that transportation alternatives were “sufficient to constrain the railroad’s rates to competitive levels” in case where the alternatives were feasible). Practical physical access by another railroad – including via switching arrangements – may provide shippers with viable competitive options “an alternative is possible from a practical standpoint given real-world constraints.” *Market Dominance Streamlined Approach*, Docket No. Ex Parte 756, slip op. at 8 (STB served Sept. 11, 2019) (quoting *Total Petro.*, slip op. at 4 n.9).

But to preserve competition in the post-Transaction world, that physical access must also result in “effective competition,”⁷ which means competition adequate to restrain rates to a reasonable level. *CN/KCS Voting Trust Decision*, Docket No. FD 36514, slip op. at 27 (STB served Aug. 30, 2021); *DuPont v. CSXT*, STB Docket No. 42099, slip op. at 5 (STB served June 30, 2008).

The Board has been clear that the “mere existence of some alternative” does not mean that there is effective competition. *Id.* (“The mere physical possibility of transporting plasticizers by truck does not mean that there is effective competition.”); *Ariz. Pub. Serv. Co. v.*

⁷ In limited instances the agency has found that a build-in/built-out option could constrain railroad behavior, but that is not applicable here.

United States, (APS 1984), 742 F.2d 644, 651 (D.C. Cir. 1984); *Total Petro. & Refining USA, Inc. v. CSX Transp., Inc.*, Docket No. NOR 42121 (STB served Dec. 19, 2013) (“But the fact that some competition exists, or that the price of the alternative happens to be similar to the challenged rate, does not in itself demonstrate that such competition is effectively constraining a carrier’s pricing—i.e., whether the competitive alternative is sufficient to deter the carrier from charging monopoly prices for the transportation at issue.”) (“*Total Petro.*”); *Petition for Rulemaking to Adopt Revised Competitive Switching Rules, Ex Parte 711*, slip op. at 7-8 (STB served Jul. 25, 2012); *M&G Polymers USA, LLC v. CSX Transp., Inc.*, Docket No. NOR 42123, slip op. at 2 (STB served Sept. 27, 2012) (citing *Market Dominance*, 365 I.C.C. at 129); *DuPont*, slip op. at 5.⁸

IV. THE PROPOSED TRANSACTION WOULD REDUCE HORIZONTAL COMPETITION BY COMBINING TWO CARRIERS THAT HAVE COMPETED HEAD-TO-HEAD AGAINST ONE ANOTHER.

A. CN and Iowa Northern Are Horizontal Competitors Whose Service Territories Overlap in a Critical Area of East-Central Iowa.

CN’s lines are broadly parallel to Iowa Northern’s network—operating parallel lines across a region of overlap in east-central Iowa that is vitally important to U.S. agriculture—and intersect at several points to serve numerous important shipper facilities that CN’s Application acknowledges will suffer a reduction in the number of serving carriers.

This region is of great significance to the agricultural economy of the United States, and indeed the World. Reconsideration Decision at 8-9 (“The Board recognizes the importance of

⁸ Even if the Board were to conclude that competitive forces exist and somewhat constrain railroad power, it still has an obligation to “explain why reliance on them is sufficient to protect those interests of shippers protected in the Act . . .” *Coal Exporters Ass’n of the United States, Inc. v. United States*, 745 F.2d 76, 98 (D.C. Cir. 1984), *cert. denied*, 471 U.S. 1072 (1985).

[illegible]

In the regions served by Iowa Northern, the lines of CN and Iowa Northern run in close proximity to one another. They are only about 20 miles apart at Manly and Osage, and draw continually closer together to converge at Cedar Falls and Waterloo. The lines then separate by 45 miles but immediately begin drawing closer together again to converge in Cedar Rapids. A combined CN and Iowa Northern would consolidate control over all of these parallel lines through east-central Iowa. Figure 1 below is a detailed map of Iowa Northern's network submitted with the Application, showing the extent of the overlap with CN's own lines.

FIGURE 1
MAP OF CN AND IOWA NORTHERN RAIL LINES IN IOWA

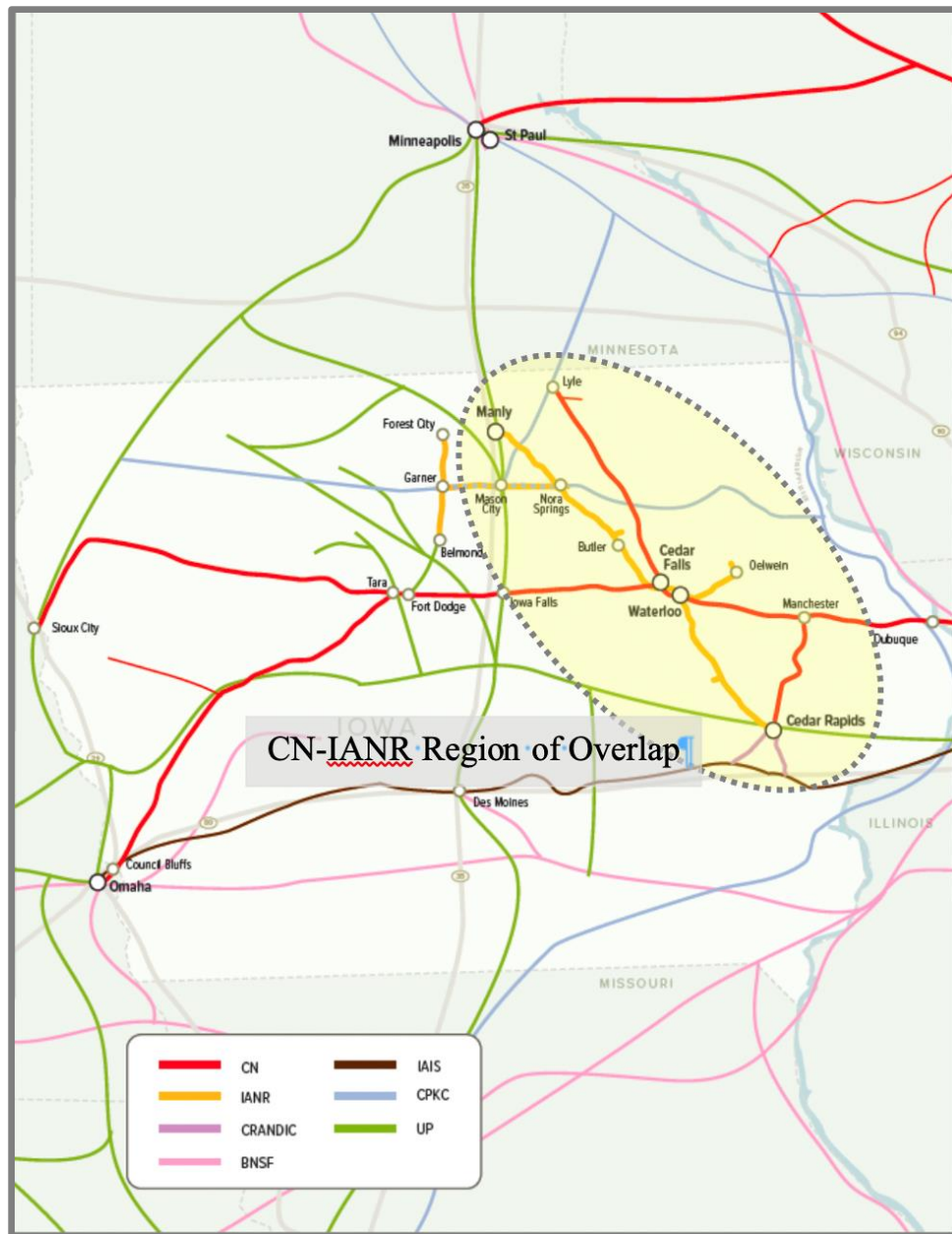
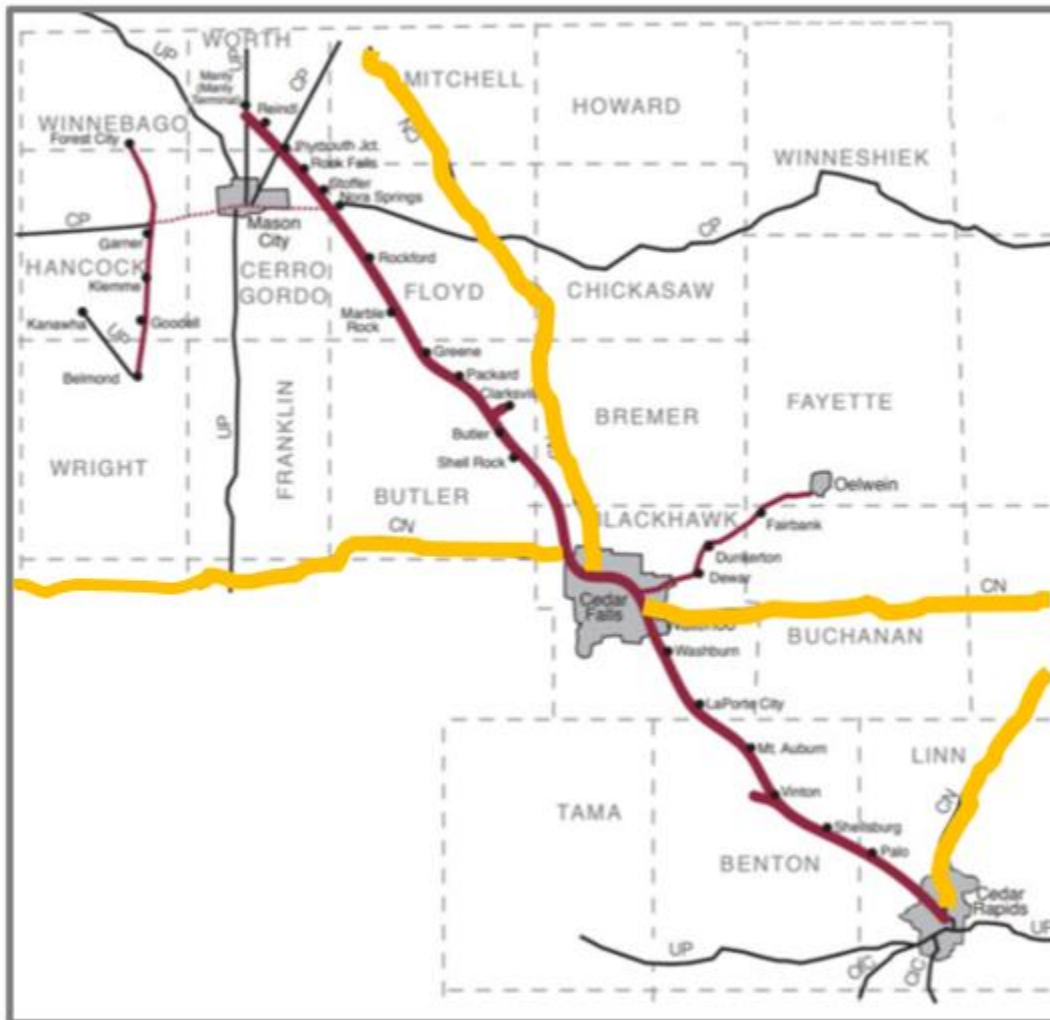


Figure 2 zooms in on the 19-county area served by Iowa Northern – what CN’s expert refers to as Iowa Northern’s “catchment area” – and highlights that the two railroads overlap

almost completely.⁹ Iowa Northern's lines are shown in red, while CN's lines are shown in yellow.

FIGURE 2¹⁰
MAP OF IOWA NORTHERN LINES



As Mr. Zebrowski explains, moreover, CN and IANR handle the same basic mix of commodities to/from east-central Iowa, and they do so to/from stations that either served by both

⁹ Figure 2 is drawn from the Application at 3, Exhibit 3-1, with the addition of yellow highlighting to show the location of CN lines.

¹⁰ See Application, Hunt V.S. at 3, Exhibit 3-1 (yellow lines added to highlight CN lines).

railroads, or closely proximate to the lines of the other. Verified Statement of Nathaniel Zebrowski (“Zebrowski V.S.”) at ¶ 6-17.

B. Iowa Northern and CN Compete Directly with One Another to Move Traffic to, from, and within the Region Where They Overlap.

The evidence shows that there is extensive competition between Iowa Northern and CN for rail traffic moving to, from, and within east-central Iowa. Both carriers serve many of the same shipper facilities, both serve the same types of traffic, and both participate in the movement of such traffic to the same destination regions and from the same origin regions.

For its part, CN’s network of lines in east-central Iowa already connects shippers there with a broad array of origins and destinations across North America: via single-line CN network routes to points across the Upper Midwest and Canada; via single-line CN network routes to the Gulf; and to the East via CN’s single-line route to Chicago, where CN connects efficiently with both NS and CSXT.¹¹

IANR lacks the direct reach of CN, but it participates in movements in most of the same corridors via its network of friendly connections – (a) with CPKC via Nora Springs, primarily for movements to/from Canada; (b) with Iowa Interstate Railroad, LLC (“IAIS”), which it reaches via the connection with Cedar Rapids & Iowa City Railway Company (“CRANDIC”) at Cedar Rapids; (c) with Union Pacific Railroad Company (“UP”) at Cedar Rapids, {{ [REDACTED] [REDACTED] [REDACTED] }} as well as CN, {{ [REDACTED] [REDACTED] [REDACTED] }} Iowa Northern has long touted the competitive benefits to customers of its independence. Harman at ¶ 17-18. For example, as long

¹¹ CN also reaches Omaha, where it can connect with UP and BNSF.

ago as 2012, Iowa Northern touted that “is a unique short line with multiple rail connections providing independent access to North American Rail System.” It more recently has noted {{ [REDACTED]

}}¹²

The direct competition between Iowa Northern and CN is reflected in traffic data. As Mr. Zebrowski explains in his accompanying Verified Statement, the traffic data reflect extensive head-to-head competition between Iowa Northern and CN would be eliminated were the Transaction approved. Zebrowski V.S. at ¶ 18-27.¹³ Mr. Zebrowski observes that the “potential to utilize the two carriers’ independent routes would be eliminated by the Transaction because CN would control both sets of routes.” *Id.* at ¶ 27.

CPKC has firsthand knowledge of the way in which Iowa Northern’s independence has enabled head-to-head competition with CN for traffic moving between Canada and east-central Iowa. Mr. Jon Harman discusses a specific illustrative example of the loss of horizontal competition that would result from the Transaction: the sourcing of oats from Canadian origins moving to Quaker Oats’ Cedar Rapids mill. Harman V.S. at ¶ 31-34. Pre-Transaction, the shippers’ competitive rail option to a CP-IANR move is a CN-direct single-line move of oats from CN-served origins in Saskatchewan and Manitoba to Cedar Rapids, which CN reaches via Chicago and Dubuque, IA. The presence of that option provides a competitive discipline for both CP and Iowa Northern, since both carriers would lose out were they to offer price/service terms that are viewed by the customer as inferior to those available from CN. *Id.* at ¶ 33;

¹² See CN00064_014 (Highly Confidential) ({{ [REDACTED] [REDACTED] })), attached as Khaira V.S. Attachment 2.

¹³ As Mr. Zebrowski explains, he examined CN, CPKC, and IANR’s 2021 to 2023 traffic data augmented by 2021 and 2022 Carload Waybill Sample data reflecting movements by other carriers Zebrowski V.S. at ¶ 5 & n.2.

The competition between Iowa Northern and CN is not limited to traffic moving to (or from) specific facilities that both serve. The two railroads are alternatives to one another for traffic moving to and from the part of Iowa they both serve via transloading or via alternative origin/destination facilities. Iowa Northern and CN provide competitive alternatives to each other for customers in these areas that can truck to facilities on either carrier, or from facilities on one to a transload facility on the other.¹⁴ Facilities served by both CN and Iowa Northern at Cedar Rapids and other points can source agricultural products from multiple origins. Harman V.S. at ¶ 23. These facilities can ship to multiple destinations – some toward the West and some toward the East. This optionality is important to a well-functioning market for millers like Quaker Oats and refiners producing ethanol and other bio-fuels. Likewise, shippers locating in the region can choose between locations on CN and locations on Iowa Northern (such as its Shell Rock and Manly facilities). They can use Iowa Northern’s Manly transload facility as an alternative to being captive to the Class I railroad that serves them directly. Harman V.S. at ¶ 24. Or they can use the transload facilities at Bryant Park. Harman V.S. at ¶ 28. Iowa Northern has used its transloading facilities, particularly those at Manley and Butler to compete with other railroads – logically including CN. Harman V.S. at ¶ 23& 29.¹⁵

C. CN’s Acquisition of Iowa Northern Will Harm Competition.

CN’s acquisition of Iowa Northern will eliminate all competition today and in the future between the two carriers. As the Board has repeatedly and consistently recognized, “competition drives firms to offer lower prices and better service to customers in an attempt to win business.”

¹⁴ See IANR00006 (Highly Confidential) ({{ [REDACTED] [REDACTED] }}), attached as Khaira V.S. Attachment 3.

¹⁵ See IANR00013 (Highly Confidential) ({{ [REDACTED] [REDACTED] }}), attached as Khaira V.S. Attachment 4.

CN/KCS Voting Trust Decision at 29. Removing the competition between CN and Iowa Northern would harm competition.

Customers that have the option to utilize facilities on either railroads' line today will have fewer options if the Proposed Transaction is approved. The plainly apparent overlap, plus the facts and the data, lead Dr. Majure to conclude that the Proposed Transaction would likely have anticompetitive effects on both rates and service in the area served independently today by Iowa Northern and CN. Verified Statement of W. Robert Majure, Ph.D. ("Majure VS") at ¶ 8 and 38.

1. Iowa Northern and CN Will No Longer Compete With One Another Once Iowa Northern Is Under CN's Control.

It is self-evident that allowing the Proposed Transaction and placing Iowa Northern under CN control will result in Iowa Northern and CN no longer competing with one another. Through this Proposed Transaction, both sets of lines would be placed under Applicants' control, which would result in a loss of optionality occasioned by the transformation of Iowa Northern from a neutral switch carrier into an appendage of CN's network. *Zebrowski V.S.* at ¶ 3 and 27; *see also Harman V.S.* at ¶ 30. These two railroads will no longer compete for business through rates, service, and offerings if the Proposed Transaction is approved.

The Application acknowledges this overlap and that there are three customers who would realize a reduction "3-to-2" reduction in the number of rail carriers serving their facilities. Application, *Hunt V.S.* at 2. The Applicants later supplemented the Application to notify the Board that there were actually four such customers. Applicant's Supplement at 11-12. CN's own expert identified at least 21 shipper facilities in Cedar Rapids, Waterloo, and other points that are accessed by both CN and Iowa Northern. *See Application, Hunt V.S.* at 14, Exhibit 6-1.

This loss of competition from “3-to-2” is significant, should be of concern, and should be remedied.

A prime example of lost competition is the oats traffic discussed above. After the Proposed Transaction, the competition provided by CPKC-IANR route from Canada to Cedar Rapids will no longer be viable, as CN will control Iowa Northern. This will eliminate the competitive discipline that results from an option independent of CN and would allow CN to drive up Iowa Northern’s rates (or reduce its service levels), knowing that doing so would risk nothing, since the traffic would end up on CN’s direct route if the CP-IANR option were no longer attractive. All viable routes to Cedar Rapids from Canada would be controlled by CN in the future, whereas today Iowa Northern is fully independent of CN. *Id.* at ¶ 17; *see also* Zebrowski V.S. at ¶ 15.

But the loss will be far more extensive. Mr. Zebrowski’s analysis identifies the corridors in which shipments occur and uses the data on movements in these corridors to identify the independent routes that have actually been used. This analysis identifies routes that are credible – that a shipper could reasonably be expected to use in negotiations with a railroad for rates in that corridor – and ensures that the analysis identifies shipments where there would be a two-to-one reduction in competition. Mr. Zebrowski finds that of the {{[REDACTED]}} origin-destination pairs connecting IANR-served points with origins and destinations across North America, CN and IANR both participate independently (as horizontal competitors) in well more than {{[REDACTED]}} origin-destination pairs and, of these, shippers would have no options independent of CN post-acquisition, for {{[REDACTED]}} of those origin-destination pairs. Zebrowski V.S. at ¶ 24-25 and Chart 3; Majure V.S. at ¶ 52. This result is depicted graphically in Figure 3 below.

FIGURE 3
IMPACT OF TRANSACTION ON SHIPPERS' INDEPENDENT ROUTING OPTIONS {{{

[REDACTED]

}}}

Whereas CN claimed that no shipper would suffer a two-to-one reduction in competition, it is clear from Mr. Zebrowski's analysis that CN's unduly-narrow methodological approach fails to detect considerable the traffic for which the number of realistically viable rail options would be reduced to one as a result of the Transaction. Zebrowski V.S. at ¶ 24-25 and Chart 3; Majure V.S. at ¶ 28-54.

2. The Competitive Harms Are Magnified by Iowa Northern's Unique Competitive Role.

Iowa Northern's competitive role magnifies the potential harms associated with CN control of Iowa Northern. Customers can use Iowa Northern to access multiple Class I railroad

options.¹⁶ Iowa Northern touts its independence and that markets that it connects to multiple Class I railroads.¹⁷ That independence is something that Iowa Northern markets.¹⁸ In 1998, Iowa Northern was bragging that “[n]umerous grain elevators off-line to Iowa Northern are taking advantage of the market opportunities available to them via reloads along Iowa Northern.”

¹⁹ Removing an independent carrier that connects customers to multiple Class I railroads and that customers use as an alternative to CN and putting it in the hands of one of those Class I’s reduces competition.

Iowa Northern will lose what it touts as one of its strongest attributes – its { [REDACTED] }
[REDACTED]
[REDACTED] }²⁰ Iowa Northern is explicitly neutral. This route flexibility and less reliance on an individual Class I will be lost with the Proposed Transaction.

3. The Competitive Harms Are Not Avoided by the Presence of Some Other Carriers in the Region.

The identified anti-competitive effects of the Proposed Transaction are not resolved by CN’s hand-waving about the other carriers some of the CN-IANR common points or Applicants’ gateway preservation pledge. CN’s analysis of shipper facilities to which both CN and Iowa

¹⁶ See IANR00006 (Highly Confidential) ({ [REDACTED] })), attached as Khaira V.S. Attachment 3.

¹⁷ See CN00064_014 (Highly Confidential) ({ [REDACTED] })), attached as Khaira V.S. Attachment 2.

¹⁸ See IANR00013 (Highly Confidential) ({ [REDACTED] })), attached as Khaira V.S. Attachment 4.

¹⁹ See CPKC_00516 (Highly Confidential) ({ [REDACTED] })), attached as Khaira V.S. Attachment 5.

²⁰ See CN00064_014 (Highly Confidential) ({ [REDACTED] })), attached as Khaira V.S. Attachment 2.

Northern have access blithely assumes that the presence of a third railroad with access to a facility will obviate any competitive concern. CN fails to address, however, whether that “other carrier” plays the same competitive role as Iowa Northern and/or CN. Just as there is strong reason to doubt that Icelandic Air serving customers at Dulles is a competitive constraint on United flying to Denver (a city Icelandic Air does not serve out of Dulles), there is reason to doubt the mere presence of another carrier is a competitive constraint to CN/Iowa Northern post-Proposed Transaction. Dr. Majure shows that CN’s presumption that the Board should ignore any loss of competition where any other rail service would still be present after an acquisition is incorrect. *Majure V.S.* at ¶ 27-28 and 54.

CN would no doubt contend that UP’s ability to access the processing plant in Cedar Rapids obviates any competitive concern here. That simplistic view fails to consider that UP has not shown any interest—and certainly none that is comparable to that of Iowa Northern—in participating in a relatively short haul movement to Cedar Rapids from a CP-UP interchange in St. Paul, MN, or Clinton, IA. *Harman V.S.* at ¶ 34; *see also Zebrowski V.S.* at ¶ 19. Likewise, the theoretical availability of a three-carrier route via CRANDIC and its connection with IAIS at Iowa City, and IAIS’s connection with CPKC at Chicago or Davenport, IA, overlooks the practical impediments that explain why shippers have not availed themselves of such a route in the pre-Transaction world. *See Harman V.S.* at ¶ 34.

4. CN’s Operating Plan to Integrate Iowa Northern into CN’s Class I Network and Operating Model Provide Direct Evidence of the Competitive Harm.

CN’s plan for post-Transaction changes – most notably in the form of cost reductions – likely would undermine the character of Iowa Northern’s services that makes it competitive and enables IANR interline routes with its connecting carriers competitive even against other

railroads that might provide single-line services to the same customer. Instead of preserving the boutique nature of Iowa Northern's services, CN states that it will seek to impose {{[REDACTED]}}
 [REDACTED]
 [REDACTED]}}²¹

Iowa Northern is also known for enabling direct competition among alternative long-haul routings. Iowa Northern specifically {{[REDACTED]}}
 [REDACTED]}}²² And Iowa Northern {{[REDACTED]}}²³

Contrastingly, CN's plans to push traffic over its own network. It acknowledged to Iowa Northern that post-Proposed Transaction, {{[REDACTED]}}
 [REDACTED]
 [REDACTED]}}²⁴ It also seeks to {{[REDACTED]}}
 [REDACTED]}}²⁵ These kinds of transformation in IANR's service has already {{[REDACTED]}}²⁶

²¹ See CN00064_014 (Highly Confidential) ({{[REDACTED]}}), attached as Khaira V.S. Attachment 2.

²² See CN00051_003 (Highly Confidential) ({{[REDACTED]}}), attached as Khaira V.S. Attachment 1.

²³ See IANR00013 (Highly Confidential) ({{[REDACTED]}}), attached as Khaira V.S. Attachment 4.

²⁴ See CN00055_003 (Highly Confidential) ({{[REDACTED]}}), attached as Khaira V.S. Attachment 6.

²⁵ See CN00051_003 (Highly Confidential) ({{[REDACTED]}}), attached as Khaira V.S. Attachment 1.

²⁶ See IANR00020 (Highly Confidential) ({{[REDACTED]}}), attached as Khaira V.S. Attachment 7.

5. The Proposed Transaction Is Not Necessary to Address Some Fundamental Failing of Iowa Northern and May Do More Harm Than Good.

The proposed changes are likely to do more harm than good with regard to Iowa Northern. This case is different than other cases in which an acquisition target was weak, had periods of disinvestment, or was unable to provide good service.

- This is not the case of a declining railroad. Iowa Northern has a track record of success. It has grown traffic through its access to multiple Class I's, its service, and its boutique services. Indeed, it has grown from handling about 12,000 carloads in 1994 to 60,000 carloads per year today.²⁷
- This is not a case of a railroad that is struggling operationally. See, e.g., Harman V.S. at ¶ 16; Exhibit 15 – Operating Plan Minor at 7 (describing “typically daily, one train in each direction on its mainline (Manly–Waterloo–Cedar Rapids) and one local train in each direction on the Oelwein Subdivision”). Indeed, Iowa Northern is known for superior service and for providing boutiques service to individual customers. If anything, {{ [REDACTED] }
[REDACTED]
[REDACTED]}²⁸ CPKC knows of this first hand. In but one example, Iowa Northern takes unit trains from CPKC, but for the benefit of the customer breaks them into smaller blocks and moves the blocks in and out of the customer facility, switching on an as-needed basis. Harman V.S. at ¶ 16.

²⁷ <https://www.iowanorthern.com/about/>. Attachment 8 to Khaira V.S.

28 See IANR00021 to IANR00021_002 (Highly Confidential) ({[REDACTED]
[REDACTED]}), attached as Khaira V.S. Attachment 9.

- Nor is it a case of a railroad lacking the ability to invest in itself. Iowa Northern has a track record of investment in its infrastructure. In 1994, Iowa Northern was a railroad with an average track speed under ten miles per hour.²⁹ Iowa Northern's substantial investments have resulted in a railroad that { [REDACTED] }
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] }³⁰ All in, Iowa Northern invested more than \$45 million from 2016 to 2022 on its { [REDACTED] }
[REDACTED] }³¹

Clearly, Iowa Northern is not a struggling railroad in need of an infusion of investment or operational reliability from a larger Class 1 railroad. As a result, the potential adverse impact of CN acquiring control of one of its horizontal competitors will arguably be magnified in this case, where it would be taking over a privately-owned regional railroad that is highly regarded for its attention to customer service, investment to support growth, and explicit neutrality as between all of the line-haul options enabled by its connections with multiple Class I railroads. *Harman V.S.* at ¶ 30-37.

There is no doubt that if these lines become part of CN's network they will be operated by an entity with very different incentives and approaches. The Department of Justice recently

29 *Id.*

³⁰ See CN00064_042 to CN00064_043 (Highly Confidential) ({[REDACTED]
[REDACTED]}), attached as Khaira V.S. at Attachment 2.

31 See CN00064_020 (Highly Confidential) ({[REDACTED]
[REDACTED]}), attached as Khaira V.S. at Attachment 2.

made this point to the Board in the CN/KCS voting trust matter. *Canadian National Railway Co., et al. – Control & Acquisition – Kansas City Southern, et al.*, Docket No. FD 36514 at 14 (STB served Aug. 31, 2021) (noting DOJ argument that “diminished competitive incentives that arise from the unity in ownership created by a voting trust are heightened due to the direct parallel competition and overlapping routes in the CN and KCS networks”). Whereas pre-transaction Iowa Northern is incentivized to invest, CN would not be post the Proposed Transaction. *Majure V.S.* at ¶ 58-60. Whereas, Iowa Northern would be incentivized to provide boutique services pre-transaction, CN would not be. *Majure V.S.* at ¶ 59. Whereas Iowa Northern pre-transaction has an incentive to offer shippers a better deal to win business, CN would not. *Majure V.S.* at ¶ 38 and 46. It is also unclear how Applicants could extract value from Iowa Northern absent significant changes to operations whether one looks at its experts calculations related to alleged truck to rail or rail to rail diversions. *Zebrowski V.S.* at ¶ 28, 43, and 44.

These concerns are precisely the types of concerns that economist look for when evaluating the competitive effects of a transaction. Dr. Majure, for example, notes that customers suffer from the fact that after the Proposed Transaction, the railroad would not have “the incentive to offer shippers a better deal to win the shipper’s business” “if CN would only be winning business from itself.” *Majure V.S.* at ¶ 46.

D. The Gateway Commitment Is Insufficient to Address the Loss of Horizontal Competition that Would Result from the Proposed Transaction.

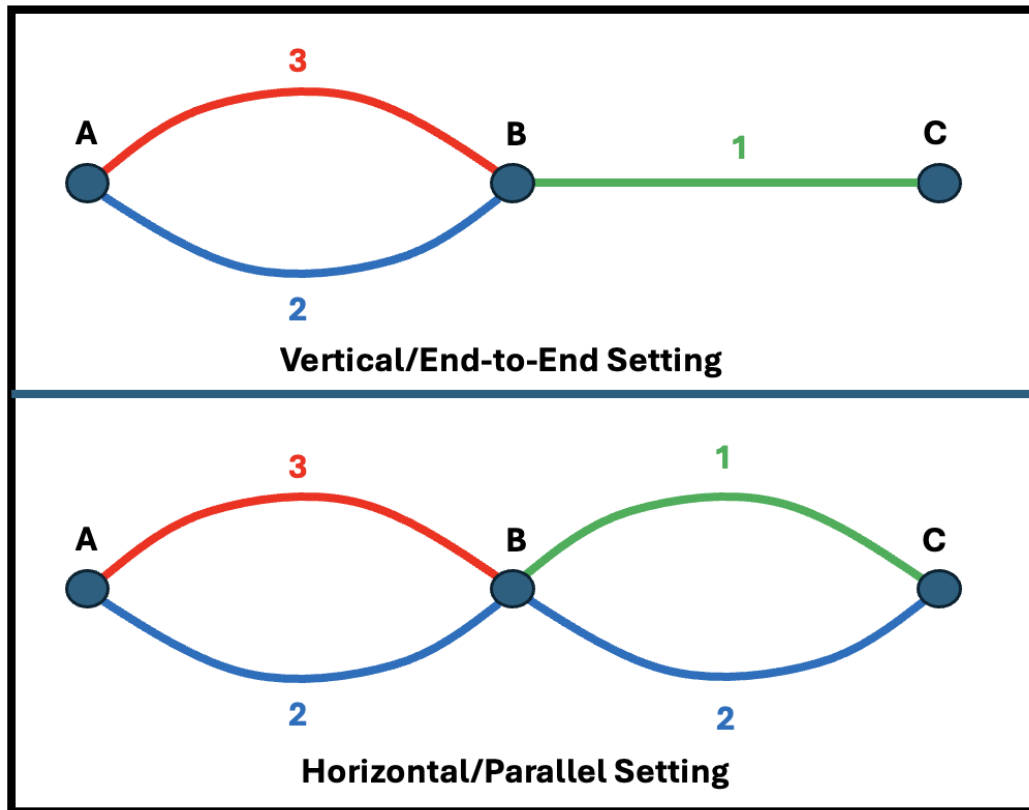
Although gateway commitments are an appropriate remedy to address anti-competitive effects from a combination of carriers that connect end-to-end, they are not the appropriate remedy for horizontal competition. The Board’s consistent approach to the elimination of

horizontal competition has been structural relief, such as trackage or haulage rights. The most recent example of this is found in the *CSX/Pan Am* case, where the Board found (after reclassifying the transaction as Significant) that the concerns raised by CSX’s potential control over a parallel, competing line were appropriately remedied by displacing CSX as the operator of that parallel line and codifying as conditions the Norfolk Southern governance rights in Pan Am Southern LLC that Norfolk Southern assured the Board would suffice to preserve horizontal competition. *See CSX/Pan Am*, Finance Docket No. 36472 (STB Served Apr. 14, 2022) (“*CSX/Pan Am Approval*”) at 6-7 & 14-15. The agency’s recognition that a structural rather than behavioral remedy is required to address horizontal anticompetitive effects is longstanding. *See e.g., MILW*, at *272-75.

The distinction is apparent from a review of the different objectives of gateway conditions and competition-preserving structural relief, as Dr. Majure explains. Majure V.S. at ¶ 64-70. The classic application of a gateway condition is illustrated in the top panel of Figure 4 below. There exists pre-Transaction interline services between A and C, with Railroad 1 (the only carrier serving the segment between B and C) participating with both Railroad 2 and Railroad 3. A proposed combination of Railroads 1 and 2 creates a risk that Merged Railroad 1+2 might in some situations seek to foreclose the interline route involving Railroad 3 even though shippers might view a Railroad 3-Gateway B-Railroad 1 routing option as superior. The well-recognized solution is to require that Railroad 1+2 continue to support interline routes with Railroad 3 by “keeping Gateway B open on commercially reasonable terms.” That condition, however, does not make the rates offered by Railroad 1+2 on the B-C segment “competitive rates” – they merely preserve Railroad 2’s obligation – previously driven by its Pre-Transaction

commercial incentives – to negotiate in good faith over reasonable terms enabling the continued viability of the Railroad 2-Gateway B-Railroad 3 interline offering.

FIGURE 4
DIFFERENT OBJECTIVES OF GATEWAY AND
HORIZONTAL COMPETITION-PRESERVING CONDITIONS



In the horizontal competition setting, by contrast, depicted in the lower panel of Figure 4, the rates and services offered for transportation in the B-C segment are disciplined by head-to-head competition between Railroads 1 and 2. If Railroad 2 were allowed to determine all of the rate/service offers for movements in that segment, competition would be extinguished and shippers would suffer competitive harm. To avoid (or “remedy”) that harm, an independent decisionmaker must be enabled to step into the shoes of Railroad 1, without any need to seek the “concurrence” of Railroad 2 in order to design its rate/service offers to shipper. In other words, it

is not enough that Railroad 1 be required to make “commercially reasonable” offers; it is essential that an *independent railroad* be given the tools necessary to make *competitive offers*, just like Railroad 1 did pre-Transaction.

* * *

In short, the Board should conclude that the Proposed Transaction poses material competitive risks. *Majure V.S.* at ¶ 8-9, 38, and 74.

V. THE BOARD SHOULD IMPOSE THREE NARROWLY-TAILORED CONDITIONS TO MITIGATE LIKELY COMPETITIVE IMPACTS.

A. The Proposed Competition-Preserving Conditions.

The Board should exercise its inherent authority to impose conditions to mitigate the potential for the Proposed Transaction to reduce competition in the rail transportation markets served by Iowa Northern and CN that connect east-central Iowa with the rest of the Continent. CPKC is mindful of the fact that that CN’s acquisition of Iowa Northern could generate some benefits in the form of new single-line service opportunities. CPKC is proposing conditions that would be designed not to interfere with any such benefits, and thus would enable the Board to mitigate competitive harm without the need to engage in any complex weighing of costs and benefits.

1. Imposition of CN’s Gateway Commitment as a Condition

First, the Board should impose as a condition Applicants’ commitment to keep all gateways, including specifically the Nora Springs gateway between Iowa Northern and CPKC, open on commercially reasonable terms. *See* Application at 7. Such a condition would avoid vertical competitive harm associated with the elimination of IANR-Nora Springs-CPKC routings for traffic moving to and from points served by Iowa Northern today and not reached by CN,

mitigating the potential that CN would force longer CN system haul by shutting off those routing options. Such a condition would be consistent with the Board's approach in other cases involving end-to-end or vertical issues.

To credit CN's gateway commitments as a remedy for the loss of competition at issue here would require the Board to assume that the transition from multiple-carrier competition to a state of monopoly would be salutary because the monopolist promises to charge "commercially reasonable rates." Such an assumption would be misguided. *Majure V.S.* at ¶ 64-70. To the extent CN would gain market (or monopoly) power over competing shipper alternatives through its acquisition of Iowa Northern, its incentives would not align with those that Iowa Northern and CN face in a competitive environment. And no amount of "price regulation" can suffice to mimic competitive conditions. That is why, for example, Congress instructed the Board that it is national policy to "allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail." 49 U.S.C. § 10101(1). A condition to redress lost horizontal competition that requires the CN to enter into a haulage agreement with CPKC for customers of any commodity and at rate levels consistent with existing rate authorities that Iowa Northern or CN have established today achieves this objective.

2. Targeted Structural Relief in the Form of Haulage Rights

Second, because the competitive issues in this case are not solely vertical but also involve the elimination of horizontal competition between CN and Iowa Northern (via their parallel lines and access to many shipper facilities that both serve), the Board should act to preserve Iowa Northern's role as an independent competitor. *Harman V.S.* at ¶ 37-42.

Losses of horizontal competition are different than losses of vertical competition and require different remedies. *UP/MKT*, 4 I.C.C.2d at 456 ("Because parallel mergers generally

present more serious competitive problems than end-to-end ones, we must examine carefully the competitive options that would remain in these corridors after a UP-MKT merger.”). Dr. Majure explains that gateway protection commitments are not the appropriate remedy here where the concern is a loss of horizontal competition. *Majure V.S.* at ¶ 64-70 and 72. In the past, the agency has imposed structural remedies – like trackage and haulage rights – to redress losses of horizontal competition.³²

In this case, the harms from a loss of horizontal competition can be mitigated by conditioning CN’s control on Iowa Northern on the negotiation and execution of a binding haulage agreement with CPKC enabling CPKC to quote rates for the movement of traffic on former-Iowa Northern lines between Nora Springs and the points jointly served by CN and Iowa Northern: Cedar Falls/Waterloo and Cedar Rapids. *Majure V.S.* at ¶ 73. Such haulage rights would allow CPKC complete independence to quote competitive rates to the in-scope shippers, limited only by the obligation to pay CN/IANR a cost-based haulage fee—for the movement of the traffic with CN/IANR crews—that is set at a level that puts CPKC on an equal competitive footing from a cost perspective with CN/IANR, which would be consistent with the Board’s longstanding proposition that the remedy should put the tenant in the shoes of the landlord with respect to costs. The haulage condition should also impose binding service standards ensuring that CN/IANR could not defeat the competition that CPKC’s rights would preserve by degrading service levels relative to what was available in the pre-Proposed Transaction marketplace or discriminating against CPKC traffic.

³² See *e.g.*, *UP/SP*, 1 S.T.B. at 392-393 (imposing BNSF agreement and other trackage rights as structural remedies to loss of parallel competition) (“*UP/SP*”); *UP/MP*, 366 I.C.C. at 459.

These haulage rights should also encompass access to at least the Manly and Butler transload facilities for traffic that would be transloaded there (not for traffic to/from rail-served facilities for which IANR provides the only service option). These facilities provide competition to CN in the region today and should continue to do so in the future. *See UP/SP*, 1 S.T.B. at 392-393 (noting loss of competitive options to use transload facilities – “today UP or SP may locate transloading facilities anywhere on their lines to reach shippers on the other carrier” – and preserving competition through imposition of trackage rights).

The proposed haulage rights condition would be a properly scoped remedy that does not create a windfall. Rather, they preserve the competitive options available to customers today that would be lost if the Proposed Transaction were approved.

To effectuate the haulage rights as a workable means of mitigating the anticompetitive effects of the Proposed Transaction, the Board should require CN to negotiate with an appropriate party or parties to provide these haulage rights to Cedar Falls/Waterloo, Cedar Rapids, Butler, and Manly. The Board should provide for a reasonable period – perhaps 90 days – for Applicants to return to the Board to seek approval for any negotiated agreements, or for the Board to impose binding terms if Applicant cannot reach agreement. For purposes of haulage rights between Nora Springs and Cedar Rapids, CPKC submits that it would be the appropriate party to receive those rights to preserve the competition in which it participates with IANR today. For other traffic, CPKC is agnostic as to what carrier receives haulage rights to replicate existing competition, but CPKC would be willing to exercise any rights received in a manner that preserves competition. We note that, among the other carriers active in Iowa, CRANDIC may be well positioned as a neutral to make use of haulage rights to step into the shoes of IANR to

preserve competition for other traffic (both via the CRANDIC-IAIS routings as well as CRANDIC-UP, CRANDIC-CPKC routings).

3. Preservation of Potential Future Access by IANR-Served Shippers to Alternative Rail Carriers

Third, CPKC has shown that the adverse competitive implications of CN's acquisition of Iowa Northern are likely to be broader than the specific origin-destination corridors where CN and Iowa Northern serve the same origins and destinations. Iowa Northern has played an important competitive role in growing its traffic base in east-central Iowa in significant part through the development of transloading facilities capable of serving traffic that might otherwise have used CN lines nearby, and by attracting customers to its lines through the promise of reasonable rates, efficient connections with multiple connecting carriers and boutique services aimed at meeting shipper needs. *UP/SP*, 1 S.T.B. at 393 ("But today UP or SP may locate transloading facilities anywhere on their lines to reach shippers on the other carrier. We believe that allowing BNSF or third parties to locate transloading facilities anywhere on the lines where BNSF will receive trackage rights will preserve that competition."). There is likely no feasible way to preserve the full extent of this role short of disapproving the transaction, and CPKC is not proposing that the Board take that step. However, the Board should consider imposing conditions designed to ensure that CN's elimination of Iowa Northern's independence does not lead to adverse outcomes for the shippers that have benefited from that independence.

The Board should start by providing that the haulage rights granted to CPKC (or CRANDIC) would apply to any build-out from or build-in to an IANR-served facility from a proximate CN line. *UP/SP*, 1 S.T.B. at 393 (imposing build-in/build-out conditions).

Next, the Board should consider establishing a concrete mechanism aimed at providing CN with an ongoing incentive not to degrade the service levels offered by Iowa Northern in the course of folding Iowa Northern into CN's Class I rail system. The Board has recently sought public comment in Ex Parte No. 711 (Sub-No. 2) on a framework designed to establish such incentives. CPKC urges the Board to consider applying that framework in this proceeding. Specifically, the Board might condition its approval on Applicants acceding to having solely-served Iowa Northern customers at Manly and Butler/Shell Rock covered by whatever regulatory framework the Board might adopt in the EP 711 (Sub-No. 2) docket, without regard to any determination of whether those customers are located in a terminal area and without regard to whether their traffic is exempt or under contract. The trigger for a potential switching order in such a case could be based on a pre-transaction baseline measure of Iowa Northern's service levels (on a FMLM and line haul basis), and the potential alternate carrier could be any of the other Class 1s that connect with the former-IANR network (including CPKC reached via the same form of haulage arrangement (discussed above) that would enable CPKC to serve Cedar Rapids and Waterloo. If the Transaction in fact improves rather than degrades the services these rail customers receive, or brings other benefits that make them prefer CN single-line services, the alternate service made available by this competition would never kick in. But at the same time the condition would both provide CN with ongoing incentives not to take opportunistic advantage of the inevitable reduction in rail competition in this part of Iowa achieved through the Iowa Northern acquisition and also provide a backstop of protection for the shippers who would suffer were CN to take such action.

4. The Board Should Provide for Oversight and Reserve Authority to Issue Supplemental Orders.

As it often does, the Board should reserve jurisdiction to conduct oversight in response to public comments—or at the Board’s own initiative—in the event CN’s rates, services or other actions diverge from the procompetitive portrait painted by the Application, including specifically invoking the Board’s authority under 49 U.S.C. 11327 to issue Supplemental Orders to address Proposed Transaction-related issues. *See e.g., Canadian Pacific – Control – Kansas City Southern*, Finance Docket No 36500, 2023 STB LEXIS 47 at *20-21 (Decision No. 35) (STB decided Mar. 15, 2023) (imposing 7 years of oversight and noting authority to “tak[e] action to remedy Transaction-related harm following the transfer of control if warranted” “both during the oversight period and afterwards”); *CSX – Control – Pan Am Systems, Inc.*, Finance Docket No. 36472, 2022 STB LEXIS 86 at *102-105 (Decision No. 9) (STB Decided Apr. 14, 2022) (imposing 5 years of oversight); *Canadian National Railway Co. – Control – Illinois Central Corp.*, Finance Docket No. 33556, 1999 STB LEXIS 305 at *90-92 (STB Decided May 21, 1999) (imposing up to 5 years of oversight); *UP/SP*, 1 S.T.B. at 420 (imposing 5 years of oversight).

B. The Proposed Conditions Would Not Impede Realization of Any of the Putative Public Benefits of Transaction.

1. The Conditions Will Not Stand in the Way of CN Providing New Single-Line Services.

The conditions that CPKC proposes will not prevent CN from achieving any of the public benefits that CN claims to anticipate from the Transaction. providing new single line services. The haulage rights would merely preserve shippers’ option to choose offers for transportation presented by railroads independent of CN. Unless CN plans to degrade IANR’s service levels or close gateways – contrary to its pledge to keep them open – the preservation of the option for

traffic to move over a small portion of the CN/IANR network via haulage in the account of CPKC, CRANDIC, or another carrier, will not have any impact at all on CN's ability to use its new control of IANR to develop whatever new single-line services it wishes

2. In Any Event, There Is Ample Basis for Skepticism About the Magnitude of the Transaction's Benefits

CPKC does not question that there could be some single-line benefits of the Proposed Transaction to certain shipments in certain lanes.³³ But there is also significant reason for skepticism regarding Applicants' benefits claims. After all, the benefits alleged to flow from the Proposed Transaction arise – counter-intuitively – from the claim by CN that it will be able to serve customers better than an independent Class III railroad known for its superior service.

First, many of the alleged benefits could be achieved without the Proposed Transaction. A prime example are the alleged gains in intermodal traffic. Given the close proximity of its lines, CN could attract this intermodal business on its own and without the Proposed Transaction. These alleged benefits are a centerpiece of Applicants' presentation about the Proposed Transaction's benefits, in which Applicants' claim that 14,619 trucks will be removed from the highways. Application at 16. But the Application fails to establish why the Board should treat any of these supposed truck-to-rail diversions as the product of CN's acquisition of Iowa Northern. CN already reaches the part of Iowa that Iowa Northern serves. If CN's long-haul network opportunities were sufficiently attractive to shift tens of thousands of trucks to those routes, why can CN not do that today by investing in the transload or intermodal facilities

³³ One other aspect of the Proposed Transaction in which CPKC is inevitably involved, if approved, are the trackage rights over CPKC that connect the two Iowa Northern lines. We are willing to negotiate over a modernized agreement and do not intend to unreasonably withhold consent to assign those trackage rights.

necessary to achieve those traffic gains? See 49 C.F.R. §1180.1(a) (“the Board does not favor consolidations that reduce the transportation alternatives available to shippers unless there are substantial and demonstrable public benefits to the transaction that cannot otherwise be achieved”).

Second, many of CN’s alleged public benefits appear overstated. Iowa Northern already provides quality service and extra services on an economical basis. It is not clear how CN could provide the same shipper amenities at lower cost to create rail-to-rail diversions. In particular, the diverted volumes are predicated on an assumed reduction in so-called impedance that is set equal to the cost equivalent of a 350-mile rail move for interchange at Waterloo and a 550-mile rail move for interchange at Cedar Rapids, but CN’s operating plan does not provide any information indicating how such cost reductions would be achieved. Zebrowski V.S. at ¶56.

In addition, as Mr. Zebrowski explains, the modeling undertaken to support the claimed truck-to-rail diversions is highly suspect. Zebrowski V.S. at ¶ 33-48. Mr. Hunt’s model assumes a decrease in CN’s system average intermodal cost for a rail move from eliminating the cost of an intermodal interchange, which will lead the model to predict an increase in the rail market share. However, CN’s operating plan does not provide for any new type of intermodal service to accommodate this significant amount of volume, but instead relies on existing manifest operations. Zebrowski V.S. at ¶ 31-32.

CN’s intermodal conversion opportunities also seem limited. When CN {{ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

████████████████████}} that the acquisition of Iowa Northern does not address, much less solve.³⁴

Tellingly, the Application contains no operational plan for handling this traffic that will supposedly shift from truck to rail. Mr. Hunt notes that “it is assumed that any commodity can be drayed to and from a rail terminal.” Application, Hunt V.S. at Appendix B.1. He further assumes that the catchment areas are the BEA regions “where the major location in the BEA was less than 200 miles from a CN terminal on one end, and within a 19-county Iowa Northern catchment area on the other end of the movement.” *Id.* The Operating Plan submitted by Applicants is disjointed from the truck diversion study and does not even address where or how it would transload such freight. See Application, Exhibit 15 – Operating Plan Minor at 22-23 (noting no changes at intermodal facility and no investment); Zebrowski V.S. at ¶ 40. It is thus impossible to ascertain which existing or new CN/Iowa Northern facilities would be used or how the traffic would flow through into increased rail and truck volumes at particular locations and increased train starts (all with potential environmental implications).

Whatever the real level of benefits of the Proposed Transaction is, those benefits are not an obstacle to conditions intended to remedy its anticompetitive effects—particularly because the conditions proposed by CPKC to do not interfere with those benefits.

VI. CONCLUSION

The Proposed Transaction will transform Iowa Northern from an independent, locally-owned Class III carrier that has been intensely focused on providing high-quality and competitive service linking shippers with all the Class I carriers with which it connects, into an

34 See CN0000106 (Highly Confidential) ({{ [REDACTED] }}, attached as Khaira V.S. Attachment 10.

appendage (and in large part a parallel and potentially redundant one) of CN's Class I network. If allowed to proceed without conditions, the Proposed Transaction will thereby permanently alter the competitive landscape for significant flows of traffic, especially in the agricultural and agricultural products sectors.

The conditions recommended by CPKC are tightly tailored to mitigating the harm that would arise from an unconditioned Transaction. Those conditions would not interfere with Applicants' efforts to reap the private or suggested public benefits of the Transaction. And they would provide no party with any windfall, as they would do no more than seek to replicate the degree of pre-Proposed Transaction competition that Iowa Northern's acquisition would disrupt. CPKC accordingly urges the Board to impose the recommended conditions in the event it decides to approve the Proposed Transaction. Respectfully submitted,

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Dated: April 29, 2024

CERTIFICATE OF SERVICE

I hereby certify that I have served by email a true and correct copy of the foregoing on all parties to this proceeding, or their attorney of record, on this 29th day of April, 2024.

/s/ John M. Scheib

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET No. FD 36744

**CANADIAN NATIONAL RAILWAY COMPANY
AND GRAND TRUNK CORPORATION
—CONTROL—**

IOWA NORTHERN RAILWAY COMPANY

EXHIBIT 1

VERIFIED STATEMENT OF JON HARMAN

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET No. FD 36744

**CANADIAN NATIONAL RAILWAY COMPANY
AND GRAND TRUNK CORPORATION
—CONTROL—**

IOWA NORTHERN RAILWAY COMPANY

SECOND VERIFIED STATEMENT OF JON HARMAN

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I. PERSONAL BACKGROUND

1. My name is Jon Harman, Director of Business Development for Canadian Pacific Kansas City Limited (“CPKC”).

2. I moved to this position when Canadian Pacific Railway Company (“CP”) acquired control of The Kansas City Southern Railway Company (“KCS”) to form CPKC, with the goal of supporting the company’s delivery of merger-related synergies. Previously, I was responsible for the pricing of CP’s Bulk Franchise, which entailed all U.S. and Canadian strategy, pricing, and product offerings for grain, fertilizers, potash, coal, biofuels, and sulfur, as well as U.S. sales for grain and biofuels.

3. I joined CP in 2019 after several years with Genesee & Wyoming Railway (“G&W”), the world’s largest short line railway with 16,000 miles of track worldwide, where I served as Vice President of Corporate Accounts, leading G&W’s business development efforts with G&W’s top customers across all of G&W’s railroads in North America. Prior to joining G&W, I spent nine years with BNSF Railway in Fort Worth, where I held various Marketing and Sales roles of progressive responsibility in the areas of Business Development, Intermodal, Grain and Crude Oil.

4. I started my career with KCS shortly prior to its acquisition of the Mexican carrier that became KCSM. At KCS, I held Marketing and Sales roles in the Agriculture, Business Development and Intermodal groups. I have served on the National Grain Car Council for both G&W and CP, including as the Chairman in 2023/24. I am also an active member of the National Grain and Feed Association.

5. I have previously submitted a verified statement in this proceeding on February 26, 2024 in connection with CPKC’s Comment on Proposed Classification of Transaction as “Minor.”

6. I have been asked to address the degree to which Canadian National Railway's ("CN") proposed acquisition of control of the Iowa Northern Railway ("IANR") would affect competition in rail transportation markets. Based on my experience and knowledge of the role played by IANR in rail transportation, there is no doubt that the CN/IANR transaction will eliminate important competitive options available today to shippers moving traffic to and from east-central Iowa.

II. CN AND IANR COMPETE WITH EACH OTHER WITH OVERLAPPING NETWORKS IN IOWA.

A. IANR's and CN's Networks Compete Against Each Other.

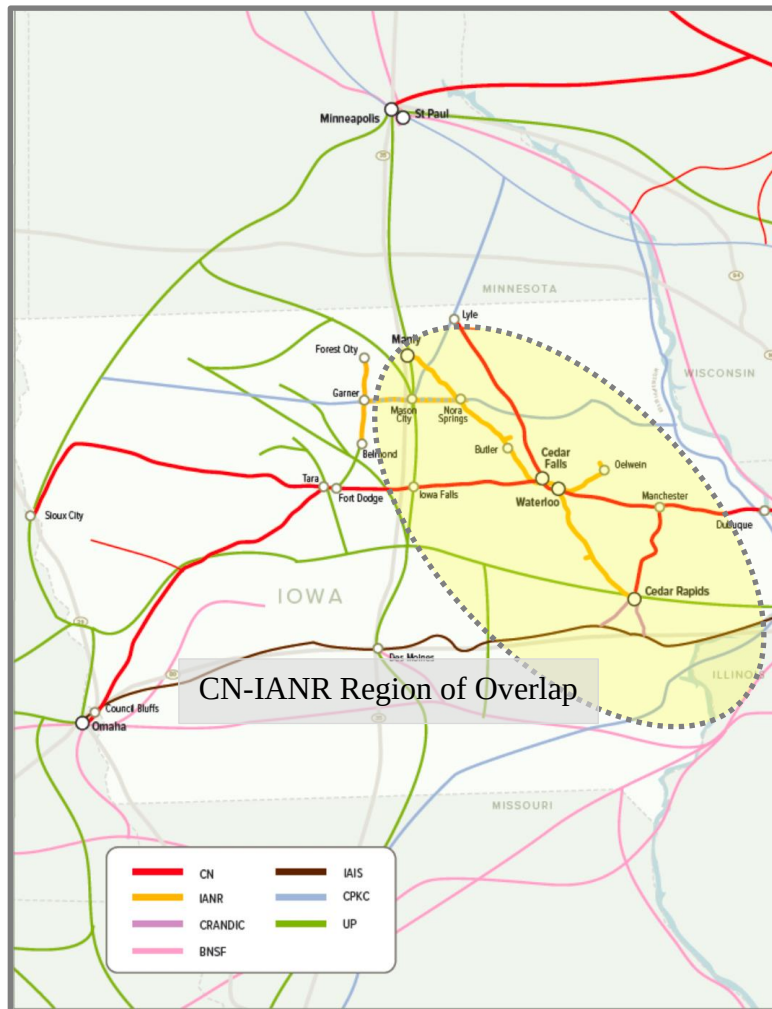
7. As is apparent from a review of an Iowa rail map, there is considerable overlap between IANR's service territory (spanning from Manly, IA, in the north to Cedar Rapids in the south) and CN's service territory in east-central Iowa. In addition to numerous shipping points to which both IANR and CN have access, the two serve a variety of shipping facilities that are substitutes for one another from the perspective of farmers and other participants in the agricultural ecosystem.

8. IANR's traffic and importance has grown over time. Looking back to 1994, IANR handled 15,000 revenue cars annually and its average track speed was under 10 mph. The railroad has invested millions in bringing its lines up to a state of good repair while increasing reliability and customer service. IANR now handles more than 60,000 cars per year, serving 20 grain elevators, two ethanol plants, two mineral processing facilities, and handles other commodities such as fertilizer, farm machinery, food, chemicals, lumber, and more.

9. The map in Figure 1 below, based on one included in the Application filed in this proceeding, shows the extensive area of overlap between CN and IANR lines in east-central

Iowa. CN and IANR operate parallel lines, generally on an axis from Cedar Rapids to the north and west.

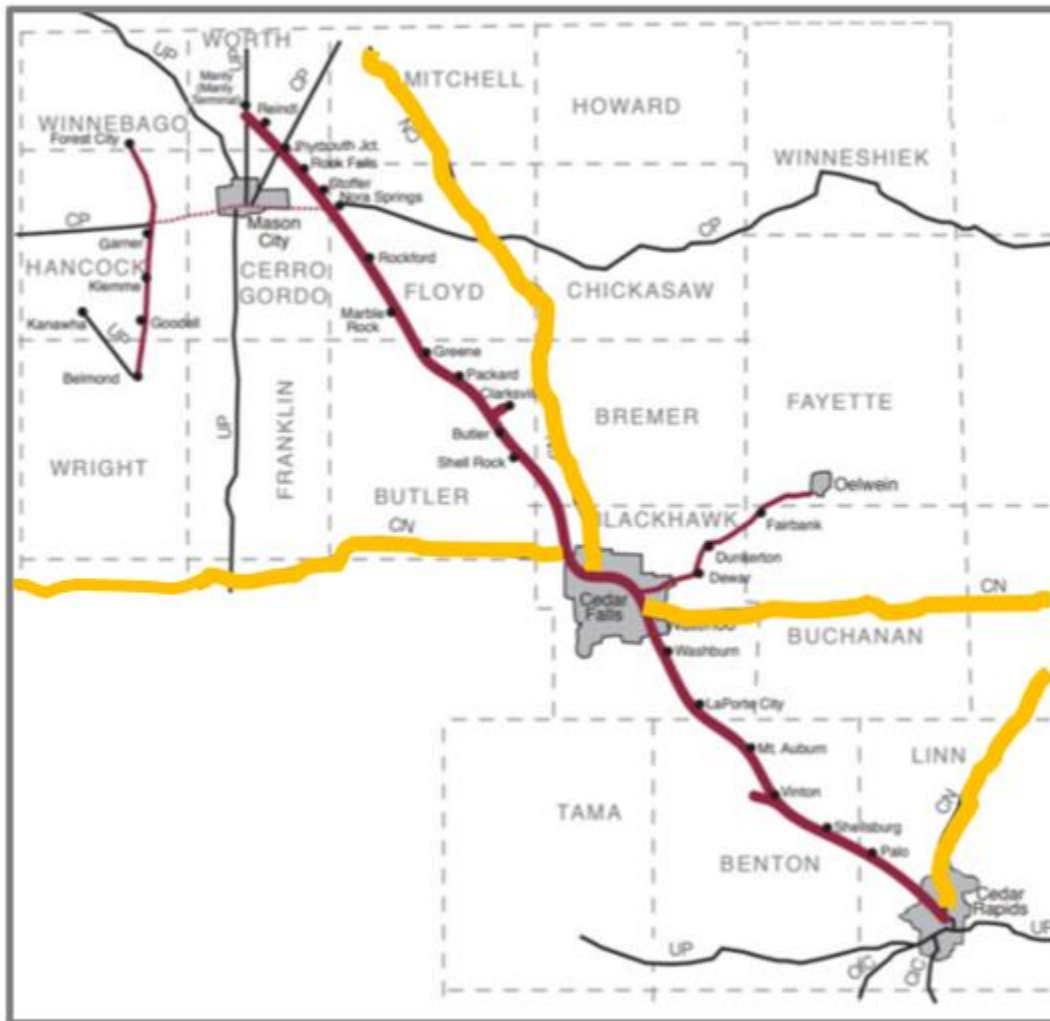
FIGURE 1
MAP OF CN/IANR OVERLAP



10. One of Applicants’ witnesses refers to this area of overlap as the 19-county IANR “Catchment Area,” which was portrayed in a map included in the testimony of Applicant witness Hunt and is reproduced as Figure 2 below (with CN lines highlighted in yellow).¹ As is evident from this map, CN’s lines parallel IANR and crisscross the IANR Catchment Area.

¹ Application, Hunt V.S., Exh. 3-1 & 18 (defining 19-county catchment area).

FIGURE 2
IANR “CATCHMENT AREA” SHOWING OVERLAP WITH CN LINES

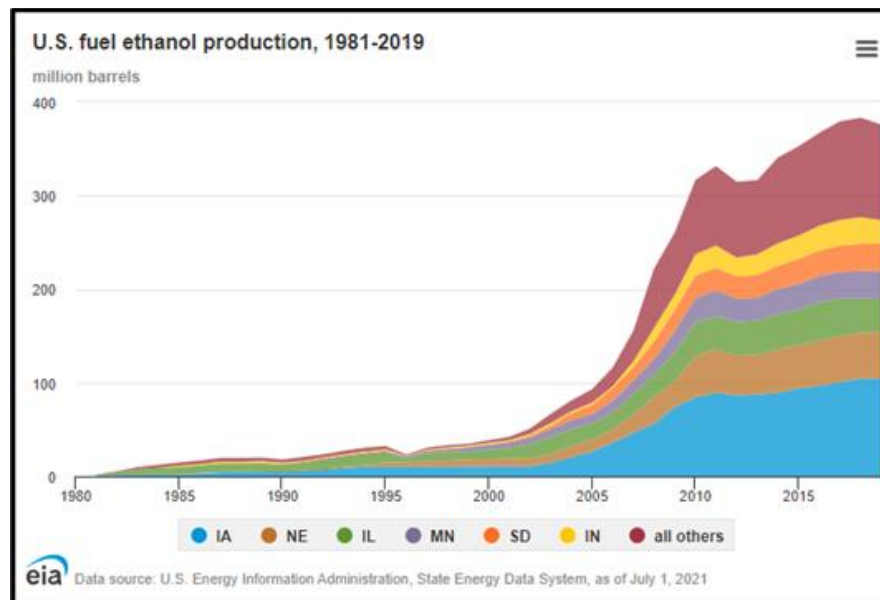


B. The Region of Iowa that Benefits from Competition Between IANR and CN Is Critical to the Economy – Especially for Agriculture and Agricultural Products.

11. The CN-IANR area of overlap encompasses some of the most productive agricultural land in North America, for which rail transportation options are growing in importance with growing demand for ethanol and biofuels, both of which are refined from agricultural products – corn and soybeans – farmed in central and eastern Iowa, as shown in the Verified Statement of David T. Hunt at 3, Exhibit 3-1.

12. This area is a critical component of the ethanol and bio-fuels revolution as shown in Figure 3 below, depicting data from the U.S. Energy Information Agency.² Indeed growth in Iowa alone is about 25 percent of all growth in ethanol production in the United States. Eight ethanol refineries are within the IANR Catchment Area.³

FIGURE 3
GROWTH IN ETHANOL PRODUCTION IN IOWA



13. The CN-IANR overlap region also encompasses Cedar Rapids, one of the world's leading centers of agricultural processing. Cedar Rapids ranks as the “[t]he largest corn-processing city in the world,” hosting processing facilities for many familiar names, including General Mills, Quaker Oats, Cargill and Archer Daniels Midland.⁴ In fact, the Quaker Oats Plant

² U.S. Energy Information Administration (EIA), “Ethanol Explained,” available at <https://www.eia.gov/energyexplained/biofuels/ethanol-supply.php>.

³ See Iowa Renewable Fuels Association, “Iowa Ethanol Plants,” available at <https://iowarfa.org/ethanol-center/ethanol-biorefineries/>.

⁴ Ewing Marion Kauffman Foundation/Kauffman.org, “Exploring the Renewal of the Heartland - Cedar Rapids, Iowa,” available at <https://www.kauffman.org/eship-city/cedar-rapids/#:~:text=The%20largest%20corn%2Dprocessing%20city,Cargill%20and%20Archer%20Daniels%20Midland.>

is the largest cereal mill in the world.⁵ A publicly-available IANR presentation to the Iowa Department of Transportation claimed in 2012 that “[i]f Cedar Rapids was an independent nation, it would rank third in the world in the importation of corn behind only Japan and Mexico.”⁶

14. Indeed, from a grain perspective, IANR has noted that the region in which it competes for grain is the overlap region. The IANR Presentation included as slide 10 a map that outlined in red what IANR considered its “Grain Market”. That market is substantially similar to the area shown in Figure 2 and the “overlap” area depicted in Figure 1.

III. IANR PLAYS A UNIQUE ROLE BY PROVIDING INDEPENDENT, HIGH-QUALITY SERVICE IN COMPETITION WITH CN.

15. The competitive role of IANR in this region is significant, and CN’s network provides the principal competitive option. IANR and CN both have access to numerous shipper facilities and they participate in many of the same traffic flows in corridors connecting U.S. and Canadian points with central Iowa. The parallel nature of IANR and CN’s networks means that they are among the few key transportation options for comparable traffic flows and/or shippers looking to locate rail-served facilities in east-central Iowa.

A. IANR Is Known for Providing to Customers Quality Service and Boutique Services that Make It a Unique Competitor to CN.

16. CN’s acquisition is not a case of a big railroad rescuing a struggling smaller railroad in need of an infusion of investment or operational reliability from a Class 1 railroad.

⁵ Worldrecordacademy.org, “*World’s Largest Cereal Plant: World Record in Cedar Rapids, Iowa*,” available at <https://www.worldrecordacademy.org/2023/6/worlds-largest-cereal-plant-world-record-in-cedar-rapids-iowa-423252>.

⁶ Iowa Northern Railroad Company, “*Presentation to Iowa DOT-DED’s Moving Iowa Forward*,” (April 24, 2012) (“IANR Presentation”) at 9. Attachment B hereto is a true and correct copy of the publicly available IANR Presentation, available at <https://www.slideshare.net/I74Project/sabin>.

To the contrary, IANR has been a successful and growing railroad serving east-central Iowa. It is known for unique attributes that has made it attractive to customers and a successful competitor. One of those attributes is its superior service. Another is IANR's willingness and ability to provide boutique services to various customers, including frequent switching, breaking apart trains from Class I carriers and moving smaller blocks in and out of the customer facilities.

17. The Iowa Department of Transportation has noted the superior service and intense attention to customers that make IANR special. "IANR is a leader in market development with high service levels, intense attention to customer needs, and deep knowledge of the regional agricultural marketplace – all of which help our customers to be more competitive. . . . IANR's success in a competitive industry has been achieved with its commitment and dedication to personalized customer service." Iowa Rail Tool Kit 2019 at 63 (Attachment A hereto).

18. I have direct knowledge of IANR's service levels, because IANR provides these services to customers for movements on which IANR partners with CPKC. For example, as discussed below, IANR takes CPKC unit trains of oats traffic and breaks them into smaller blocks to support a delivery cadence that meets the receiving customer's needs.

B. IANR Is Known for Acting and Pricing Independently.

19. In addition, in my experience working with customers in this region, shippers have located on IANR because it acts independently and, consistent with claims it makes publicly – like on its website and in the IANR Presentation (Attachment B at slide 5) – prices in a manner that allows customers to ship competitively via all of the railroads that connect to IANR. This explicit neutrality has supported customer decisions to locate their facilities on IANR to take advantage of the access IANR provides to multiple Class 1 connections, not just one.

20. IANR has also said that it has consistently been scrupulously neutral with respect to the various Class 1 connections that link on-line customers with the broader rail network. The IANR Presentation is but one example in which IANR has explained the benefits of its independence – “IANR is a unique short line with multiple rail connections providing independent access to North American Rail System.” Attachment A at slide 5. In doing so, IANR effectively shifts the real competition to the various Class 1 carriers (where, for example CN’s control of IANR will in very real terms give it control of the CPKC-IANR routings). IANR has stated that it equalizes its rate levels across IANR’s various connections, regardless of the distance that IANR moves the traffic on its own system.

21. In fact, when seeking Federal government grant money for the “Upper Midwest Transportation Hub Manly, Iowa” (“UMTH”), Iowa Department of Transportation touted IANR’s independence as a featured selling point:

“As an independent intermodal facility, not owned or directly affiliated with a single Class I railroad, the [UMTH] will have three distinct advantages:

- UMTH will not be limited to shipping or receiving on very limited intermodal lanes, but will be able to offer access to a broad variety of locations because of IANR’s multiple rail interchange opportunities.
- Multiple routing options will serve to maintain competitive pricing for facility users.
- Because each interchange carrier has distinct routing, market, and service strengths, allowing access through all interline connections will provide customer’s greater leverage in securing desired service, equipment, and pricing.”⁷

22. IANR’s customers benefit from its highly regarded attention to customer service, investment to support growth, and explicit neutrality as between all of the line-haul options enabled by its connections with multiple Class I railroads.

⁷ <https://www.iowadot.gov/iowarail/assistance/documents/2015/narrative.pdf>, provided at Attachment C

C. IANR Is Known for Its Independent Transload Facilities -- Particularly at Manly and Butler – that Allow Customers a Competitive Alternative to Being Served Solely by CN.

23. One of the most striking features of IANR's growth in recent years has been its development of transload facilities that enable shippers to bypass facilities accessible only to a single railroad, and through IANR's neutrality gain access to all connecting Class 1 railroads. These facilities have enabled IANR to compete directly against CN for shipments that would otherwise be served only by CN.

24. For example, IANR's facility at Manly, IA, is a transload facility that receives ethanol by truck from surrounding corn-growing territories (including locations that are effectively served by only a single Class I) and then, through its neutrality, makes connecting Class I's compete for the customer's outbound movements. It has been described like this:

"Once the product has been brought to the terminal, it will be distributed across the country through rail interline agreements secured by the Iowa Northern Railway Company. Iowa Northern's line is adjacent to the Manly Terminal and connects with the entire North American rail network. Iowa Northern is offering direct tariff access to all major rail carriers. With multiple rail connections, the Manly Terminal can leverage the various combinations of freight routes to insure that ethanol customers are getting the lowest possible rate, to the best possible markets."⁸

That facility has historically been used as a way to transload around CN. Were the Manly facility to become captive to CN, this would diminish the degree to which customers in this region have competitive alternatives for the rail transportation of agricultural products.

25. Manly Terminal also serves as a transload yard for other commodities, including caustic soda, sulfuric acid, corn oil, and methanol along with animal feeds and various other commodities. The terminal has also developed into a distribution center for wind turbine

⁸ <https://www.logisticsonline.com/doc/kag-ethanol-logistics-enters-into-alliance-wi-0001>, provided as Attachment D.

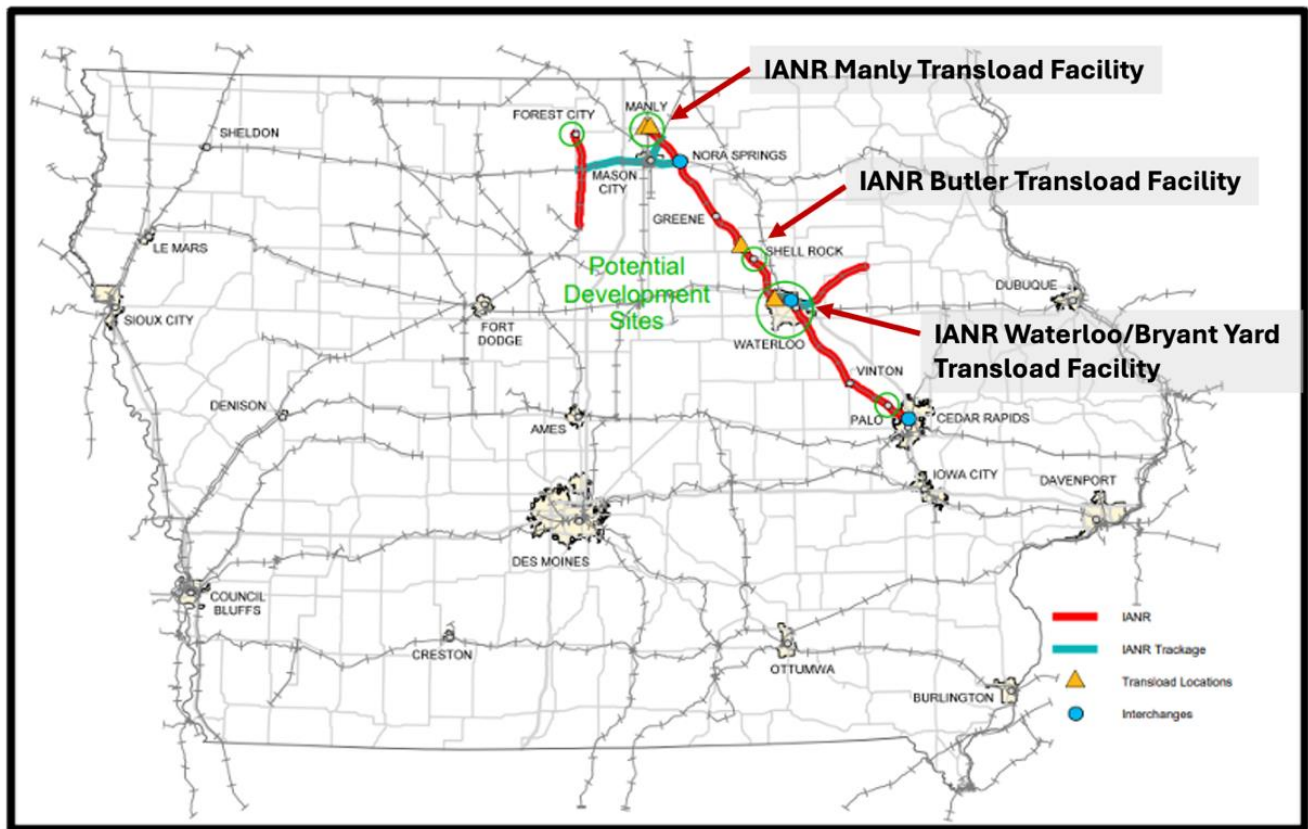
components. Generators, hubs, blades, and tower sections are railed in from ports and manufacturing facilities all over North America for distribution to wind farms in the Midwest. Components are also trucked in from Midwestern manufacturing sites to be transloaded and railed out.

26. The Manly transload facility serves as a competitive option to facilities served directly by CN, and IANR touts this facility as providing shippers with an efficient means of expanding their railroad routing alternatives.

27. Similarly, IANR-served Butler Logistics Park, which is north of Shell Rock, Iowa, in Butler County, provides transloading opportunities in competition to rail moves via CN. IANR notes on its website that there are “over 18 acres available for development within the park, ideal for a warehousing and/or transloading site. West of Logistics Park Drive an additional 20-40 acres will be developed soon for industrial rail served facilities.”

28. Another IANR transload facility is Bryant Yard in Waterloo. “This facility has cross dock operations for direct truck-to-rail transload currently handling feed ingredients, dust control, industrial and food grade starches, and boxcar commodities.” All three of these facilities and their transloading capabilities were highlighted in the IANR Presentation. See IANR Presentation at slides 14, 15, and 16 (Attachment B hereto). They are also advertised by the Iowa Department of Transportation as transload options for customers. See Iowa Rail Tool Kit 2019 at 20-22 (Attachment A hereto). Figure 4 is taken from the Iowa Rail Toolkit that advertises transload competitive alternatives in Iowa and that shows the locations of IANR’s three transload facilities that provide shippers with important competitive options.

FIGURE 4
TRANSLOAD FACILITIES ON IANR



29. These neutral transload sites provide customers in east-central Iowa with competitive options to CN for rail movements to/from the rest of North America.

IV. EXAMPLES OF COMPETITION THAT WILL BE LOST.

30. Putting IANR under CN's control would result in lost competition for the traffic flows in which IANR participates with other carriers as an alternative to CN transportation options, including movements enabled by IANR's independent transload facilities.

A. CN Control of IANR Would Snuff Out Competition for the Movement of Oats from Growing Regions in Canada to Cedar Rapids Processing Facilities.

31. One specific flow of traffic that would suffer competitive harm involves the movement of oats grown in Canada to oats processing facilities in Cedar Rapids. Both CN and IANR have access to the Quaker Oats processing facility in Cedar Rapids, and both participate independently in competitive rail movements of oats from CN- and CPKC-served origins in Saskatchewan and Manitoba to Cedar Rapids.

32. In recent years, CPKC has worked with IANR successfully to move many hundreds of carloads of oats traffic via an interline route with IANR, via a connection at Nora Springs, IA, with IANR moving the oats traffic the final approximately 125 miles to Cedar Rapids. Consistent with its record of service, Iowa Northern provides customer-friendly services to Quaker Oats, including that IANR takes larger shipments of oats and then holds the train and sends individual cars to Quaker Oats over several days. This customer-centric offering is one of the many boutique rail services that an independent IANR offers its customers. It reduces the cost to Quaker and makes CPKC competitive versus others that also have access.

33. In today's pre-Transaction marketplace, the shipper's competitive rail alternative to a CPKC-IANR move is a CN-direct single-line move of oats from CPKC-served origins that CN can access via Canadian Interswitching or from alternative CN-served origins in Saskatchewan and Manitoba to Cedar Rapids. CN's network provides a single-line route from these origins to Cedar Rapids via Chicago and Dubuque, IA. The presence of the CN option provides competitive discipline for both CPKC and IANR, since both carriers would lose out were they to offer a combination of price and service terms that are viewed by the customer as inferior to those available from CN. After the Transaction, however, this competition will no longer be viable, as CN will control IANR. That reduction in competition will allow CN to drive

up IANR's rates (or reduce its service levels and boutique offerings), knowing that doing so would risk nothing, since the traffic would end up on CN's direct route if the CPKC-IANR option were no longer attractive. IANR would no longer be independent of its direct competitive rival for delivering this oats traffic to destination in Cedar Rapids. And CN would know that eliminating the metering and other destination services that IANR provides on CPKC-originated moves would price CPKC options out of the market. All viable routes to Cedar Rapids from Canada would be controlled by CN in the future, whereas today IANR is fully independent of CN.

34. In my experience, no viable competition for oats from Canada would exist if CN controlled IANR, because CPKC-UP and CPKC-IAIS-CRANDIC routings to Cedar Rapids likely would not be attractive options for shippers. For UP, the traffic would have to be interchanged to UP at either St. Paul, MN or Clinton, IA, and UP has not been interested in marketing its services for such short haul traffic agricultural traffic, particularly since any cars provided to support this traffic would go off-line into Canada. The IAIS-CRANDIC option likewise would be less attractive for customers, as it would add an additional interchange (making it a three-carrier haul) and require a cumbersome and out-of-route connection between CPKC and IAIS at either Chicago or Davenport, IA.

B. Customers Would Lose the Competitive Option Provided By IANR's Transload Facilities that Today Operate Independently from CN and Enable Shippers to Bypass CN.

35. Another example of lost competition arises directly from this independent nature of IANR and its signature transloading facilities, like the one at Manly, IA. It is CPKC's understanding, for example, that IANR markets these facilities as connections for IANR customers to access multiple railroad choices. For example, for ethanol and other traffic to/from

Manly, IA, IANR charges the same to move traffic to a CPKC connection at Nora Springs, a CN connection at Waterloo, or a CRANDIC connection at Cedar Rapids. That likely would not continue if CN controls IANR and takes over decision-making regarding how IANR competes for this traffic.

36. CN control of IANR should be of particular concern given that IANR is not a struggling carrier in need of an infusion of investment or operational reliability from a larger Class 1 railroad. In CPKC's experience, IANR provides extraordinarily good service to its customers, running trains daily to serve customers and providing extra levels of service like the handling of Quaker Oats cars described above.

V. THE BOARD SHOULD ACT TO PRESERVE IANR'S ROLE AS AN INDEPENDENT COMPETITOR AND IMPOSE TAILORED REMEDIES TO MITIGATE THE SPECIFIC LOSSES TO COMPETITION THAT THE TRANSACTION WILL CAUSE.

37. The Board should closely examine competitive issues like the ones outlined above and provide a remedy to maintain shippers' options where this transaction would reduce the available competitive options. The key here is for the Board to preserve the competition provided by an independent IANR through targeted, tailored conditions. The Board should impose conditions designed to ensure that CN's elimination of IANR's independence does not lead to adverse outcomes for the shippers that have benefited from that independence.

A. CN's Proposal for the Board to Impose a Gateway Condition Does Not Replicate the Competition Provided By an Independent IANR.

38. CN has committed to keep all gateways – including the Nora Springs interchange with CPKC – open on commercially reasonable terms. The Board should impose that commitment as a condition, which would address the vertical aspects of the proposed CN-IANR transaction.

39. But that gateway commitment alone is insufficient. “Commercially reasonable” rates and services are not the same as *competitive* rates and services, and CN’s acquisition of IANR would remove the competition that makes IANR’s rates and services competitive. In this case, CN would for the first time control both *its own* pre-existing single-line route *as well as* IANR’s rates and service levels. CN’s commitment to keep gateways open on “commercially reasonable terms” would not work to preserve competitive outcomes, since CN would be making the decisions about what rates and services to offer (subject only the requirement that those offers be commercially reasonable). In the pre-Transaction environment of course, IANR would have been making those decisions, armed with the incentive to win the traffic away from CN.

B. The Board Should Impose as a Condition Targeted Structural Relief in the Form of Haulage Rights to and from Customers Served by Both CN and IANR.

40. The Board should remedy the competition between CN and IANR (via their parallel lines and access to many shipper facilities that both serve) that would be lost. This can be accomplished by targeted structural relief in the form of haulage rights.

41. The Board should condition CN’s control on IANR on the negotiation and execution of a binding haulage agreement with CPKC enabling CPKC to quote rates for the movement of traffic on former-Iowa Northern lines between Nora Springs and the points jointly served by CN and Iowa Northern: Cedar Falls/Waterloo and Cedar Rapids. Such haulage rights would allow CPKC complete independence to quote competitive rates to the in-scope shippers, limited only by the obligation to pay CN/IANR the haulage fee—for the movement of the traffic with CN/IANR crews — that is set at a level that puts CPKC on an equal competitive footing from a cost perspective with CN/IANR, which would be consistent with the Board’s longstanding proposition that the remedy should put the tenant in the shoes of the landlord with

respect to costs. Allowing CPKC the independence to quote competitive rates to these customers would replicate the independent pricing that they were able to obtain before IANR's loss of independence to CN. The haulage condition should also impose binding service standards ensuring that CN/IANR could not defeat the competition that CPKC's rights would preserve by degrading service levels relative to what was available in the pre-Proposed Transaction marketplace or discriminating against CPKC traffic.

42. These haulage rights should also encompass access to at least the Manly and Butler transload facilities for traffic that would be transloaded there (not for traffic to/from rail-served facilities for which IANR provides the only service option). These facilities provide competition to CN in the region today and should continue to do so in the future. Haulage rights for CPKC to serve these facilities will ensure that customers have one alternative route out of the area that does not include CN.

VERIFICATION

I, Jon Harman, declare certify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on this 25th day of April, 2024



Jon Harman

VERIFIED STATEMENT OF JON HARMAN

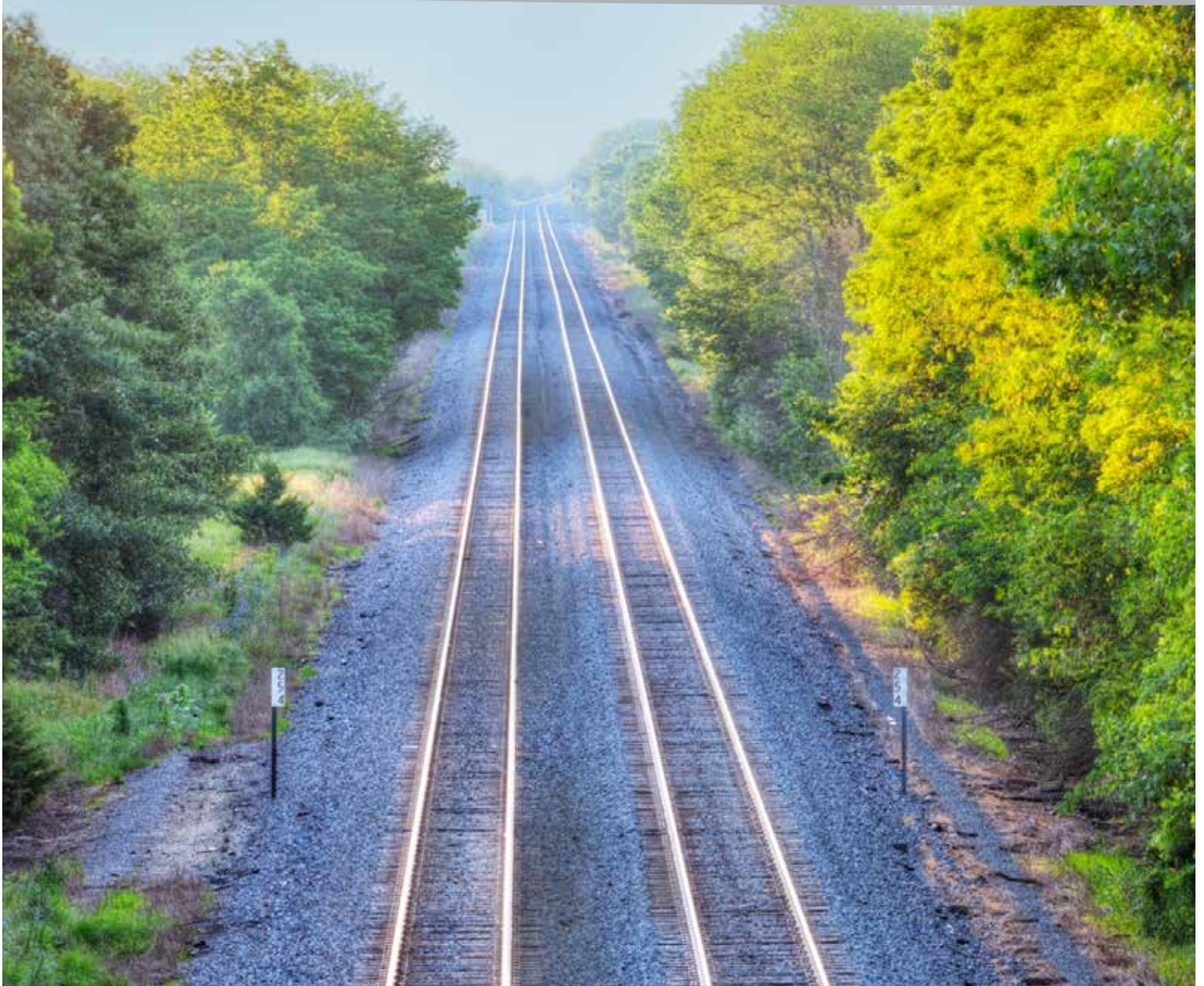
ATTACHMENT A

Iowa Department of Transportation – Rail Tool Kit – Selected Pages

available at <https://iowadot.gov/iowarail/railroads/industry/iowatoolkit/RailToolkitComplete.pdf>.

IOWA RAIL TOOLKIT

2019





www.iowadot.gov

Railroads in Iowa are essential to the state's economy and the region's economic competitiveness. There are 19 railroads in Iowa that connect shippers, manufacturers, and producers to a robust North American network of trading partners. Iowa shippers benefit from a rail network of 3,825 miles that moves the equivalent of 3.5 million truckloads per year of freight originating or terminating within the state.

Almost every product you can think of can move by rail with proper planning.

The Iowa Department of Transportation, with assistance from the Iowa Economic Development Authority, first assembled this Iowa Rail Toolkit to support the exploration of rail transportation services in the state in 2014. Since then, almost 2,000 toolkits have been distributed and the response has been overwhelmingly positive.

Information is included in the handbook to help make shipping by rail in Iowa easier and more understandable. Chapters have been assembled to provide current information on the benefits of rail transportation and basic explanations of how to access the rail network. A directory of Iowa railroad companies is included listing contact information and a basic profile of each network. Economic development resources are also identified to help new users find resources for using and establishing rail access.

The Iowa DOT is committed to providing a safe and robust multimodal transportation network that supports the region's economy. We hope that this Iowa Rail Toolkit will help you and your business find benefits in utilizing Iowa's rail transportation system.

Sincerely,

A handwritten signature in black ink, reading "Mark Lowe", is positioned above the printed name and title.

Mark Lowe
Iowa Department of Transportation Director

EMERGENCY NOTIFICATION SYSTEMS (ENS) AT HIGHWAY-RAIL GRADE CROSSINGS

As with all modes of transportation, Safety is a prime concern. Effective September of 2016, 49 CFR Part 234 E requires every railroad crossing in the United States to have an Emergency Notification Sign (shown below).

The purpose of the ENS sign is to provide the public with critical emergency contact information at every highway-rail grade crossing. The information contained on the ENS sign enables the public to reach the railroad responsible for the crossing and to identify the specific crossing in the event of an emergency. In cases of unsafe crossing conditions or railroad-related emergencies, look for the sign near the crossing. It can usually be found on the crossbuck or crossing signal mast. You should also call 911.

This system also enables railroads to document calls from the public reporting unsafe conditions at highway-rail and pathway grade crossings and to track the remedial actions taken by the railroads as required by the rule.



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RAILROAD INDEX

<i>It is not uncommon for a railroad to be owned by one entity and the operations of the rail line contracted out to another railroad. Also, when a railroad is acquired by another, it is not uncommon for the acquired railroad to continue operating under an individual or legacy name. Those relationships are noted in parentheses.</i>	Abbr.	Type of railroad*	Profile page with more information
BNSF Railway	BNSF	Class I	46
Boone & Scenic Valley Railroad	BSV	Short line/ Tourist	48
Burlington Junction Railway	BJRY	Short line	50
Canadian Pacific Railway Ltd. (owner of Dakota, Minneapolis & Eastern Railroad)	CP	Class I	52
CBEC Railway (operated by Iowa Interstate Railroad)	CBEX	Short line	(see IAIS)
Cedar Rapids & Iowa City Railway Co. (also known as CRANDIC)	CIC	Short line	54
Cedar River Railroad Co. (owned by CN)	CEDR	(see CN)	(see CN)
Chicago, Central & Pacific Railroad (owned by CN)	CC	(see CN)	(see CN)
CN (owner of Cedar River Railroad and Chicago, Central & Pacific Railroad)	CN	Class I	56
D & I Railroad Co. (owned by State of South Dakota)	DAIR	Short line	58
D & W Railroad (operated by Iowa Northern Railway Co.)	DWRR	Short line	(see IANR)
Dakota, Minnesota & Eastern Railroad (owned by Canadian Pacific)	DME	(see CP)	(see CP)
Iowa Interstate Railroad Ltd.	IAIS	Regional	60
Iowa Northern Railway Co.	IANR	Short line	62
Iowa River Railroad	IARR	Short line	64
Iowa Southern Railway	ISRY	Short line	66
Iowa Traction Railway Co. (owned by Progressive Rail Inc.)	IATR	Short line	68
Keokuk Junction Railway Co. (owned by Pioneer Railcorp)	KJRY	Short line	70
Norfolk Southern	NS	Class I	72
North Central Iowa Rail Corridor LLC (operated by Iowa Northern Railway Co.)	NCIRC	Short line	(see IANR)
Union Pacific Railroad	UP	Class I	74

***Class I railroads** include the largest freight-hauling railroads. The rail lines of the seven Class I railroads span the North American continent.

Regional railroads are midsize freight-hauling railroads that normally operate at least 350 miles of track and may span multiple states.

Shortline railroads are smaller railroads that include local railroads as well as railroads that primarily do car switching. Tourist railroads offer passenger rides usually in restored historic rail equipment and often accompanied by an on-site museum.

INDEX TO REFERENCED ORGANIZATIONS

Iowa Department of Transportation	Iowa DOT
Iowa Economic Development Authority	IEDA
Federal Railroad Administration	FRA
Federal Highway Administration	FHWA
Association of American Railroads	AAR
American Short Line and Regional Railroad Association	ASLRRA



GETTING STARTED

Phone (515) 239 - 1664
In Cooperation with
United States
Department of Transportation
July 1, 2018



ALTERNATE ACCESS TO RAILROADS

TRANSLOADING

A SOLUTION FOR SHIPPER WITHOUT DIRECT RAIL ACCESS

Transloading

In its broadest definition, transloading is the process of transferring freight between two modes of transportation. This toolkit will focus on transferring freight between rail and trucking.

Transloading allows a shipper to take advantage of the cost, speed, and capabilities of more than one mode of transportation. For example, it can link the flexibility of a truck to the long-haul efficiency of rail. A larger shipment can be hauled a long distance by rail and divided at a site near the end-use market into several truck movements for deliveries to customers in the area.

Trucking coupled with long-haul rail service may offer cost savings and improve the flexibility and reliability within the supply chain. Transloading may be a viable option whenever a shipper or customer does not currently have railroad tracks into or at a facility.

Transloading works for many commodities, including finished and unfinished goods, fresh food and beverage products, lumber, paper, metals, building materials, a variety of packaged bulk commodities, as well as special shipments that cannot travel their entire route by road.

How a shipper gains access to the rail system to transload a shipment varies a great deal. A shipper may utilize high-tech container shipping (covered in the next section on intermodal shipping) or a simple rail car set out on a siding (a team track). Between those two extremes there are a variety of options with varying levels of service.

How does transloading work?

The diagram on the following page illustrates an example of a transload process. In this example, there is a transload at both ends of the commodity's journey. The transload process can produce greater economic benefits if only one end of the transportation process uses a transload operation.

Types of transloading

Transloading facility with warehousing

A full-service transloading facility with warehousing can add value and flexibility to your supply chain. By offering short- or long-term storage and handling for goods, a shipper can position goods closer to end users. Products can be reloaded from a larger-quantity rail car, stored, and shipped direct to customers meeting their needs for speed and reliability. Each transload facility may offer a variety of services such as on-call delivery from their warehouse; merchandise consolidation and distribution; packaging, labeling, assembly, or other value-added services.

Some transloading facilities specialize in a particular product or type of product such as a cold storage transload/warehouse that deals only in refrigerated or frozen goods.

Basic transloading facility

Other transloading facilities have the ability to shift from mode to mode, but lack warehousing and have limited or no value-added services and staffing. Also, a transload facility may be dedicated to a single type of product with particular requirements such as an ethanol transloading site or a food grade product transloading site. Other facilities may have the capability for multiple types of products.

Cross dock

At a cross-dock transloading facility, cargo is unloaded from an incoming truck or rail car and is reloaded, typically within the same day, directly into outbound trucks, trailers, containers, or rail cars. Inventory is not held during the process. A cross dock typically allows level loading between modes.

Team track

A team track is the most basic type of transload facility. It is a simple siding or spur track where railcars are placed, available for public use to load or unload freight. No services or equipment are provided by the track owner. A team track may be owned by the railroad, business served by the railroad, industrial park, public agency, or freight terminal operator. It is the responsibility of the shipper or receiver to load/unload the car(s). The shipper or receiver must provide any needed equipment, as well as blocking and bracing to secure the load. Once the cars are loaded, the railroad is notified to pick them up.

Example of a transload process

Inbound	Process	Outbound	Description
	Load		The commodity is loaded on a short-haul truck for delivery to a transload facility.
	Transport by truck		The truck delivers the commodity to a transload facility, usually within 50 miles of origin.
	Transload		The commodity is loaded onto rail cars. This can be accomplished in many ways depending on the commodity. Transload facilities for bulk liquid commodities will have specialized bays where liquids are pumped through a pipeline to a rail tank car. Dry bulk commodities may use gravity, pneumatics, or a mechanical means to transfer from one mode to another. Forklifts, cranes, and other lifting equipment may be used for other commodities.
	Terminal handling		The loaded rail car will be spotted for pick up by a railroad carrier. Transload facilities may be served by a single railroad or multiple railroads. Multiple railroad carriers serving a transload facility offer the advantage of price competitiveness and routing options.
	Ship by rail		The loaded rail cars are routed to the transload facility near the destination, or may be delivered directly to the customer if they are rail served.
	Store (optional)		Sometimes, at the option of the customer (and when available) the transload will store the commodity on-site until the customer requests the material. Options may exist for either long- or short-term storage.
	Transport by truck		The commodity is transloaded to short-haul trucks for the final leg of the journey and the cycle is complete.

Iowa's transloading facilities

The table and map on the following pages show transloading locations that have been identified through conversations with railroad staff, along with a brief description and the name of a contact person or number. Contact the transloading location directly to find out more about the services, staffing, and capabilities of each location.

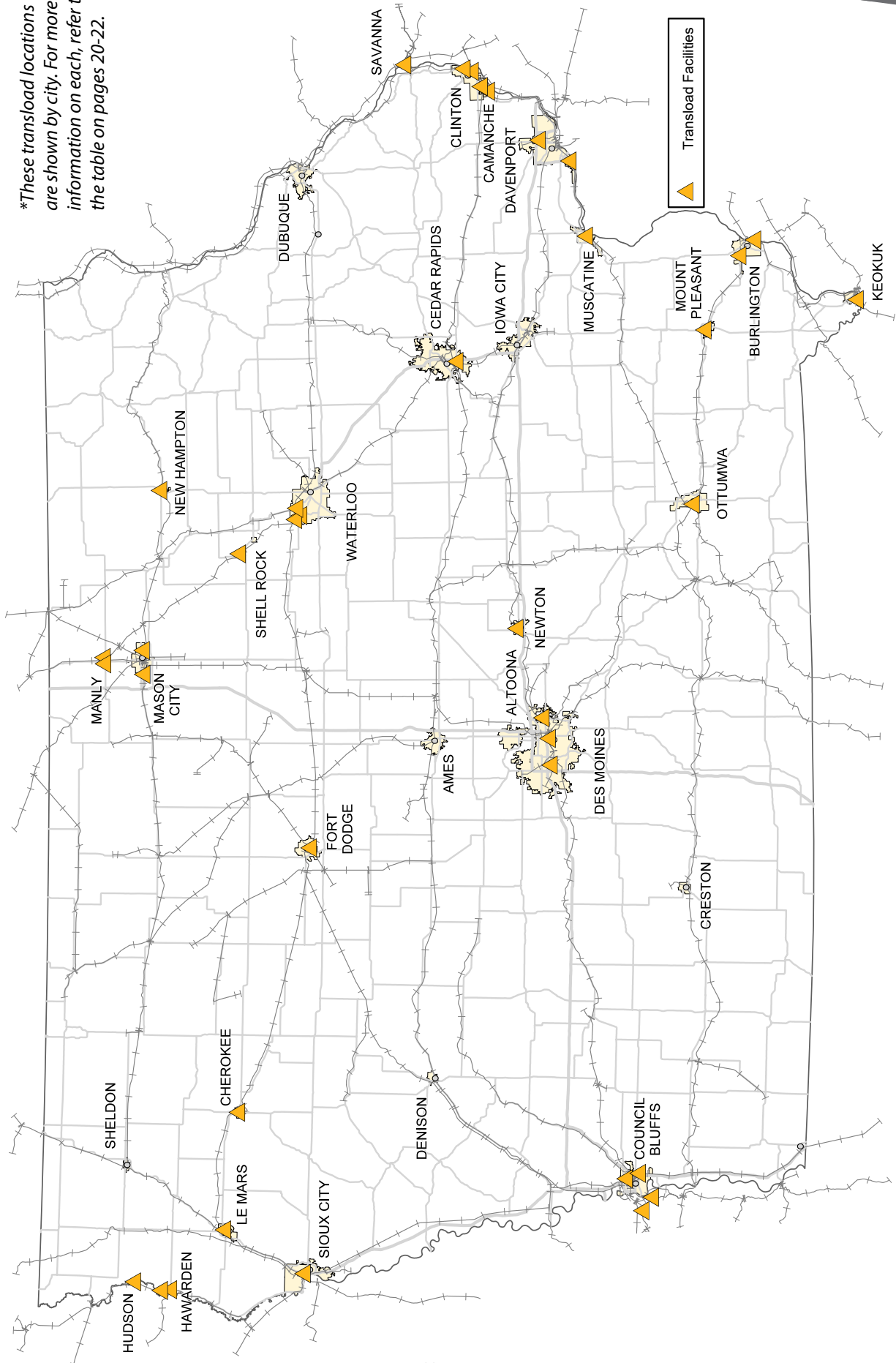
TRANSLOADING FACILITIES AND WAREHOUSES WITH RAIL SERVICE

Location	Name	Services	Railroad	Contact
Altoona, IA	Iowa Cold Storage	Large capacity refrigerated warehouse resources, cross dock	BNSF, UP	iowacold.com 515-957-8595
Altoona, IA	Merchants Distribution Services	135,000 sq ft heated high cube warehouse and cross-dock facility with 8 rail doors. Pallets, roll paper, packaged food, coiled and flat steel, and unitized building materials. Located one mile from I-80 in the Altoona Business Park.	IAIS	sales@merchantsdsm.com 515-244-2123
Atlantic, IA	IAIS	Railroad-owned two-acre rolled stone tarmac with 800 foot single-side accessible rail siding.	IAIS	Andy Laurent 319-423-5186
Boone, IA	PDM Distribution Services, Inc.	BRC certified food-grade and non-food-grade packaging, transloading, and warehousing.	BSV	Terry Goodman terry.goodman@pdmcompany.com 515-264-8655
Boone, IA	Boone & Scenic Valley Railroad	Team Track Accessibility	BSV	Travis Stevenson travis.stevenson@bsvrr.com 515-432-4249
Burlington, IA	Burlington Junction Railroad	Provides transloading for liquid and dry bulk products, lumber, machinery, oversize, plastics. Industrial development sites available. Rail served barge transfer facilities.	BJRY, BNSF	www.bjryrail.com 319-753-6157 transload@bjryrail.com
Camanche, IA	ADM Terminal Service	Enclosed facility with 8 tracks and 100 railcar spots. Can handle bulk and dimensional cargo.	BNSF, CP, UP	Jim Dougherty 563-259-2474
Camanche, IA	Union Pacific Distribution Services	12-acre wind component distribution center	UP	Cheryl A. Schow 402-233-3538
Cedar Falls, IA	Standard Distribution Co.	Third-party logistics and transloading	CN	www.standardddist.com info@sdcdc.com
Cedar Rapids, IA	CRANDIC	Cross dock, team track for dry material transfer via PD truck	CRANDIC	Jeff Woods 319-786-3660
Centerville, IA	Iowa Southern Railway	Car loading and unloading facilities handling steel products, lumber, and feed ingredients	ISRY	Michael Johns 641-954-1519
Cherokee, IA	Cloverleaf Cold Storage	Warehouse facility	CN	712-225-5151 cherokee@cloverleaf.com
Clayton, IA	Consolidated Grain and Barge	Transload to/from barge, rail, truck, and storage of aggregates, minerals, ag products, biomass, and project cargo. Track space for 30 railcars with options for expansion. Truck access to four interstate highways.	CP	ctlconline.com/terminals/ clayton-ia
Clear Lake, IA	Progressive Rail Services	Third-party logistics and transloading, 70,000 square-foot warehouse storage	IATR	Michael Johns 641-529-0061
Clinton, IA	ADM Terminal Services	Bulk material handling. Facilities include dry bulk barge dock, ground and covered storage	BNSF, CP, UP	Jim Dougherty 563-259-2474
Clinton, IA	Clausen Companies	Food grade and non-food grade warehouse space including temperature control, rail/truck transfer for dry and liquid bulk as well as packaged products, 80 car spots	UP	Cheryl A. Schow 402-233-3538
Council Bluffs, IA	IAIS	Transloading space available for customer-direct or third-party rail-truck accessibility. 20+ car spots available on two tracks, along with 7 acres of rolled stone tarmac, end ramp, lighting, perimeter fencing, and a third-party truck scale on site. I-29/80 highway access within ¼ mile.	IAIS	Andy Laurent 319-423-5186
Council Bluffs, IA	IAIS	Intermodal facility	UP, BNSF, KCS, CN	intermodaldistro@iaisrr.com

Council Bluffs, IA	Union Pacific Distribution Services	Team track with a four-car spot and side dock	UP	Cheryl A. Schow 402-233-3538
Davenport, IA	Catch-Up Logistics	Frozen, refrigerated, and dry storage	CP	412-441-9512
Davenport, IA	Murray Warehousing		CP	www.murrayswarehouse.com 563-333-4587
Davenport, IA	Savage Services	Box car, flat car, and bulk transload facility with more than 20 railcar spots. Enclosed 20,000 square foot warehouse. Outside laydown storage area. Hazardous and non-hazardous liquids and dry bulk commodities, lumber, steel, pipe, break bulk materials.	SDR, CP	Dan Price DanielP@savageservices.com
Des Moines, IA	Luckey Logistics LLC	Plastics, scale available, 60 railcar spots	UP	815-672-2931
Dubuque, IA	Foodliner Inc./Quest Liner	Food and plastics	BNSF, CN	800-251-9569
Emery, IA		This transload facility includes car loading and unloading facilities, a truck height dock, liquid transfer capability with track pans, crane service for heavy lifts and flat car loading for machinery.	IATR	Michael Johns 641-529-0061
Fort Dodge, IA			CN	
Hawarden, IA	GCC Dakotah Cement (raw cement)	3,000 feet of track leased for a cement terminal with additional track space as needed for storage.	DAIR	Jack Parliament 724-552-3818
Hawarden, IA	Poet Nutrition (corn oil)	1,800 feet of track leased for a truck to rail transload with additional track space as needed for storage	DAIR	Jack Parliament 605-330-6588
Hudson, SD	Siouxland Energy Transload (SELC)	Nearly 7,000 feet of private track constructed by SELC for their ethanol transloading operation.	DAIR	Jack Parliament 712-722-4904
Keokuk, IA	KJRY	Team track	KJRY	Dale Montgomery 309-697-1400
Le Mars, IA	Burlington Junction Railway	Provides transloading of liquid and dry bulk products, lumber, machinery, and oversize. Industrial development sites available.	CN	www.bjryrail.com 319-753-6157 transload@bjryrail.com
Manly, IA	Manly Logistics Park and Waterloo Terminal	Three-mile loop track and cross-dock facility	IANR	Amy Homan ahoman@iowanorthern.com 319-431-2605
Manly, IA	Manly Terminal/Yard	800-car rail classification yard, 100-acre site for liquid storage and transload, wind turbine component distribution center	IANR	641-454-4000
Mason City, IA	Emery Yard	Wet and dry chemicals, wet and dry foods, propane transloading	UP, IATR, CP	Michael Johns 641-529-0061
Mason City, IA	Cartersville Elevator Inc.	Warehouse rail-to-truck and truck-to-rail transload	CP	Richard Weiner 641-749-2584
Mason City, IA	Iowa Traction Railway Co.	Cross dock, feed ingredients bagging services, bulk commodity transloading of all types. Interchanging with UP and CP.	IATR	Michael Johns 641-529-0061
Middleton, IA	Commerce Center of Southeast Iowa	Existing rail and truck served warehouses available as well as building sites.	BNSF	Eric Pitcher 312-850-5699 eric.pitcher@bnsf.com
Moravia, IA	Iowa Southern Railway	Propane transload, railcar to truck. Interchange with BNSF, NS, and CP.	ISRY	Michael Johns 641-954-1519
Mount Pleasant, IA	Burlington Junction Railway	Provides transloading for liquid and dry bulk products, oversize, and plastics. Industrial development sites available.	BJRY, BNSF	www.bjryrail.com 319-753-6157 transload@bjryrail.com
Muscatine, IA	CAMII Warehouse Inc.	Warehousing facility	CP	563-264-8871

Muscatine, IA	Kinder Morgan Terminals	Bulk liquid storage and warehousing (chemicals and herbicides), tank truck loading/unloading, tank car unloading, tank car to tank truck transloading. Four available rail car spots.	CP	Greg Chappell 319-262-8621 www.kindermorgan.com/content/docs/terminalbrochures/r_Muscatine.pdf
New Hampton, IA	New Hampton Transfer & Storage	300,000 square feet of climate-controlled warehouse facilities, railcar transload	CP	Jonas Schwickerath 641-394-3191 www.nhwarehouse.com info@nhwarehouse.com
Newton, IA	IAIS	Transloading access on two parallel railroad-owned tracks with 56 car spots. Adjacent rolled stone tarmac with lighting available for project, dimensional, or bulk commodities. Industrial roadway access to I-80.	IAIS	Andy Laurent 319-423-5186
Omaha, NE	Geo Transload LLC	Warehouse, 32 car spots, dry bulk capable	UP	402-504-6146
Omaha, NE	Omaha Transloading	Covered and enclosed facilities with 15 tracks and spots for 300 railcars. Can handle bulk and dimensional cargo. Has warehouse available.	BNSF	www.omahatransloading.com 402-341-2233 steven2@omahatransloading.com
Ottumwa, IA	Burlington Junction Railway	Provides transloading for liquid and dry bulk product, machinery, oversize, and plastics. Industrial development sites available.	BJRY, BNSF	www.bjryrail.com 319-753-6157 transload@bjryrail.com
Ottumwa, IA	Questliner/Foodliner Inc.	Transloading facility for wet and dry chemicals, dry foods, plastics, and petroleum products, 23 car spots	CP	questliner.com
Savanna, IL	Riverport Railroad	Enclosed and uncovered facilities with three tracks and spots for 999 cars, bulk and dimensional cargo capability, and warehouse and industrial development options available.	BNSF	www.riverportrailroad.com 815-273-3200
Shell Rock, IA	Butler Logistics Park	Rail car storage, industrial building space available, cross-dock/warehouse facility	IANR	Bill Rhodes 319-415-8150 wrhodes@iowanorthern.com
Sioux City, IA	Big Soo Terminal	Multi-commodity, multi-dimensional rail/truck and rail/barge transload terminal, two tracks, 65 car spots, 100,000-square-foot warehouse storage, 6 million gallons of liquid tank storage capacity, 125,000 tons of dry bulk storage capacity, 15 acres outside storage, river dock for transferring products to barges	UP	www.bigsoo.com Kevin Knepper 712-258-0537
Sioux City, IA	Floyd Valley Transload	Transload for dry and liquid bulk as well as machinery. Non-hazardous commodities only. Access to interstate, state highway, and river port.	BNSF	Brad Cummings bradcummings@live.com 712-244-5103
Various locations in northwest Iowa		100,000-square-foot warehouse storage, 6 million gallons of liquid tank storage capacity, 125,000 tons of dry bulk storage capacity, 15 acres outside storage,	DAIR	Jack Parliament 605-330-6588
Waterloo, IA	Waterloo Terminal/ Bryant Yard	Self-serve, cross dock, and direct rail-to-truck transload facility	IANR	Bill Rhodes 319-415-8150 wrhodes@iowanorthern.com
Waterloo, IA	Kinder Morgan, Black Hawk Terminal	Handling fertilizer and steel bar, rail/truck/storage transloading, access to US 20, I-380, and US 63, warehouse services	UP	www.kindermorgan.com Fred Nordman 319-233-5273
West Liberty, IA	Custom Farming Transload	River dock for transferring products to barges	IAIS	Larry Regennitter 319-627-4168
Williams, IA	Williams Bulk Transfer (WBT)	State of the art materials handling terminal. Access to I-35 and US 20 as well as the CN railroad. Also offering outdoor storage and development opportunities.	CRANDIC, CN	Jeff Woods 319-786-3698 jeffwoods@alliantenergy.com

**These transload locations are shown by city. For more information on each, refer to the table on pages 20-22.*



IOWA RAILROAD PROFILES



The railroad profiles in this section were prepared using the annual reports and input from railroads in Iowa. Contacts, transload facilities, and map information are included. Please contact each company about specific services and available resources.

Operates in Iowa as the Dakota, Minnesota and Eastern Railroad Corp.

CANADIAN PACIFIC (CP)

www.cpr.ca

Emergency number: 800-766-HELP (4357)

Corporate headquarters
7550 Ogden Dale Road S.E.
Calgary, AB T2C 4X9

General offices
120 S. Sixth St.
Minneapolis, MN 55402



Overview

CP operates in Iowa as the Dakota, Minnesota and Eastern Railroad Corp. CP operates a transcontinental railroad network in the United States and Canada with a total of 14,000 route-miles. The CP network serves the ports of Montreal and Vancouver in Canada, and reaches key U.S. gateways, including Chicago, Minneapolis/St. Paul, Milwaukee, and Kansas City. CP's corporate headquarters are located in Calgary, Alberta, Canada, while its U.S. operations are based in Minneapolis. Iowa operations include a main route following the Mississippi River from the Minnesota border to Muscatine (crossing the Mississippi River at Sabula for route toward Chicago), then onto Ottumwa and the Missouri border, plus routes operating from Mason City west to Sheldon, east to Marquette, and north into Minnesota.

Transloading

Camanche & Clinton, IA

Davenport, IA

Mason City, IA

Muscatine, IA

New Hampton, IA

Railroad interchanges

Sheldon, IA

UP

Mason City, IA

UP

Clinton, IA

UP, BNSF

Dubuque, IA

CN

Moravia, IA

ISRY

Quad Cities, IA

IAIS, BNSF

Nora Springs, IA

IANR

Ottumwa, IA

BNSF, NS

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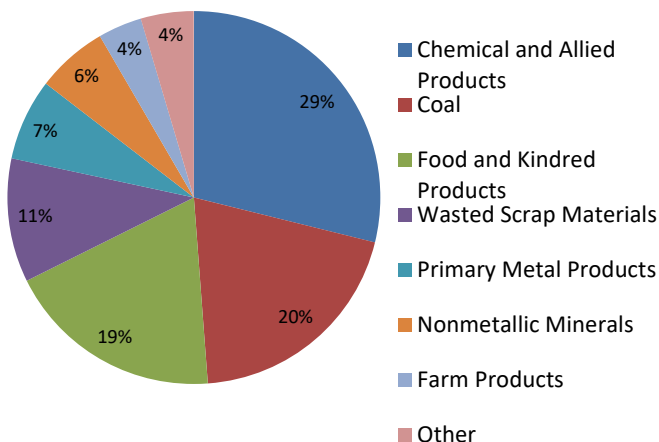
CP in Iowa

Miles of track owned/leased/serviced: 650

Miles operated under trackage rights in Iowa 11

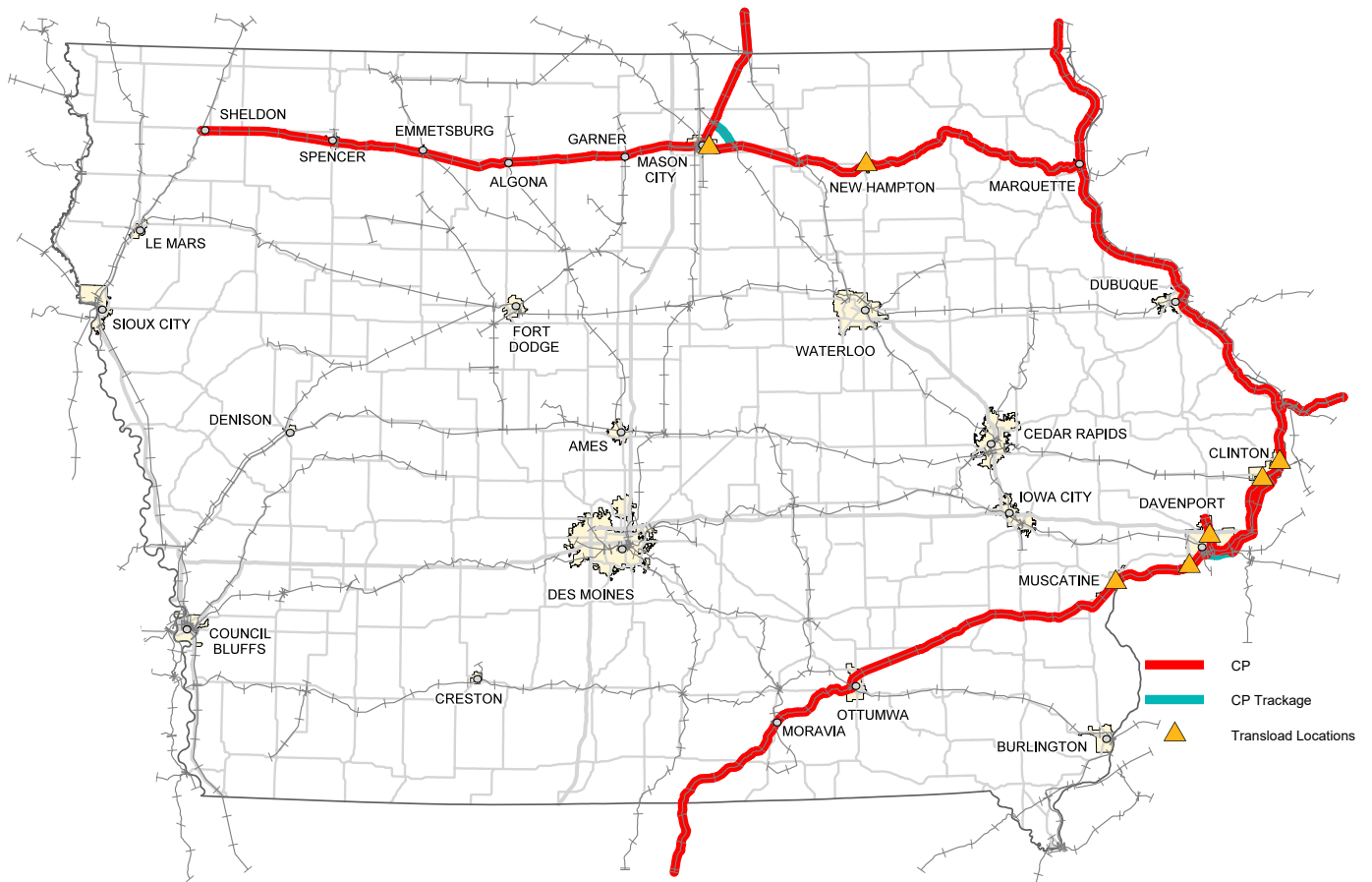
Employees 465

Commodities



Marketing development summary

What used to arrive today now gets there yesterday. CP helps its customers become more competitive and grow their business with faster and more reliable transit times.



CEDAR RAPIDS AND IOWA CITY RAILWAY CO. (CRANDIC) (CIC)

www.crandic.com

Emergency number: 319-786-3645

Corporate headquarters

2330 12th St. SW
Cedar Rapids, IA 52404
Phone: 319-786-3686

Overview

CIC, more commonly referred to as CRANDIC, is a shortline railroad providing freight rail service in the Cedar Rapids to Iowa City corridor. CRANDIC connects with two Class I (UP, CN) and two shortline railroads (IANR, IAIS). Priding itself on customer service and flexibility, CRANDIC has been instrumental in supporting economic development in eastern Iowa.

Transloading

Cedar Rapids, IA

Railroad interchanges

Cedar Rapids, IA	CN, UP, IANR, IAIS
Iowa City, IA	IAIS
Homestead, IA	IAIS

Major existing customers

Alliant Energy	Ingredion
Archer Daniels Midland Co.	International Paper
Cargill	

Potential development opportunities

Cedar Rapids, IA	Big Cedar Industrial Center
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Tools and resources for shippers and developers

CRANDIC's website provides points of contact for all aspects of rail transportation. CRANDIC also provides customers access to RMI software for billing, tracking, etc. Staff is available 24/7 to answer your questions.



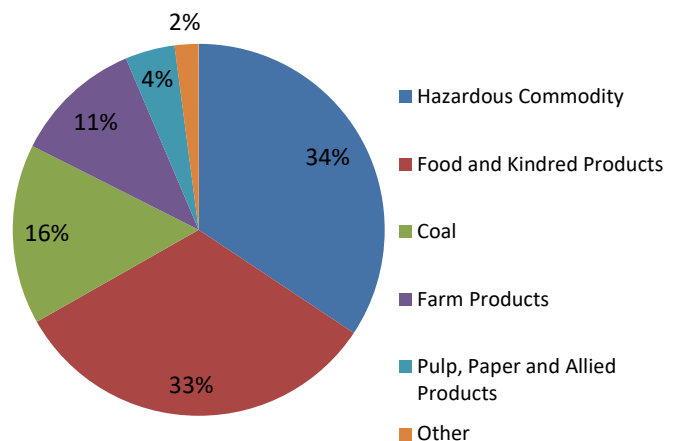
Contact(s)

Jeff Woods Industrial development, marketing, and rates	jeffwoods@alliantenergy.com 319-786-3698
Scott Whiting Customer service	scottwhiting@alliantenergy.com 319-786-3660

CRANDIC in Iowa

Miles of track owned/leased/served in Iowa	94
Miles operated under trackage rights in Iowa	0
Employees in Iowa	80

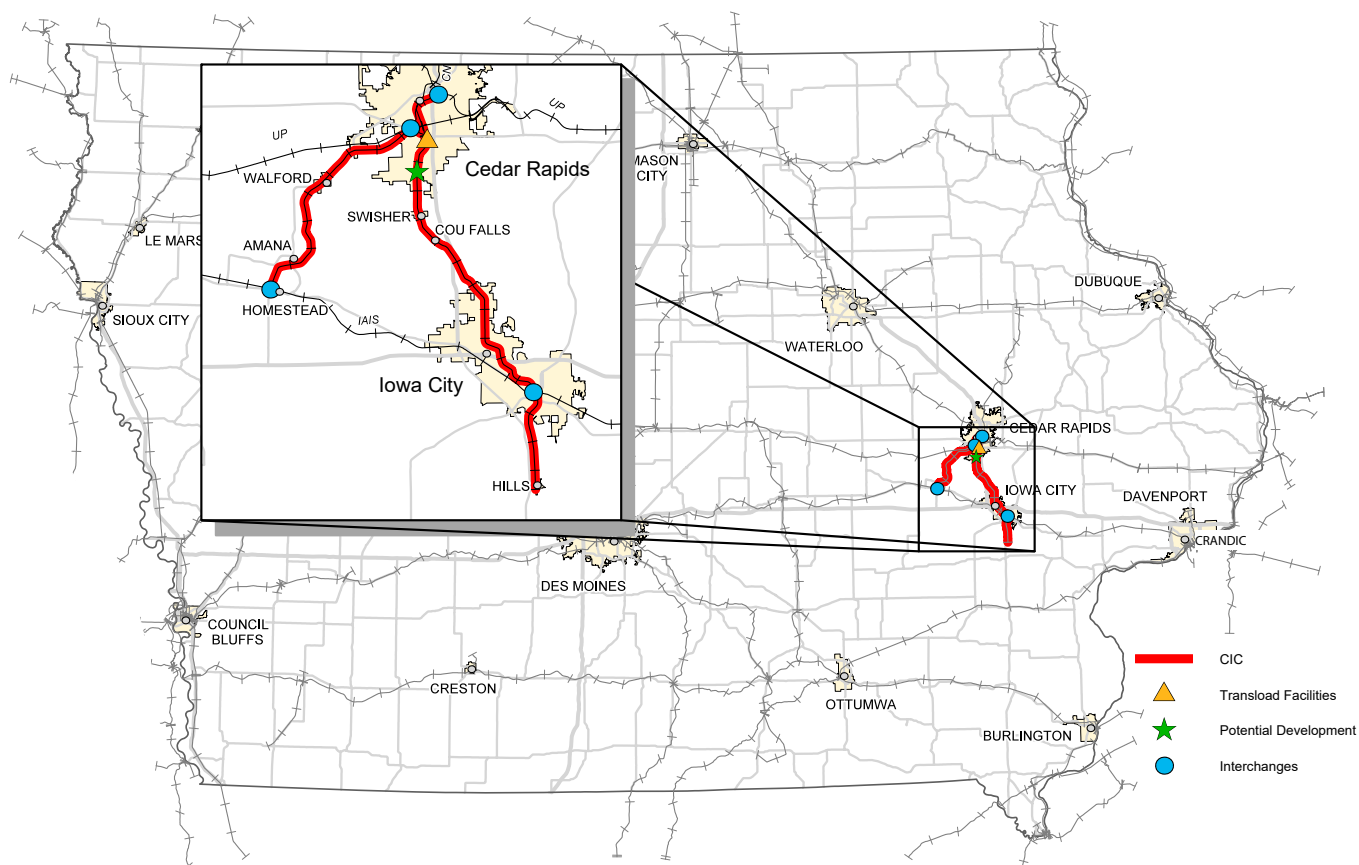
Commodities



Marketing development summary

CRANDIC provides direct freight service to 16 industries, and via reciprocal switching, bridge traffic, transloading, and many others. Operating 24/7, CRANDIC offers unique pricing and service options in conjunction with its connecting carrier partners. CRANDIC handles 105,000 carloads of freight annually. Main products hauled are corn, coal, and ethanol. Its 80 employee-strong workforce maintains 94 miles of main line and secondary track and eight locomotive/slug units. Having invested \$50 million to rebuild or expand yards, main lines, bridges, and locomotives since 2007, CRANDIC is poised to provide safe, reliable rail service for decades. In 2005, CRANDIC was selected as the Short Line Railroad of the Year by RailwayAge magazine. It is the only railroad to twice receive the Argus Rail Business Win-Win Award, presented by Argus Media at the North American Rail Shippers Association's annual meeting to honor the best railroad-shipper partnerships in the industry.

CRANDIC's website provides points of contact for all aspects of rail transportation. CRANDIC also provides customers access to RMI for billing, tracing, etc. Staff is available 24/7 to answer your questions.



CN (CN)

www.cn.ca

Emergency number: 800-465-9239

Corporate headquarters

935 de La Gauchetiere St. W
Montreal PQ H3B 2M9

General offices

17641 S. Ashland Ave.
Homewood, IL 60430

Overview

Through our subsidiary, the Chicago, Central & Pacific Railroad, CN's rails stretch the breadth of Iowa, from the Missouri River in the west to the Mississippi in the east. We carry a wide variety of manufactured and industrial products like food, machinery, electrical equipment, chemical products, and primary metals. In addition to serving local businesses, CN's ethanol franchise is centered in the Hawkeye State with several plants along the route between Dubuque and Sioux City and Council Bluffs. The largest rail yard and facility on CN's Iowa network are in Waterloo. In 2020, CN invested over US\$35 million to support growing demand and enable supply chains in Iowa. The program focused on continued investments in Positive Train Control as well as the replacement of rail and ties and maintenance of bridges, level crossings, culverts, signal systems, and other track infrastructure.

Transloading

Cedar Falls, IA

Le Mars, IA

Cherokee, IA

Waterloo, IA

Fort Dodge, IA

Railroad interchanges

Cedar Rapids, IA

CRANDIC, IAIS, IANR, UP

Council Bluffs, IA

IAIS, UP, BNSF

Dubuque, IA

CP

Iowa Falls, IA

UP

Sioux City, IA

DAIR, UP, BNSF

Waterloo, IA

IANR, UP

Iowa river port terminals

Dubuque, IA

Bulk commodities

Potential development opportunities

Cedar Falls, IA

Fort Dodge, IA

Iowa Falls, IA

Le Mars, IA

Webster City, IA



Contact(s)

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Manager – business
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Larry Lloyd

Manager, Government
& Public Affairs

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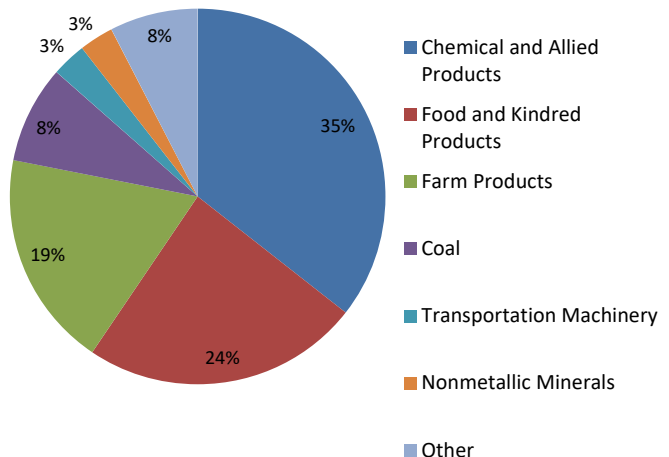
CN in Iowa

Miles of track owned/leased/served in Iowa	574
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Miles operated under trackage rights in Iowa	0
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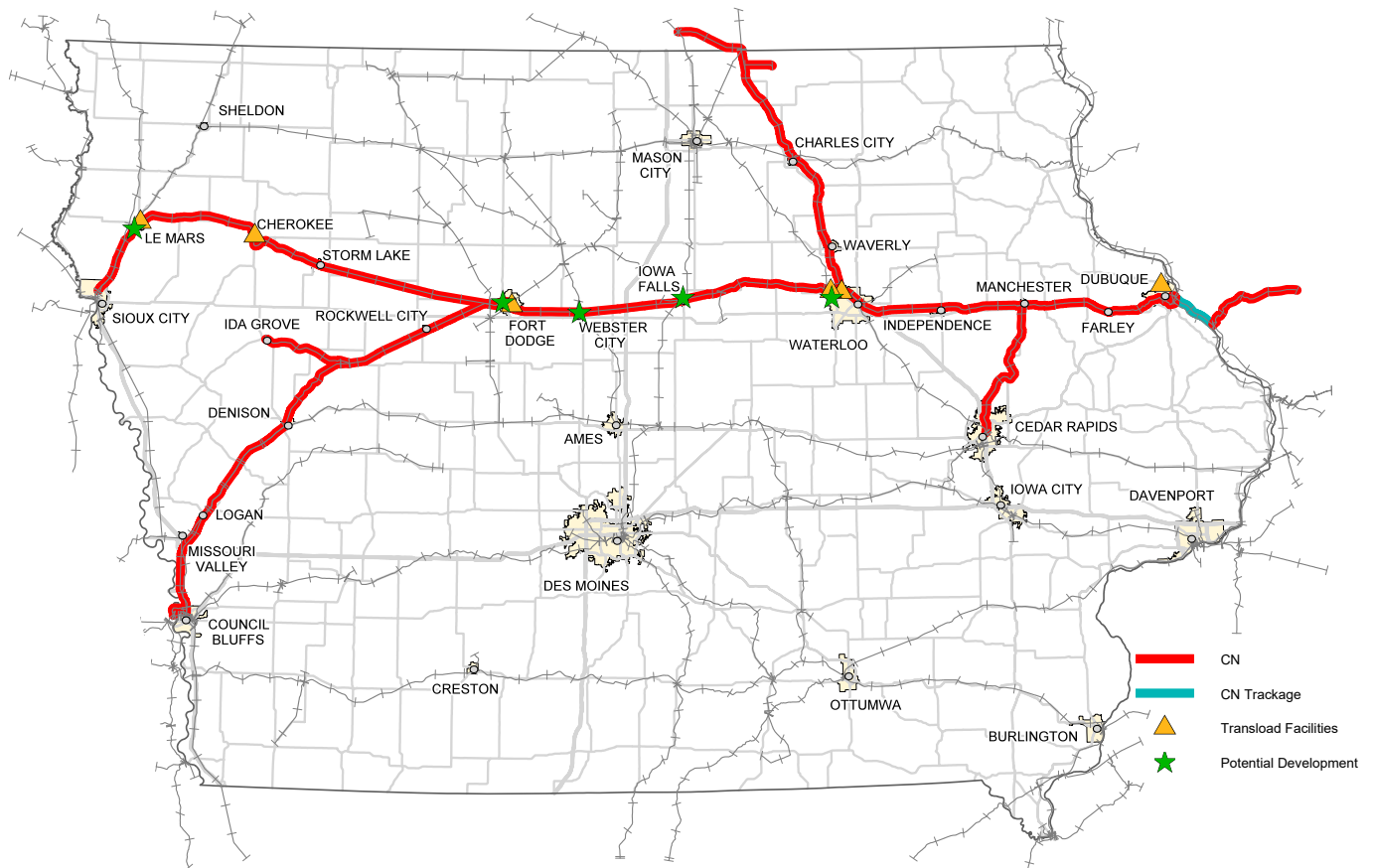
Employees in Iowa	262
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Commodities



Marketing development summary

CN serves Iowa with main-line routes from Council Bluffs and Sioux City through Fort Dodge, Waterloo, and Dubuque and onto Chicago, where connections are made with the rest of CN's North American network. Branches extend to Cedar Rapids and Ida Grove, Iowa; and southern Minnesota. CN serves numerous unit-train loading facilities, providing single-line service to the Gulf elevators for export.



IOWA INTERSTATE RAILROAD LTD. (IAIS)

www.iaisrr.com

Emergency number: 800-321-3891

Corporate headquarters

Iowa Interstate Railroad Ltd.
5900 Sixth St. SW
Cedar Rapids, IA 52404
Phone: 319-298-5400

Overview

IAIS is one of the few regional railroads that connects with the entire Class I railroad system (BNSF, UP, CN, CP, KCS, CSXT, and NS) at multiple locations. The IAIS main line operates from Council Bluffs through Des Moines, Iowa City, and Davenport, Iowa; to Chicago and Peoria, Illinois.

Transloading

Altoona, IA

Newton, IA

Atlantic, IA

West Liberty, IA

Council Bluffs, IA

Intermodal

Council Bluffs, IA

Blue Island, IL

Railroad interchanges

Blue Island, IL IHB, CSXT, NS, CPRS, CN, UP, CFE, BNSF

Cedar Rapids, IA CRANDIC

Council Bluffs, IA BNSF, UP, CN KCS

Davenport, IA/
Rock Island, IL BNSF, CPRS

Des Moines, IA BNSF, NS, UP

Iowa City, IA CRANDIC

Peoria, IL TZPR, TPW, IMRR, NS, UP, BNSF, CN, KJRY

Utica, IL CSXT



Potential development opportunities

Dexter, IA

West Metro I-80 Rail Park

Newton, IA

Former Maytag Plant

Iowa City, IA

Iowa City Industrial Park

Stuart, IA

Stuart I-80 Rail Park

Marengo, IA

Former Quad Graphics Building

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Marty Hanson

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Al Satunas

Chief operating officer

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319-298-5418

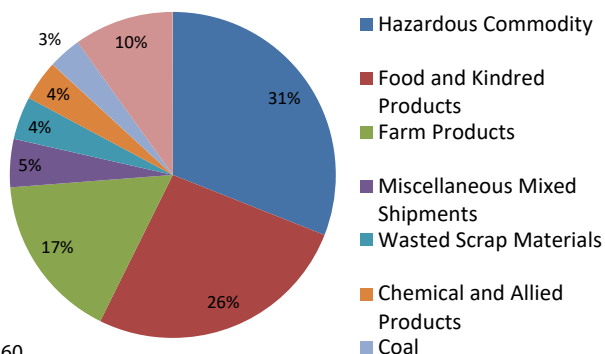
IAIS in Iowa

Miles of track owned/leased/served in Iowa	306
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Miles operated under trackage rights in Iowa	62
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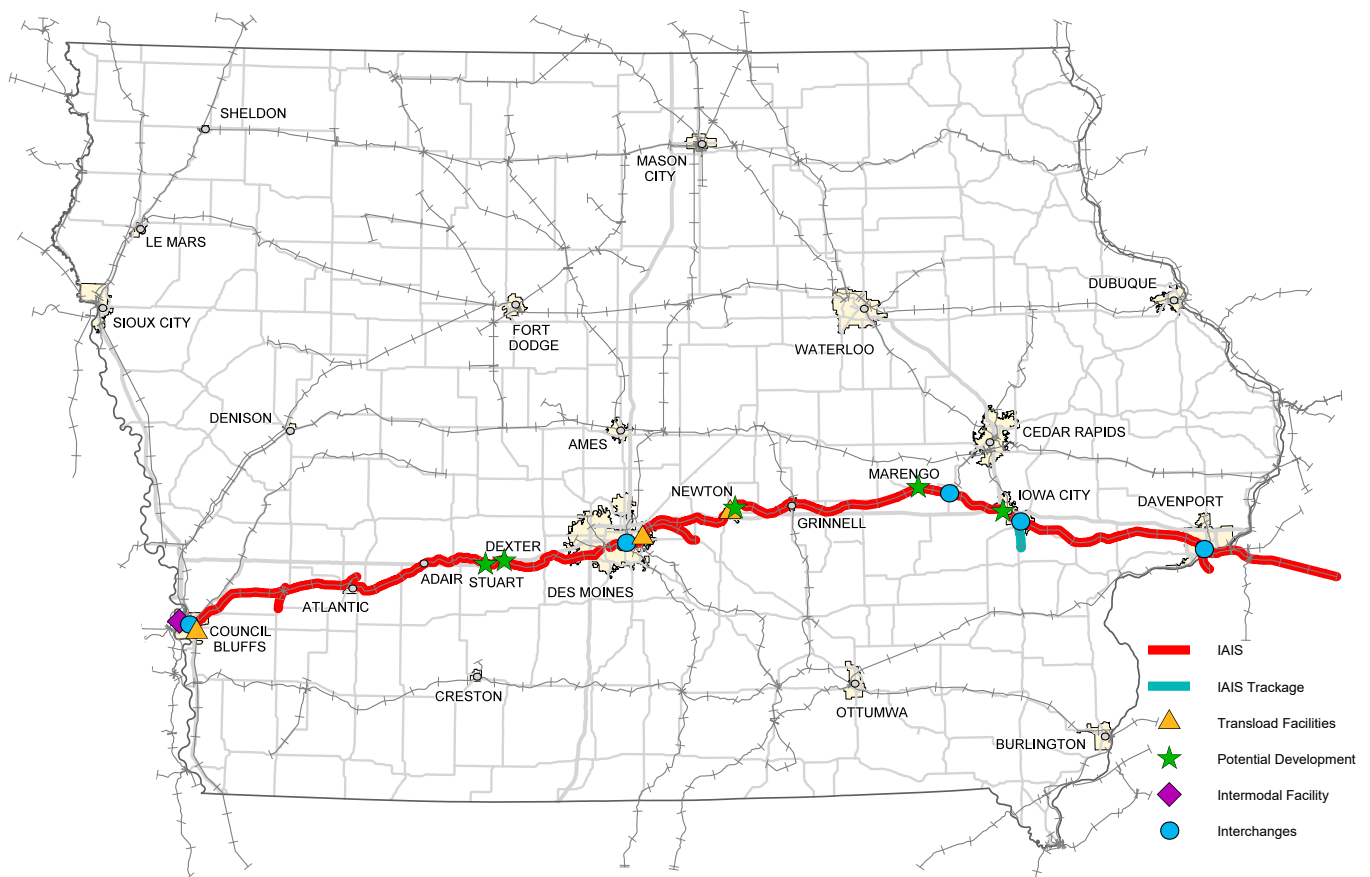
Employees in Iowa	182
-------------------	-----

Commodities



Marketing development summary

Connecting national rail network to Chicago, the Quad Cities, Des Moines, and Omaha. Regional railroads provide the flexibility and nimble service of a short line, with the multi-state connections of a much larger railroad. IAIS connects to six Class I railroads at various points on our 580-mile system. The company works closely with its customers to tailor their service to the needs of Iowa and Illinois business. IAIS has proven capability to move freight in ways that many railroads cannot or will not. They can assemble and move full unit trains over hundreds of miles; or handle single-car shipments of high-value commodities. Besides being a low-cost freight service provider, IAIS is also known for their ability to listen to their customers and provide tremendous value for their logistics supply chain.



IOWA NORTHERN RAILWAY CO. (IANR)

www.iowanorthern.com

Emergency number: 800-392-3342

Corporate headquarters
201 Tower Park Drive, Suite 300
Waterloo, Iowa 50701
Phone: 319-888-7070

Overview

IANR operates over 253 miles of track in northeast Iowa. Their line runs diagonally northwest to southeast from Manly to Cedar Rapids. Passing near or through Mason City, Waterloo, and Cedar Rapids. There are also two branch lines; one from Waterloo to Oelwein, and the other from Forest City south to Belmond.

Transloading/development opportunities

Manly, IA

Shell Rock, IA

Waterloo, IA

Linn and Benton counties, IA

Railroad interchanges

Manly, IA

UP

Nora Spring, IA

CP to CSXT, NS, and KCS

Waterloo, IA

CN to BNSF, CSXT, and NS

Cedar Rapids, IA

UP, CN, CIC to IAIS



Contact(s)

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Director of marketing

ahoman@iowanorthern.com
319-888-7070

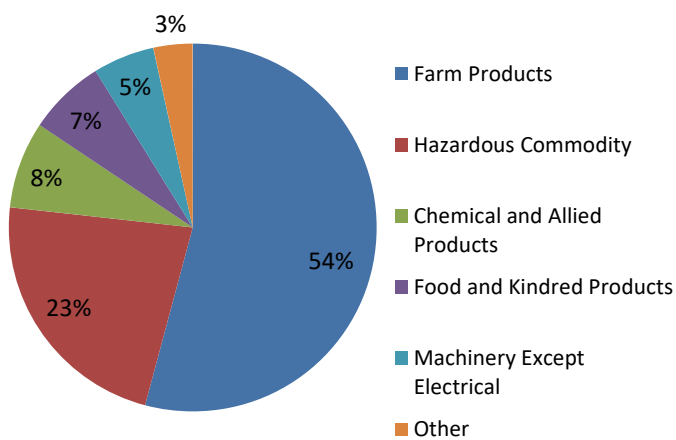
IANR in Iowa

Miles of track owned/leased/served in Iowa	219
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Miles operated under trackage rights in Iowa	35
---	-----------

Employees in Iowa	101
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Commodities

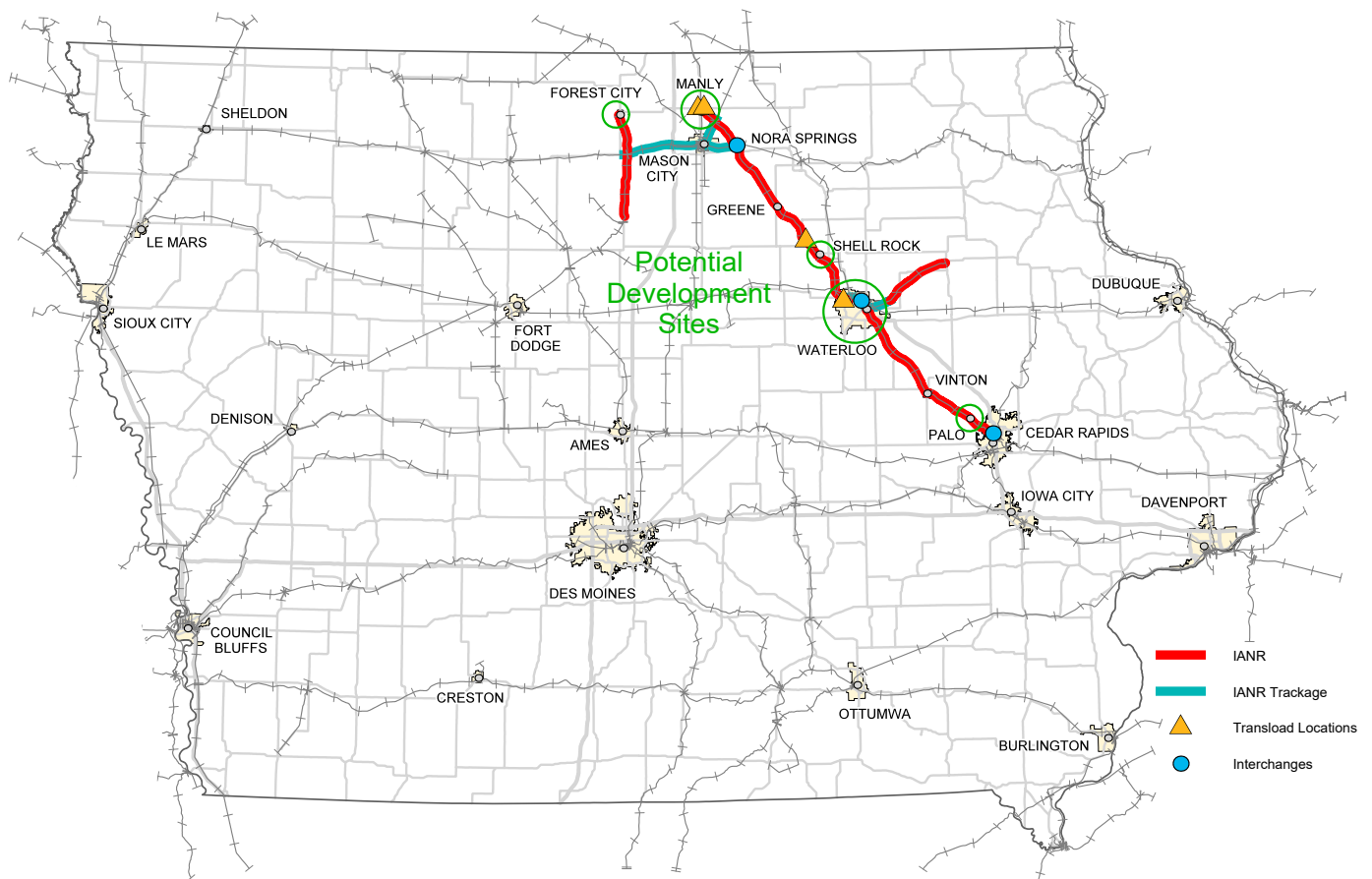


Marketing development summary

IANR is a leader in market development with high service levels, intense attention to customer needs, and deep knowledge of the regional agricultural marketplace – all of which help our customers to be more competitive. Major industrial expansion has occurred along the IANR lines, with traffic having more than tripled during the past decade. IANR's success in a competitive industry has been achieved with its commitment and dedication to personalized customer service.

IANR has multiple facilities for transloading services, including Manly Terminal, Manly Logistics Park, and Butler Logistics Park (in Shell Rock) with additional rail-served industrial parks under development at Forest City, Oelwein, Vinton, and Cedar Rapids (Palo). IANR is an integral part of agriculture and industry in Iowa and is a proud link in the chain from the farmer's field to the end product. From the grain railed in for production, to ethanol and other co-products railed out to market, IANR provides quality service on both ends of the process for agricultural producers.

IANR is located in the heart of the Midwest and connects with virtually every rail system in the nation giving our customers reliable, cost-effective and efficient rail service to every market in North America. IANR has direct connections with the UP, CN, CRANDIC, and CP. These interchanges also make it possible to connect with BNSF, Kansas City Southern, CSXT, and NS.



UNION PACIFIC RAILROAD (UP)

www.up.com

Emergency number: 888-877-7267

Corporate Headquarters

1400 Douglas St.
Omaha, NE 68179
Phone: 402-544-5000

Overview

Union Pacific Railroad and the Chicago & North Western Transportation Co., which merged in 1995, have been part of the Iowa landscape since the 1850s. Today, UP's tracks span the length and breadth of the state. The east-west main line corridor provides a direct route from Chicago to the West Coast, while the north-south "Spine Line" main line running through Des Moines and Mason City connects Minneapolis-St. Paul and Kansas City. In northwest Iowa, an extensive branch line network exists.

Transloading

Camanche, IA	Des Moines, IA
Clear Lake, IA	Manly, IA
Clinton, IA	Sioux City, IA
Council Bluffs, IA	Omaha, NE

Railroad interchanges

Boone, IA	BSV	Iowa Falls, IA	CN
Cedar Rapids, IA	CRANDIC, CN, IANR	Manly, IA	IANR
Clinton, IA	CP	Mason City, IA	CP, IATR
Council Bluffs, IA	CN, IAIS	Sheldon, IA	CP
Des Moines, IA	IAIS, NS	Sioux City, IA	CN
Emmetsburg, IA	CP	Waterloo, IA	CN, DAIR
Fort Madison, IA	KJRY		



Contact(s)

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Network Economic &
Industrial Development
WY, NE, IA

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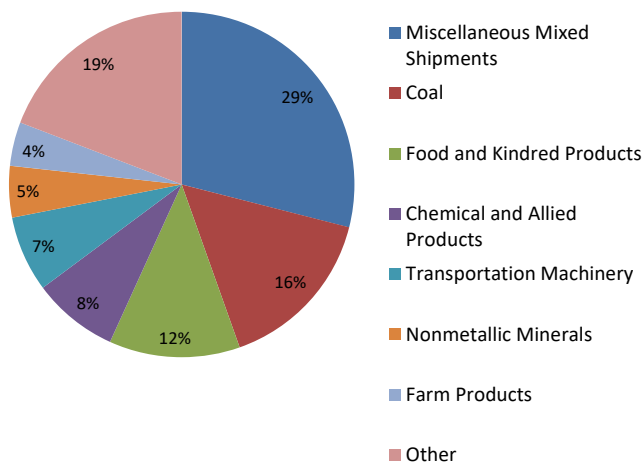
Kelli O'Brien
Public affairs

kobrien@up.com
515-263-4585

UP in Iowa

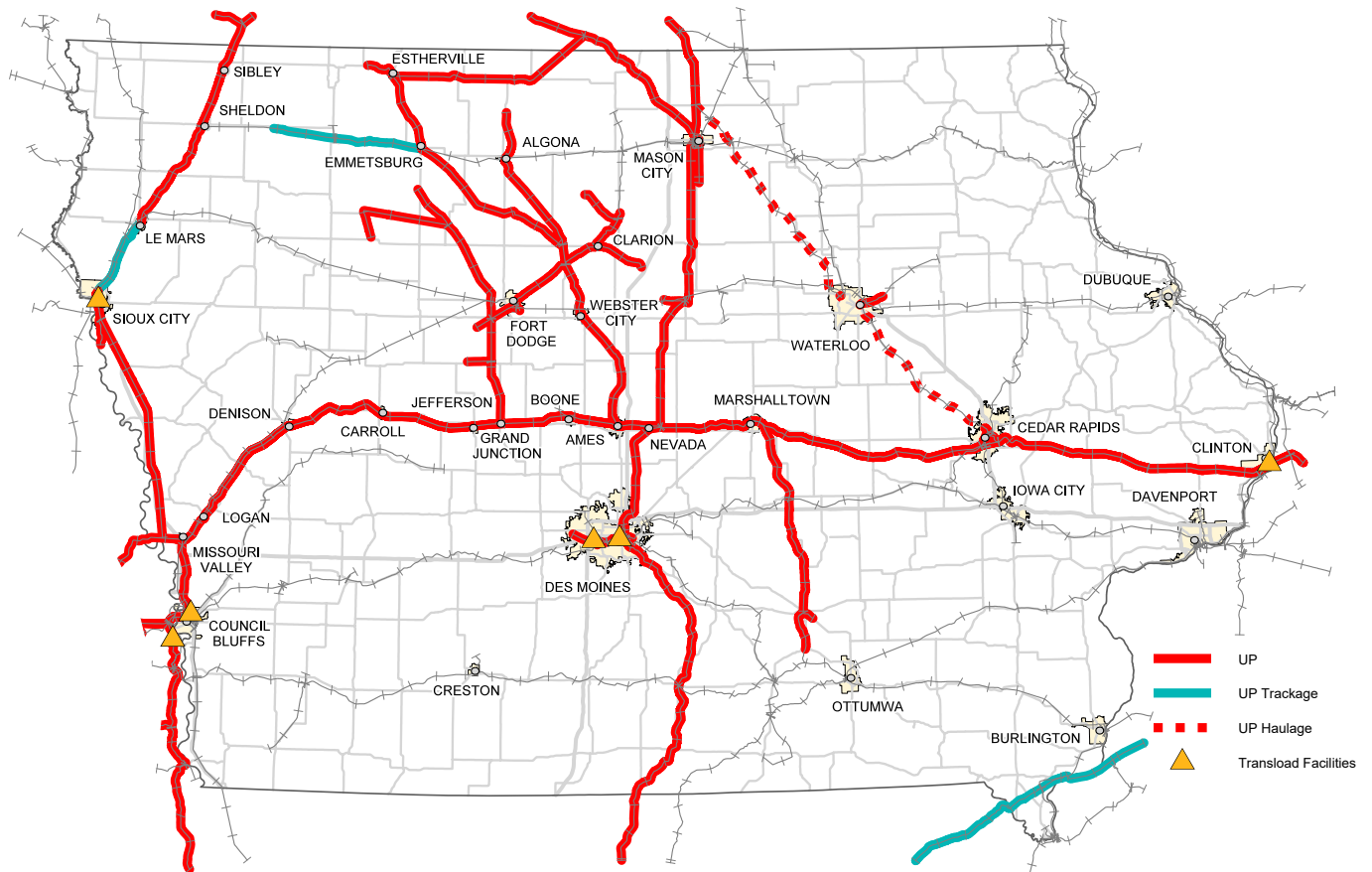
Miles of track owned/leased/served in Iowa	1,291
Miles operated under trackage rights in Iowa	95
Employees in Iowa	1,528

Commodities



Marketing development summary

As your shipping needs grow, look to the men and women of UP to ensure your shipment gets delivered where you need it, when you need it. Put the power of America's premier transportation company to work for you. Call UP's shipping and logistics experts today at 800-877-0513.



VERIFIED STATEMENT OF JON HARMAN

ATTACHMENT B

**Iowa Northern Railroad Company,
“*Presentation to Iowa DOT-DED’s Moving Iowa Forward*”
(April 24, 2012)**



Iowa Northern Railway Company

Presentation to Iowa DOT-DED's
Moving Iowa Forward

April 24, 2012

Moving Iowa Forward

April 24, 2012



Iowa Northern Philosophy

- Run the Company like a business, not like a railroad.
- Encourage customers to grow their business with great service and fair, competitive freight rates.
- Create new business.
- Be the solution.
- Tap the strengths of each rail connection.
- Empower employees to do their best in safe and creative ways.
- Support the State and Communities served.
- Take some risk.
- Facilitate new industries and growth.
- Be easy to do business with.
- Repeat, don't act like a railroad.

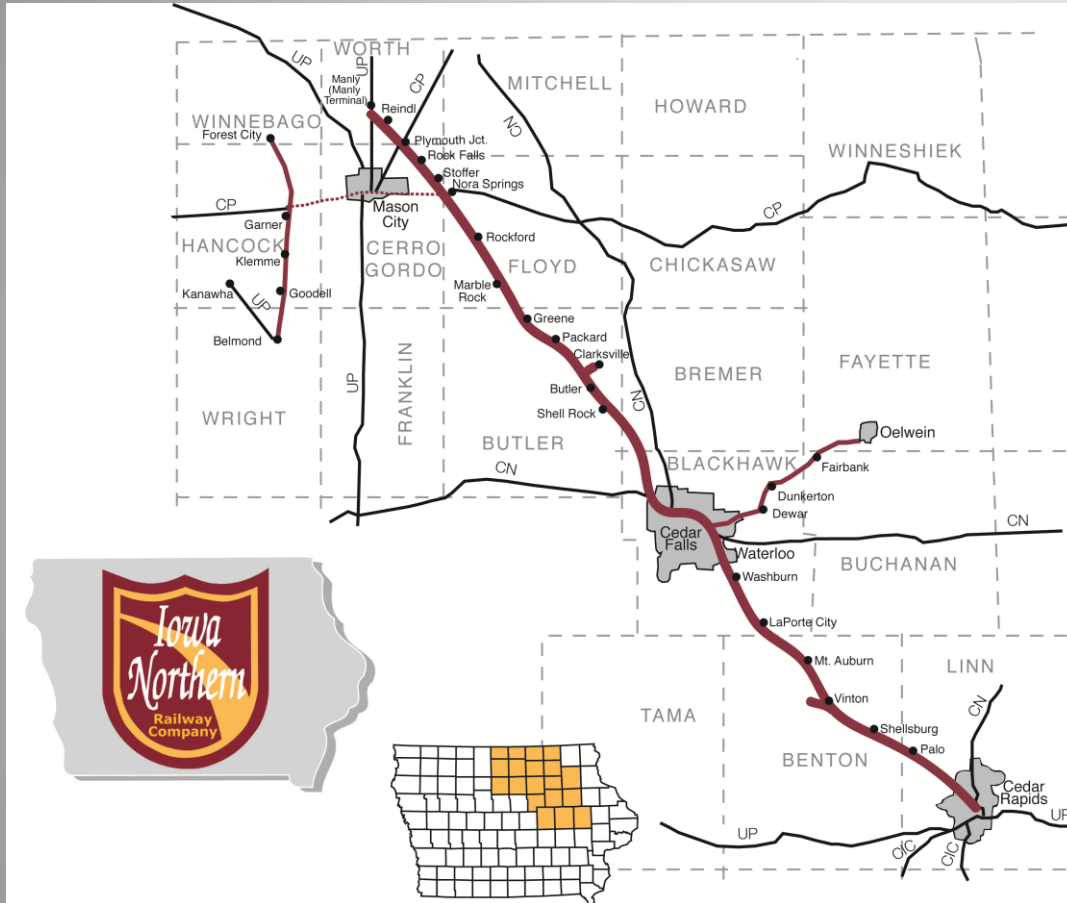


Iowa Northern Railway Company



- IANR covers North Eastern Iowa with 195 route miles
- Sabin Group acquired the line in 1994 with about 15,000 revenue cars handled
- Should hit nearly 65,000 carloads in 2012

Iowa Northern Railway



- IANR is a unique short line with multiple rail connections providing independent access to North American Rail System.
- Nearly 1 billion bushels of corn within its market area.
- Cedar Rapids processors need 350 million bushels of corn annually, about 1 million per day.
- Aggressive in economic growth and development in market area.
- Averaged 18% annual growth between 2003 and 2011, despite two years of major flood recovery.

IANR has multiple railroad connections with BNSF, CN, CP, IAIS (through CIC) and UP



The Company's Current Markets

- Grain
- Ethanol
- Wind Components
- Machinery
- Chemicals
- Fertilizer
- Bulk Products
- Food Products
- Bio-Mass
- Distillers Grains
- Corn Oil
- Trans-load Commodities

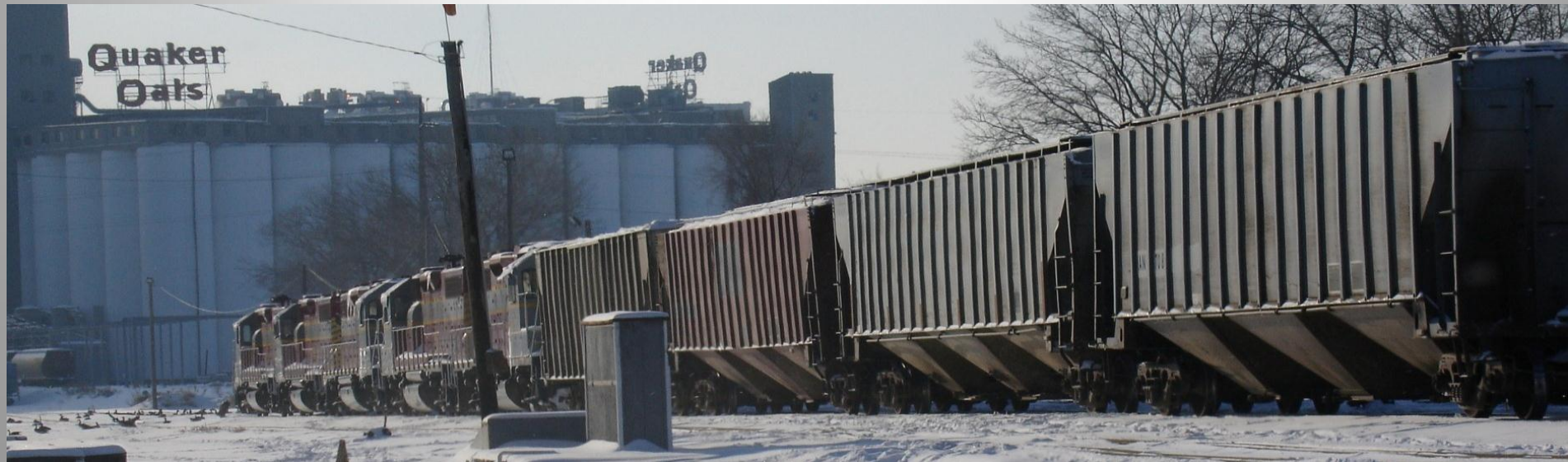


Originally just a grain hauler, IANR elevators have increased volumes of grain from 230 cars per month in 1994 to nearly 2,000 per month today.



Grain Traffic

- IANR will handle nearly 27,000 carloads of corn, soybeans and oats in calendar year 2012 compared to 10,500 carloads in 2001. Most of the traffic moves to Cedar Rapids, providing high utilization of hopper cars.
- *If Cedar Rapids was an independent nation, it would rank third in the world in the importation of corn, behind only Japan and Mexico.*



IANR's Grain Market



Ethanol Related Products



Iowa Northern has grown from zero car loads of ethanol related products in 2005 to 16,000 annual car loads in 2011.

Three large fertilizer terminals have been established along the line with more planned



Iowa Northern Wind Energy Business

- IANR wind component distribution center at Manly is the largest in North America.
- Future wind business is contingent on extension of tax credits for wind energy.



IANR handles Wind, Ethanol, Corn Oil, feed additives and Chemicals at Manly Terminal



IANR provides rail to truck transload service at several locations, with new infrastructure at Waterloo and Manly



Bryant Yard Trans-loading

- Base customer trans-loading food grade and industrial starch. We are also handling other food grade traffic.
- Two new reload spurs have been built adjacent to IANR's Bryant Yard in Waterloo to provide the ability to grow the business. Additional commodities: Powdered clay, tomato paste, magnesium chloride, lube oil, bentonite clay.



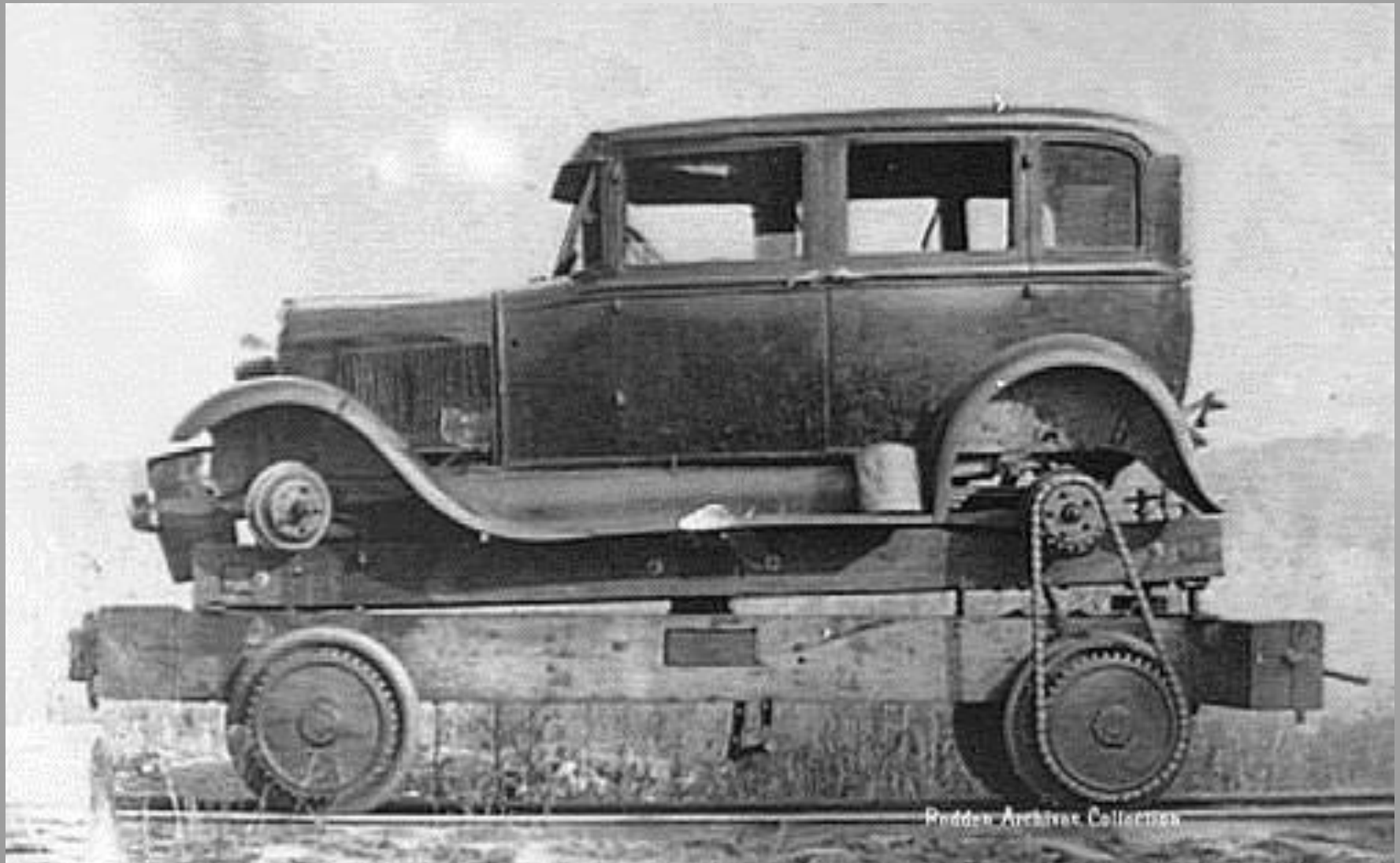
IANR provides container handling service for inbound wind components at Manly



IANR delivers John Deere Tractors from Waterloo to UP at Cedar Rapids and Manly



What's new at IANR?



Continued upgrading of the Railroad



Acquisition of Non-Powered Slugs to reduce emissions and fuel burn



Forest City-Belmond Line

Saved the line from abandonment



Iowa Northern is pleased with initial traffic volumes of the 30 mile Garner Subdivision Acquisition

- Purchased the line from UP and started operations in November, 2011 as a joint venture with the community.
- IANR expected losses for the first year of operations—modestly profitable from the start.
- More traffic handled in first month than the line handled in the past five years.
- Averaging nearly 100 loads per month in first five months of operation—corn and fertilizer.
- The line is well suited for industrial growth.
- A gateway for a new market territory for IANR.

Bio-Mass Material

- Regulators will require at least 10-20% biomass fuel for coal burning power plants and a whole new industry is developing to convert crop waste into all types of fuels.
- Iowa Northern has approximately 12 million tons of excess crop waste within 30 miles of the line, providing an opportunity to generate up to 75,000+ carloads annually.
- Biomass will provide exceptional new revenue base to farmers.
- Biomass products could be the next major commodity handled by railroads.



Future Plans



- Butler Logistics Park
- Manly Logistics Park
- Garner-Forest City Logistics Park
- Palo Logistics Park

Manly Logistics Park will be the major logistics campus in the State of Iowa



Manly Logistics Park

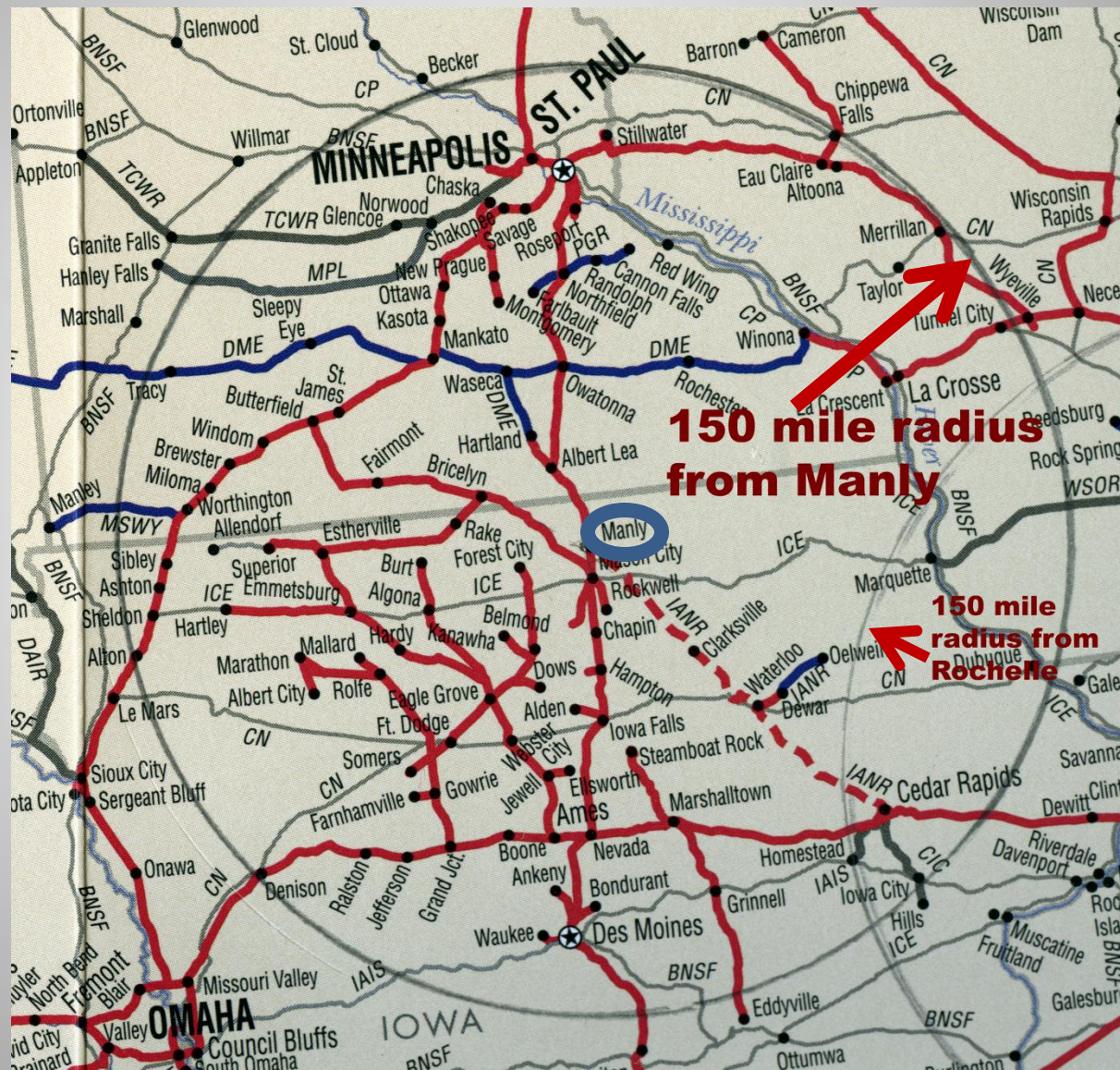
- A major development adding 162 acre park dedicated to reducing costs to shippers in North Iowa and Southern Minnesota
- Breaking ground this summer
- Sand drying and transfer station
- Trans loading facility for misc. commodities including lumber, machinery, distillers grains, edible beans, stuffing containers
- Steel Distribution Center-Steel coils and plates inbound by rail, outbound by truck to Midwestern markets
- Cold storage and freezer warehouse of major size with rail cross dock
- Substantial intermodal facility for Northern Iowa-Southern Minnesota

Base case issues

- IANR receives regular inquiries for rail service to supplement or replace current moves of freight by truck, particularly to Texas, Mexico and California.
- Northern Iowa-Southern Minnesota is major origination area of agricultural, food and manufactured goods with heavy daily volumes to California, Texas and Mexico, both for domestic consumption and export.
- Dray access to existing intermodal terminals is very expensive to Northern Iowa-Southern Minnesota shippers with outbound-inbound imbalance of 10 to 1, requiring higher dray costs for one-way loaded moves. The Twin Cities, however is a larger consumption area to create inbound-outbound load balances for the region as a whole.
- The Upper Midwest does not have efficient access to good intermodal service to many desired markets.
- Existing intermodal service in the region is not geared for Texas-Mexico-California, so rail is not an option for most shippers.

A new intermodal terminal for Northern Iowa and Southern Minnesota

- Manly is an excellent location for a new intermodal facility in an untapped market territory. The Upper Midwest area is truck oriented without suitable direct intermodal service to Texas, Mexico and California.
- Upper Midwestern dray costs are too expensive to existing intermodal facilities, so trucks retain almost all of the market to California, Texas and Mexico.
- MLP is close enough to the markets to be the immediate solution for significant intermodal business with a high consumption point in the Twin Cities Metropolitan area and high product origination in Northern Iowa and Southern Minnesota.
- With the lack of intermodal facilities in the region, Manly could become a favorable railhead funnel from a large gathering area.
- IANR can work closely with connecting lines to develop a strong feeder volume into their existing intermodal networks.



Waterloo	94
Rochester	95
Minneapolis	124
Winona	125
Des Moines	130
La Crosse	145
Cedar Rapids	148
Dubuque	177
Sioux Falls	214
Sioux City	223
Davenport	229
Omaha	265



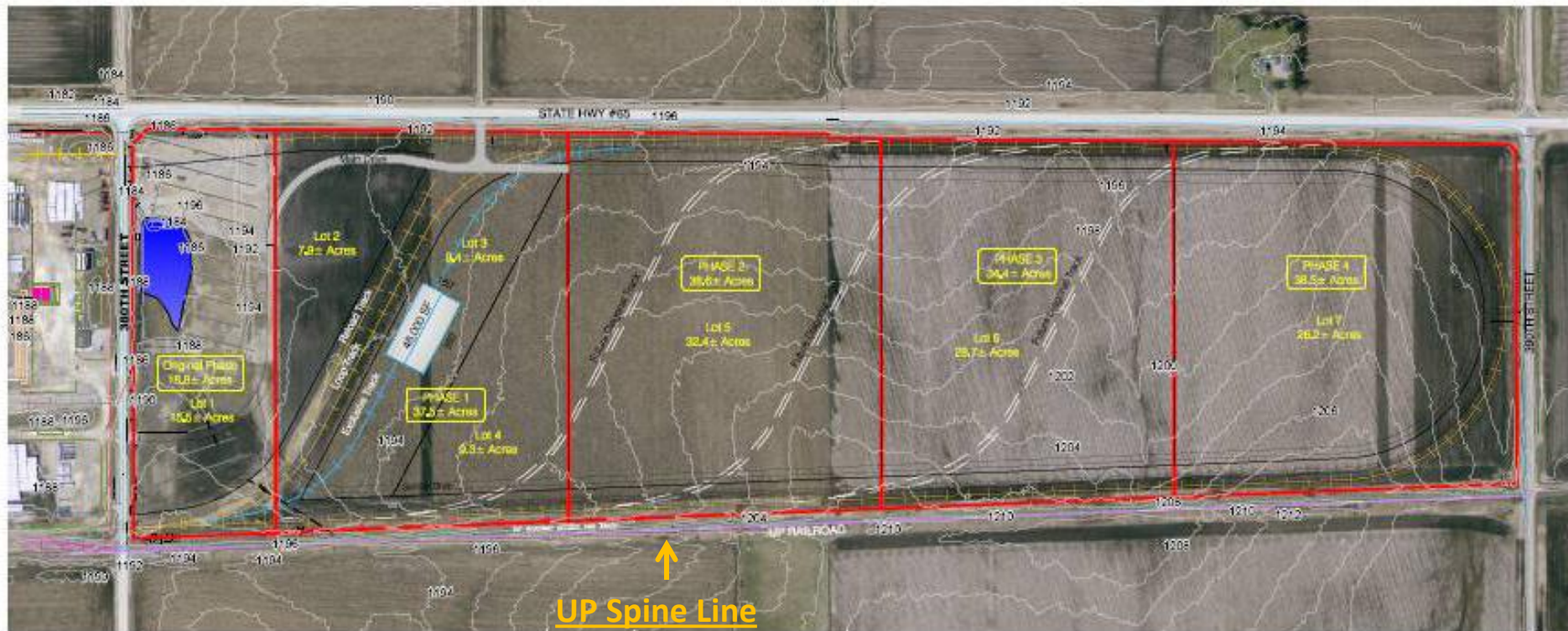
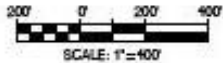
High dray costs from the area currently prevents shippers from conversion of their freight to rail

Manly based trucking support would lower dray costs between MLP and the Twin Cities providing greater volume

Mason City, IA to:	Highway Miles	Est. Cost Per Mile	Est. Dray Cost
Minneapolis	138	1.75-2.50+FS	250-550
Rochelle, IL	305	2.50+FS	1,048
Kansas City	462	2.25+FS	1,430
Chicago	350	2.50+FS	1,203
Joliet	358	2.50+FS	1,230
Council Bluffs	247	2.50+FS	850
MLP	12	Hourly	75

Property currently available and under IANR control

MANLY LOGISTICS PARK (MLP)



Where do we go from here?
www.iowanorthern.com



Hawkeye Express, LLC was founded to handle 5,000 football fans to Kinnick Stadium on each game day. 30,000 fans handled during the 2011 Football Season.



VERIFIED STATEMENT OF JON HARMAN

ATTACHMENT C

**“Upper Midwest Transportation Hub Manly, Iowa” (“UMTH”), Iowa Department of
Transportation, FY 2015**

UPPER MIDWEST TRANSPORTATION HUB MANLY, IOWA

A rural infrastructure project for a truck/rail
intermodal facility in Manly, IA serving northern
Iowa and southern Minnesota.

Grant Funds Requested: \$7,100,000

Supporting Documents: www.iowadot.gov/tiger15-freight



FY 2015

USDOT

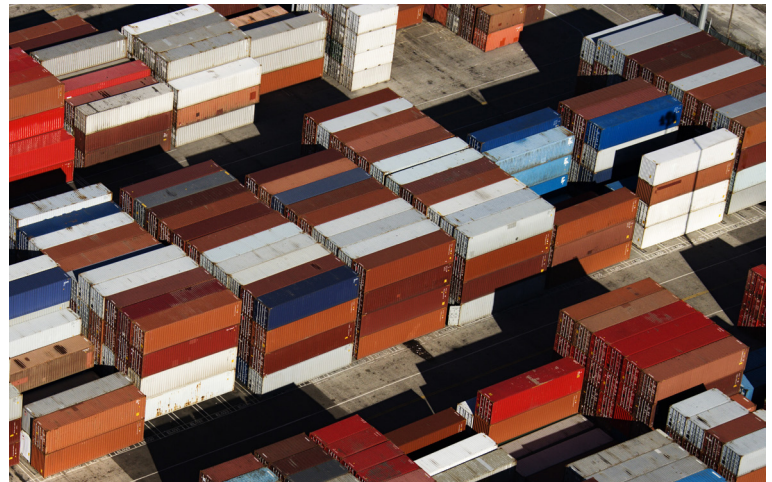
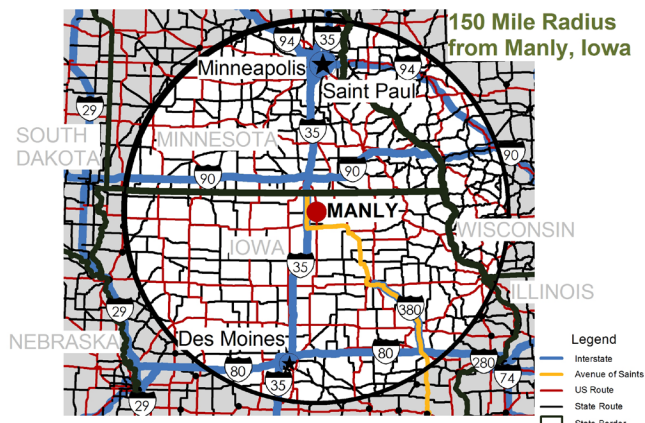
TIGER

DOT.GOV

Lead applicant:
Iowa Department
of Transportation



Partnering agencies:
Minnesota Department of Transportation
Worth County



Primary Contact:

Tammy Nicholson,
Director, Office of Rail Transportation

Address:

Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010

Phone:

515.239.1052

E-mail:

tamara.nicholson@dot.iowa.gov

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Changes in this application from original pre-application

Item	Pre-application	Application
TIGER Request	\$7,000,000	\$7,100,000
Total Project Cost	\$15,000,000	\$16,165,138
Total Federal Funding	\$7,000,000	\$7,100,000
Total Non-Federal Funding	\$8,000,000	\$9,065,138



Executive Summary

This TIGER grant application is for infrastructure construction for the Upper Midwest Transportation Hub (UMTH) project at Manly, Iowa. The project consists of a full-service regional intermodal facility with equipment for loading/unloading containers on railcars and trucks, track infrastructure, a container staging area, and security systems to support the operation.

Objective: The project presents an opportunity to transform the way in which products are shipped in the Upper Midwest. This innovative solution to an intermodal service dilemma promotes regional economic development in the Upper Midwest.

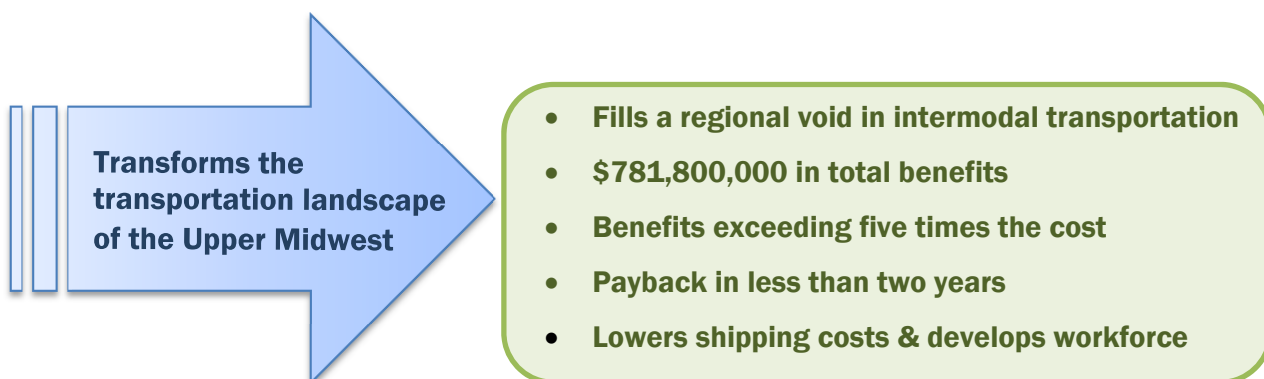
Currently, shippers and receivers of freight in the region have limited access to intermodal service. The north central Iowa location will draw customers from a 150-mile radius or beyond encompassing north central Iowa, southern Minnesota, and a small portion of western Wisconsin with a population of over 7 million. The UMTH will be an independent full-access facility located on a rural short line railroad that interchanges with four railroads (including three Class I railroads) and through other routing alternatives with the remaining four Class I's. The UMTH is near the I-80, I-35, I-90 and I-94 corridors for convenient highway access.



Figure 1-Strategic location of the UMTH in the Upper Midwest

Request: The Iowa Department of Transportation along with the Minnesota DOT and Worth County, Iowa as partnering agencies request a grant of **\$7,100,000 or 46 percent** for completion of the UMTH. Matching private funds of **\$9,065,138 or 56 percent** are pledged for the cost of the improvement. The project is in a state of readiness and leverages prior continuous public-private investments. The UMTH is the next phase in the development of an existing transportation campus where support services, a fully rehabilitated rail yard and other transportation infrastructure already exist.

Statement of Work: The project request includes construction of infrastructure for a full service intermodal facility and container yard, including a second loop track, loading/unloading tracks, earthwork, pavement, security systems and acquisition of lift equipment and other components.



Benefits: The following table summarizes many of the long-term benefits that will accrue with completion of the UMTH.

Table 1 – Long Term Outcomes and Benefits

State of Good Repair:	• The UMTH will be a state-of-the-art fully functional independent intermodal center with full access to the United States’ vast rail and highway network. • Prior private and public investments at the site provide the infrastructure and operational foundation for a limited investment. • UMTH will encourage more short-haul trucking by cutting heavy truck miles on the highway system and, reducing highway maintenance and rehabilitation costs.
Economic Competitiveness	• Reduces transportation costs for intermodal shipments, increasing profitability for regional producers. • Increases access to both domestic and export markets that were previously unavailable or cost prohibitive for the region. • Encourages competitive pricing because of the multiple rail connections available. • Mitigates an emerging trucking capacity shortfall. • Facilitates the growth of agricultural exports from a prime agricultural area. • Provides a better shipping option for identity-preserved grains, origin identified foods and dried distiller’s grain (an ethanol by-product.) • Encourages regional growth in warehousing and distribution centers. • Grows access to competitive paying jobs for the regions residents. • Revitalizes communities through more economic activity in a rural region where many disadvantaged areas exist.
Quality of Life	• Increases time savings for motorists by removing heavy trucks from highways. • Promotes more short-haul trucking, which is more attractive to today’s workforce and will help recruit additional truck drivers to the profession. • Produces safer, more lifestyle friendly trucking jobs to enhance family and community life.
Environmental Sustainability	• Decreases fossil fuel dependence and reduces emissions due to fewer truck miles and more efficient rail miles. • Avoids adverse environmental impacts by using an existing site and existing rail lines.
Safety	• Increases safety with the modal shift from truck to rail.
Innovation	• Employs state-of-the-art traffic modeling to verify assumptions on the lift volumes and truck miles saved. • Uses a regional approach to solve a problem affecting thousands of shippers.
Partnership	• Leverages strengths of public/private partnerships. • Broad based support from state, local and private entities.
Readiness	• The project is “shovel ready” and can be completed quickly.

Conclusion: Approval of a TIGER grant for the UMTH grant will transform the transportation landscape of the Upper Midwest. Access to new markets, lower transportation costs and increased economic growth will benefit shippers, communities and individuals in this broad, primarily rural, region and leverage a significant private investment.

The Iowa Department of Transportation (Iowa DOT), the Minnesota Department of Transportation (MnDOT) and Worth County, Iowa in coordination with other state agencies and a variety of regional stakeholders, is grateful for the opportunity to present this application for a TIGER Discretionary Grant pursuant to the Consolidated and Further Continuing Appropriations Act, 2015.

The Iowa DOT is the lead applicant and MnDOT and Worth County are partnering agencies in this application. The Iowa Northern Railway (IANR)/UMTH, LLC are project partners and will be sub-recipients of any grant funds awarded. As the lead agency, the Iowa DOT will disperse any grant funds to the sub-recipients through an agreement. The applicant is confident the project can meet all local, state, and federal requirements in order to obligate funds well in advance of September 30, 2017.

Because the benefits of this project accrue to a multi-state area, the project is uniquely suited to a TIGER grant, since limited state funds from either Iowa or Minnesota prevent the completion of this project without a TIGER Discretionary Grant.

Both the Iowa DOT and Worth County have earlier investments in rail infrastructure that make the UMTH more cost effective to develop. Immediate benefits are expected with this investment because previous infrastructure investments have built a foundation for the addition of the UMTH.

1.0 Project Description

1.1 Project Summary

The Upper Midwest Transportation Hub (UMTH) is a full-service regional intermodal facility with equipment for loading/unloading containers on railcars and trucks and associated support infrastructure. By not handling the freight when changing modes, the process reduces cargo handling, improves security, reduces damage and loss, and allows freight to be transported faster.

1.1.1 Users of the Facility

The UMTH will serve communities within a 150-mile radius of Manly (see Fig. 2) by providing intermodal freight transport capabilities. The 150-mile radius contains a population of over 7 million. The area includes north central Iowa, south central Minnesota, a small portion of Wisconsin and reaches nearly to the South Dakota border. The area includes Des Moines, Iowa (pop. 600,000), Minneapolis/Saint Paul, Minnesota, (pop. 3.4 million), as well as the following communities that exceed 50,000 in population:

Rochester and Lakeville, Minnesota; Cedar Rapids, Waterloo, Ames, Dubuque, and Iowa City, Iowa; and LaCrosse and Eau Claire, Wisconsin. A larger and more detailed is map included as Appendix A.

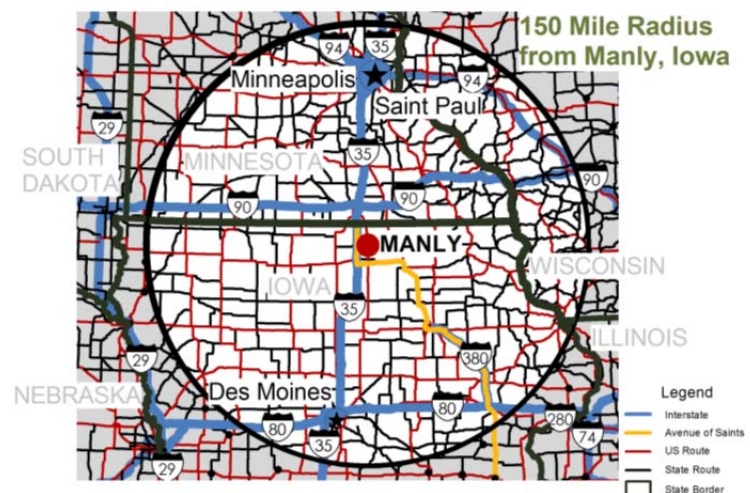


Figure 2 - Area served by UMTH

The service area for the facility may reach well beyond the identified region, but all analysis and projections have been done conservatively on a 150-mile radius service area. In reality, if a manufacturer in Sioux Falls, South Dakota (outside the identified region) has the choice of trucking a container 570 miles to Chicago, 1600 miles to California or 200 miles to Manly, the UMTH likely would be the best choice.

Users of the facility will have new access to intermodal services that can broaden the international and domestic markets open to them and reduce shipping costs, having a positive impact on the value of regional commodities and manufactured goods.

MnDOT and Worth County, IA have joined with the Iowa DOT (the lead applicant) in this application. The benefits of the proposed intermodal facility, located approximately 16 miles south of the Iowa/Minnesota border, clearly will benefit both states as part of a regional solution to limited intermodal transportation options. Worth County has identified this location as a priority for future industrial development and is aggressively marketing the location.

This project will benefit John Deere, our dealers, and our customers greatly given the need for more efficient intermodal transportation options in the Midwest. We also have several manufacturing facilities and dealer locations within a 150 mile radius of the proposed hub.

John Deere

1.1.2 Transportation Challenges

Lack of Intermodal Service within Region

The region served by UMTH suffers from a lack of nearby intermodal infrastructure and service. In 1980, Iowa had 23 facilities located in 15 cities that were capable of handling intermodal containers or trailers on flat car. Today, trends toward larger intermodal centers in major metropolitan areas have reduced that to one - a single facility located on the western border of the state in Council Bluffs, which is approximately 250 miles southwest of Manly. Minnesota has only the intermodal facilities in the Twin Cities.

The Iowa DOT's Freight Advisory Council (FAC) has identified a lack of intermodal and transload facilities as one of the seven major challenges facing freight movement in Iowa. *Challenges and Options for Improved Freight Movement in Iowa*, prepared on behalf of the FAC, is attached as Appendix B.

Having intermodal capability in Iowa would support our Midwest manufacturing and distribution operations in Middle Amana and North Liberty, Iowa. The UMTH would allow Whirlpool to avoid costly drayage to Chicago and other more distant intermodal facilities.

Whirlpool Corporation

Now, a manufacturer or producer in northern Iowa or southern Minnesota shipping to California typically must pay to dray an empty container from Chicago (nearly 400 miles). When the container is filled, the shipper must pay to truck the filled container back to Chicago. There the container is loaded onto a container train destined for California. Despite the containers commonly moving *through* Iowa from Chicago, there is no local access to directly load those containers on a train destined for California. The

additional truck movements can increase the cost to a shipper by up to \$1,200 per container. The alternative is to directly truck the product to California, nearly 1,900 miles, generally at a premium cost.

The availability of efficient international and domestic containerization of freight is becoming increasingly important to producers and shippers. Access to broader national or global markets and cost effective intermodal options are a key factor in locating a new business or expanding an existing one. “Transportation Infrastructure” ranks first on site selectors’ list of most important location criteria. The development of a full service intermodal facility to serve the Upper Midwest region will help preserve existing industries by providing better logistical solutions and enhance the ability of the region to attract new industry. Without more efficient intermodal transportation, the Upper Midwest is subject to growing economic risk and possible decline.

Recently, source documentation for food products and product ingredients has become more crucial. The identification of genetically modified grains and organically grown foods is increasingly important to consumers and export recipients. Without a cost effective intermodal alternative, the higher shipping costs will harm agricultural producers. The current limited access particularly harms the smaller producers who target niche markets as a way to diversify risk, meet a growing market demand, and make a living on smaller farms.

Container imbalance

Iowa is a small-consumption state from a global trade standpoint, so it has an imbalance of inbound vs. outbound international shipping containers. According to U.S. Census Bureau data, the 2011 ratio of non-bulk international commerce (statewide) in Iowa is 1:3, inbound to outbound. This creates a severe shortage of empty containers available to Iowa producers. Empty containers must be shipped or drayed into Iowa to meet the demand.

Minnesota’s international commerce is the direct opposite of Iowa’s and is a large consumption state. The 2011 ratio of non-bulk international commerce (statewide) in Minnesota is 6:5, inbound to outbound. Using a regional approach with markets both in Iowa and Minnesota, the Manly location can take advantage of market share, bringing the container balance to an almost even match 1:1 inbound to outbound.

Table 2 - Extrapolated Import and Export Value Ratios

Value of international Commerce (in millions of dollars)			
	Imports	Exports	Imports:Exports
Iowa intermodal	1,494	2,896	1:3
Minnesota intermodal -	5,668	4,665	6:5
Combined Intermodal IA/MN	7,162	7,561	7.2:7.6 or (1:1)

Source: U.S. Census Bureau Foreign Trade Statistics, 2011

An efficient and independent regional intermodal terminal at Manly can draw inbound and outbound container loads from a widespread region including much of northern Iowa and southern Minnesota. By capitalizing on this balance of containers within the Upper Midwest region, shippers can eliminate a competitive disadvantage and gain better access to the containers they need.

Trucking industry capacity shortages

The region served by the UMTH currently has an over-reliance on long and medium range trucking (either to a final destination or the Chicago area.) Current and growing capacity constraints in the trucking industry are anticipated to have a major negative impact on shippers. As freight volumes grow, the capacity constraints are only expected to worsen.

The American Truck Association (ATA) currently estimates a driver shortage, or unfilled seats, at between 35,000 and 40,000, but growing rapidly to a shortfall of 239,000 drivers by 2022.

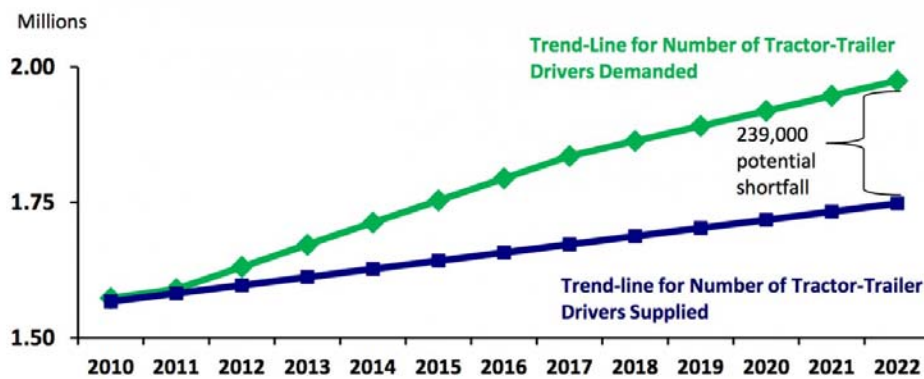


Figure 3- Projected Trends in Truck Driver Availability

The Iowa DOT's FAC has identified driver shortages as one of the seven major challenges facing freight movement in Iowa. *Challenges and Options for Improved Freight Movement in Iowa*, prepared on behalf of the Iowa DOT's FAC is attached as Appendix B.

In a region that relies heavily on trucking, the anticipated driver shortage could cripple the economy of the region, leaving shippers with no or few options to transport their goods.

There are a number of issues that contribute to the current driver shortage, *none of which are easily or quickly remedied*.

- Aging driver population.
- Relatively low pay for drivers.
- Changes in federal hours of service regulations.
- High turnover rates affect the availability and reliability of service, as well as added costs as new employees must be continually trained.
- Clean driver and criminal records limit the candidates qualified as drivers.
- Trucking is a dangerous occupation with fatality rates 11 times higher when compared with the general population.
- Driving is considered an unhealthy lifestyle associated with emotional and psychological problems.
- Cultural shifts make home and family more important, especially to younger workers. Drivers who are away from home miss significant family events, feel disengaged from family members and have strained relationships. Long hours away from home also affect an individual's ties and involvement in the community.

By diverting long-haul moves to intermodal and eliminating the current dray to Chicago (or elsewhere) for a portion of shippers, the current capacity in the regional trucking industry can be extended. By partnering with trucking firms to develop shorter haul fleets, the recruitment of new drivers will be enhanced. UMTH will create an environment where the rail and truck industry can work together to mitigate truck capacity issues.

The Iowa Motor Truck Association recognizes the severity of the truck capacity shortfall and is supportive of the UMTH project. A letter of support is included in Appendix H.

Flexible access to worldwide markets

Minneapolis/St. Paul has intermodal service, but only on direct lanes to the coasts of Canada and the U.S. Pacific Northwest via Canadian Pacific Railway (CP) or BNSF Railway (BNSF). Minneapolis lacks direct intermodal service to/from Texas/Mexico, California and the U.S. East Coast. The intermodal facilities in the Twin Cities are land locked with little room to increase capacity and are located on congested urban streets.

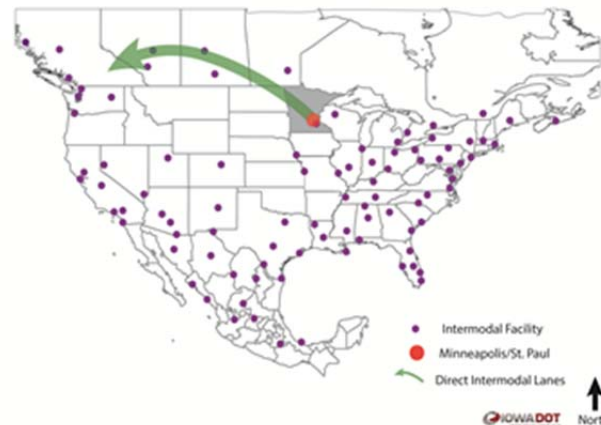


Figure 4 - Direct intermodal lanes from the Minneapolis area

The greatest volumes of commerce for Iowa and Minnesota are to those markets - Texas/Mexico, California and U.S. East Coast. Products typically enter the international intermodal network at Chicago for these destinations. **No direct, competitive, time-sensitive intermodal service to these points exists today from the region.**

With the expansion of the Panama Canal, more containers are expected at U.S. East Coast ports from Asian markets. UMTH can be reached through Class I railroad interline agreements. The growing volume at eastern ports will be able to access the Upper Midwest directly by rail instead of unloading in Chicago and draying freight by truck to the Upper Midwest.

The UMTH facility will broaden the reach of Upper Midwest agricultural, food, and manufactured products, while providing easier and cheaper access to containerized consumer goods. The multiple railroad connections offered by IANR to the UMTH will provide nationwide access, as well as to intermodal facilities in Canada and Mexico, our NAFTA trade partners (see Fig. 5)

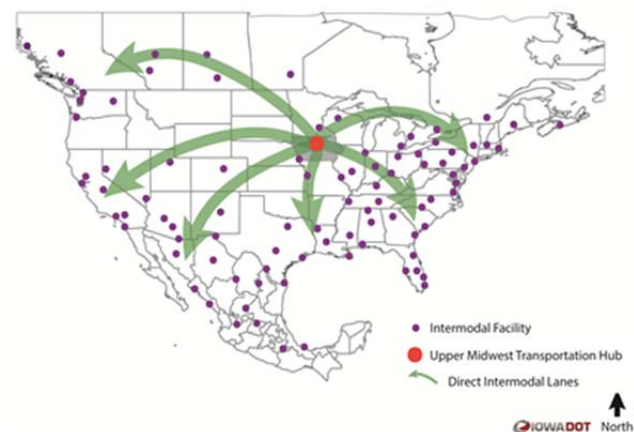


Figure 5 - Intermodal lanes available to IMTH

Many potential shippers are in the area *between* the Twin Cities and Manly so this new access to the international freight network is attractive.

With the UMTH in a rural area, loads will be tendered or picked up quickly, without the inherent congestion experienced in the larger metropolitan areas.

Enhanced transportation of agricultural products from the Upper Midwest

The Upper Midwest needs better access to major consumption and port centers around the world where agricultural products are in demand.

Manly is in the center of one of the highest production regions in the entire country for corn, soybeans, edible beans, distiller grains, corn oils, and food production that needs efficient and reasonable cost transportation options. The 150 mile-radius around Manly in 2013 included:

- 2.4 billion bushels or 61 percent of all corn production in the three states (Iowa, Minnesota and Wisconsin.)
- 423 million bushels or 57 percent of all soybean production in the three states.
- 5.5 billion gallons of ethanol production (39 percent of the national production.)

Iowa is also the largest producer of eggs in the U.S. having 54 million laying hens that produced over 14.5 billion eggs in 2012, with much of the production within 100 miles of Manly. USDA rules now allow egg content in frozen foods exported from the U.S., which will encourage more frozen food processing in the region. Currently, egg products are nearly exclusively trucked. This untapped market presents opportunities for more cost competitive intermodal shipping.

As previously stated, the growing need to maintain accurate sourcing and identity of organic and genetically modified products increases the need for containerized shipping of specialized or niche grain and food products from the region.

The Iowa's thriving biofuels industry is helping to diversify our nation's energy portfolio, improve our nation's energy independence, and reduce transportation fuel use and emissions. Distiller grains, a high protein animal feed that is a high volume byproduct of ethanol production, can also benefit from cost effective intermodal service for shipment to areas with high populations of livestock or to overseas markets.

Congestion

A huge issue the trucking industry faces is highway congestion which cuts into companies' and drivers' profits and wages. In truckers' jargon "if the wheels ain't turning, you ain't earning." The Manly location as a rural location with good access to national rail and truck routes can add more productivity by eliminating drays to more distant intermodal centers. Congestion can largely be avoided at the Manly location since congestion at a level that affects productivity is almost unheard of on the rural interstates and primary highways in this region.

Ladders of Opportunity

By addressing the current transportation challenges, the project will help regional shippers be more competitive, more profitable, and in turn, reinvigorate the rural economy and provide opportunities currently not available to a number of smaller communities within the 150-mile radius that the UMTH project will serve.

A full 38% of the counties within the UMTH's service area are classified as economically disadvantaged or distressed (as identified by the individual states). Appendix A includes a map and listing of disadvantaged or distressed areas. Providing opportunities through additional development and new markets for agricultural and manufactured products in these 51 disadvantaged or distressed counties will have a significant impact in helping these predominantly rural economies, communities and individuals in the following ways:

- Provide greater opportunities for stable jobs that pay well.
- Revitalize rural communities and households by helping regional shippers be more competitive and more profitable.
- Encourage new business development that will strengthen communities and provide additional employment and workforce development.

- Enable a better quality of life for truck drivers through the conversion of long-haul trucking to more short hauls. By spending fewer nights on the road, drivers will be home more and be able to participate more fully in family and community life.

As a freight project, the opportunity to create connections between people is limited; however, the opportunity to support workforce development, large and small businesses and improve the lifestyle of the rural population is significant.

1.2 Detailed Project Description

The UMTH will add intermodal capabilities to the established rail-served Manly Logistics Park. The UMTH will be located within the Manly Transportation Campus, a 350-acre transportation facility that includes three distinct functional units – the Manly Logistics Park, the Manly Terminal, and the IANR Manly Yard (see Fig.6).

The UMTH will be sited within a newly constructed 15,000-foot loop track at the 160-acre Manly Logistics Park. The Park currently has one tenant, Sukup Manufacturing, a metal building fabricator, and room for additional tenants.

The project will develop an intermodal facility capable of handling containers on flat car and trailers on flat car. Upon completion, the UMTH will have independent utility.

A site plan of the UMTH planned development is shown in Fig. 7 on the following page and included in Appendix C. Full-scale intermodal services with the capacity for rapid growth can begin immediately upon completion.

A TIGER grant will facilitate development of UMTH as a complete, full-service intermodal facility by contributing to the cost of construction. Project construction includes:

- Earthwork.
- Construction of a second loop track adjacent to the existing loop track to accommodate added volumes (shown in blue).
- Construction of four interior intermodal strip tracks for staging railcars during container/trailer loading and unloading operations (shown in blue).
- Track switches and crossovers.
- Paving (shown in teal).
- Utilities.
- Lift equipment for loading containers on railcars and trucks.
- Container/chassis storage area.
- Security systems and fencing (shown in red).
- Land acquisition.



Figure 6 - Manly Transportation Campus

Track construction will consist of a total of 21,513 track feet of 112 lb. rail, 10,757 steel cross ties, and 14 turnouts and switches that will link the existing and future track structure to provide maximum flexibility for routing.

A paved road will allow trucks to enter from the north edge of the facility, crossing over the double loop track and continuing adjacent to the track until reaching the gate.

An automated gate will capture identifying information from entering and exiting trucks. Heavy duty concrete paving will abut the four strip tracks where trucks will be positioned and containers or trailers transferred from truck chassis to rail or vice versa. Additional pavement will accommodate storage of containers and chassis.

Ten-foot fencing with three-strand barbed wire will cordon off the intermodal area to prevent theft or tampering. Lighting, a security system and cameras will supplement the perimeter barrier to provide adequate security.

Lift equipment will initially consist of two reach stackers and three spotters. Future plans include use of overhead straddle cranes to enhance capacity as lift volume and traffic grows.

The UMTH's expected use in the first full year of operation is projected at 51,000 lifts, growing to nearly 146,000 lifts annually in 2038. Based on forecast data from the U.S. DOT's Freight Analysis Framework (FAF), the first full year volume at the completed UMTH represents a conservative *one percent* of the total estimated Iowa and Minnesota intermodal truck volumes.



Figure 8-
IANR Manly
Yard

Supporting infrastructure on-site

Supporting the UMTH intermodal yard is IANR's adjacent 90-acre railroad yard known as Manly Yard. Container lifts will be supported by IANR at the Manly Yard to prepare outbound trains for Class I connections. The yard includes 11 classification and switching tracks with an adjacent car repair facility, grain staging tracks, engine house, maintenance-of-way material yard, support tracks, and several other customer transload areas. Manly Yard is the critical support yard for IANR interchange with the adjacent Union Pacific Railroad (UP) and provides track support for the UMTH to receive inbound traffic and prepare outbound traffic for departure. The UP Spine Line that spans from Galveston, Texas to St. Paul and Duluth, Minnesota, is immediately adjacent to the IANR Manly Yard. The IANR provides a diagonal connection between



Figure 7 - Site Plan for UMTH

the UP's Spine Line to the east-west transcontinental Chicago-West Coast line at Cedar Rapids, Iowa. This is a shorter route for freight handled to and from the region to eastern carriers via Chicago.

The yard is capable of providing critical operating support and capacity to UMTH immediately. *No TIGER grant funds are requested for the yard; however the yard provides additional capacity and capabilities to the UMTH by its proximity.*

Located between the Manly Logistics Park and the IANR Manly Yard is the Manly Terminal, which provides for the transfer and storage of liquids and contains a laydown yard for large or oversize components. Manly Terminal is expected to begin auxiliary container stuffing and other related services once the UMTH is in place, providing even more capability to shippers. *No TIGER grant funds are requested for the terminal, and the terminal does not directly support the initial operations of the UMTH. However, future container stuffing services at the terminal will enhance the intermodal transportation services available at the Manly Transportation Campus.*



Figure 9 -
Manly
Terminal

1.3 Project Location

The UMTH is located in rural north central Iowa at Manly (see Fig. 10). The *immediate* area served by the hub includes north central Iowa, southern Minnesota, and a small portion of western Wisconsin. The 150-mile radius that the development expects to serve includes over 7 million persons.

The geospatial location is 43°17'55"N; 93°12'24"W.

The UMTH is not located in an urbanized area as defined by the U.S. Census Bureau and is thus eligible to be classified as a rural project as shown in Appendix A.



Figure 10 – Strategic location of the UMTH in the Upper Midwest

The UMTH will be an independent full-access intermodal facility located on the IANR, a rural short line railroad that interchanges with six railroads (including three Class I railroads) and through other routing alternatives with the remaining four Class I's.

Currently, shippers and receivers of freight requiring intermodal service within the region typically truck commodities to intermodal centers in Chicago, Kansas City, Council Bluffs (Iowa's only intermodal hub), or Minneapolis (where intermodal facilities have more limited routing options) to enter the national rail network.

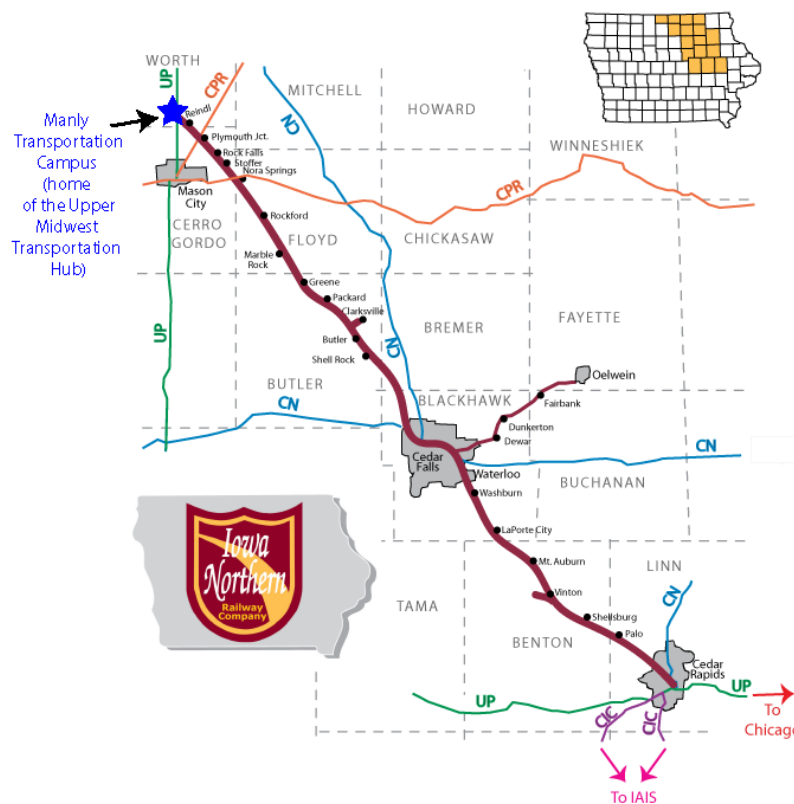
IANR's multiple strategic connections to other rail carriers provide nearly unlimited access to major intermodal traffic lanes. Access to intermodal destinations throughout the nation are available from this Upper Midwest rural location. The UMTH at Manly will be an independent facility open for all of IANR's connecting carriers and all other Class I railroads via multiple routing options.

As an independent intermodal facility, not owned or directly affiliated with a single Class I railroad, the UMTH will have three distinct advantages:

- UMTH will not be limited to shipping or receiving on very limited intermodal lanes, but will be able to offer access to a broad variety of locations because of IANR's multiple rail interchange opportunities.
- Multiple routing options will serve to maintain competitive pricing for facility users.
- Because each interchange carrier has distinct routing, market, and service strengths, allowing access through all interline connections will provide customer's greater leverage in securing desired service, equipment, and pricing.

Clearances on the present IANR main line between Manly and Cedar Rapids, Iowa, are sufficient to handle double-stack container equipment and railcars with a maximum gross weight of 286,000 lbs. IANR has the ability to safely and efficiently accommodate railcars of all types on its network

The IANR network and the location of its connections with other rail carriers are shown in Fig. 11 and explained below.



Union Pacific Railroad (UP) direct interchanges at Manly, Waterloo, and Cedar Rapids, Iowa.

Canadian National Railway (CN) direct interchanges at Waterloo and Cedar Rapids, Iowa.

Canadian Pacific Railway (CPR) direct interchanges at Plymouth Junction and Nora Springs, Iowa.

Cedar Rapids & Iowa City Railway (CIC) direct interchange at Cedar Rapids, Iowa, connecting with Iowa Interstate (IAIS)

Figure 11 - IANR connectivity and rail interchanges

Four other major carriers can be accessed via numerous route options over the carriers that connect directly with IANR including:

- **BNSF**
- **CSX**
- **NS.**
- **Kansas City Southern Railway (KCS)**

Manly is situated at the crossroads of three major national highway corridors (shown in green in Figure 12) with access to the UMTH intermodal facility:

- Interstate 35 between Duluth, Minnesota, and Laredo, Texas.
- Interstate 90 between Boston, Massachusetts, and Seattle, Washington.
- The Avenue of the Saints between St. Paul, Minnesota and St. Louis, Missouri.



Figure 12 - Major highway corridors within reach of UMTH

The 150 mile radius also places corridor portions of I-29, I-80 and I-94 within reasonable reach of the terminal (shown in blue in Figure 12). The UMTH is also served by a rich network of primary and secondary highways that feed freight to and from the facility.

Regional and national trucking firms will be encouraged to locate nearby to facilitate handling intermodal and transload trailers and containers to and from the facility.

2.0 Project Parties

The Iowa DOT is the lead applicant for this TIGER grant application. The application is being prepared by the Office of Rail Transportation, in consultation with IANR, HDR Decision Economics (who prepared the benefit cost analysis), and various other offices within the Iowa DOT, MnDOT, Worth County and other stakeholders.

MnDOT has joined in their support of this application as a partnering agency due to the many benefits that will accrue to southern Minnesota as a result of this north central Iowa project.

Worth County has joined as a partnering agency because this location has been identified as a county priority for future industrial development.

The Iowa DOT's Office of Rail Transportation will administer the grant through a sub recipient agreement with IANR/UMTH, LLC. The Office of Rail Transportation has the expertise and staff to expertly shepherd this grant award. The Rail Office has experience in successfully and efficiently administering federal grants, including:

- Three High Speed and Intercity Passenger Rail (HSIPR) grants.
- Eight FRA Railroad Rehabilitation and Repair (Disaster) Grants.
- Four FHWA SAFETEA-LU federal legislative earmarks.
- \$5 million in American Recovery and Reinvestment Act (ARRA) funds when the Iowa DOT allocated that amount of FHWA funds for use on rail projects.

IANR/UMTH, LLC will be the sub recipients of any TIGER grant funds awarded. IANR and UMTH, LLC will share the responsibility of the intermodal operation. IANR is a short line or Class III railroad formed in 1984 following the liquidation of the assets of the Chicago, Rock Island & Pacific Railroad Company (CRI&P).

The IANR network includes 253 route miles of main and branch line trackage in Iowa, including 116.74 miles owned by IANR and approximately 85.26 miles of trackage rights or leases. IANR also

operates two branch lines in Iowa: Oelwein to Waterloo (Fayette and Buchanan Counties) and Forest City to Belmond (Winnebago, Hancock, and Wright Counties).

IANR has past experience meeting federal requirements and reporting on these projects:

- IANR was awarded an FRA Railroad Rehabilitation & Repair (Disaster Assistance) grant in May 2009 for \$2,174,800 for critical flood damage repairs.
- IANR was awarded a second Disaster Assistance grant in December 2009 for \$2,236,410 for additional long term repairs and mitigation of future flood damages.
- IANR received an FRA Railroad Rehabilitation & Improvement Financing (RRIF) loan in 2007 for \$25,500,000. IANR is current on payments and the loan is in good standing.

IANR will oversee the construction of the intermodal facility within the existing loop track of Manly Logistics Park (MLP).

The UMTH, LLC was recently formed by principals of IANR. IANR is a financially sound rail operator. IANR is currently going through an equity recapitalization that will provide funds to not only build the UMTH intermodal facility, but to also finish substantial improvements to the tracks. This track upgrade, expected to be completed by in 2017, will allow IANR to raise track speeds to support the competitive transit times needed to add double stack container trains to our line.

IANR, UMTH, LLC, and the Manly Logistics Park (MLP) where the UMTH will reside are all related parties under common control. Fig. 14 illustrates the corporate relationships and responsibilities.

IANR has the operating personnel, expertise and resources to get this new opportunity underway as quickly as possible. IANR and UMTH, LLC will share the responsibility of the intended intermodal operation.

Iowa DOT is confident that IANR/UMTH, LLC is capable of making this project a success based on prior experience. IANR management team has an entrepreneurial spirit and has shown vision, resiliency, flexibility and determination to make past projects successful. IANR has effectively managed other projects using state and federal funding and will again manage the construction of the UMTH and the private funding provided by IANR/UMTH, LLC. As equity partners in all aspects of the Manly Logistics Campus, IANR is well positioned to successfully manage a federally funded TIGER infrastructure project and meet expectations for regional and local benefits as described in this application.

Letters from the project parties involved are included in Appendix H

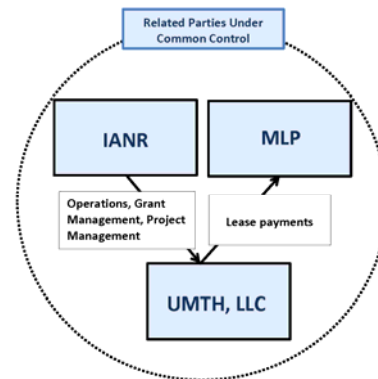


Figure 13 - IANR/UMTH, LLC corporate relations

3.0 Grant Funds and Sources / Uses of Project Funds

This application requests **\$7,100,000** in TIGER grant funding coupled with **\$9,065,138 in matching funds**. Private matching funds provided by IANR/UMTH, LLC will make up 56% of the total project cost.

Table 3 – Grant Funds and Sources

Source	Amount	Percentage
TIGER grant request	\$7,100,000	44%
IANR/UMTH, LLC funds:	\$9,065,138	56%
Total Project Cost:	\$16,165,138	100%

The grant funds will be used to fund 44% of the UMTH development.

- The Iowa DOT, as the grant recipient, will utilize the experienced staff within the Office of Rail Transportation to administer the grant and assure that all federal and state requirements are met. The Iowa DOT will prepare sub recipient agreements to IANR/UMTH, LLC for any TIGER grant received. The Office of Rail Transportation may call upon other personnel within the department for specialized expertise. This may include environmental and contracting specialists that have experience in working with FHWA and FRA funded projects.
- IANR/UMTH, LLC as sub recipients will enter into an agreement with the Iowa DOT to construct the UMTH intermodal facility.

Private funds provided by IANR/UMTH, LLC will fund the remaining 56% of the construction. The facility when complete will be fully functioning and have independent utility.

The Iowa DOT depends on annual appropriations from the Iowa Legislature for any rail development funding. Unfortunately, at this time, the legislature is still in session and has not yet approved a FY2016 appropriation. Consequently, the Iowa DOT does not have any funds available for a match, despite our strong support of this project. However, Iowa DOT has contributed \$3 million for earlier phases of the Manly Logistics Park. MnDOT also has limited rail development funding and finds it problematic to commit state funds toward an infrastructure project in another state. Worth County has previously contributed \$1.5 million for earlier phases of the Manly Logistics Park and has no additional funds to apply toward a match.

3.1 Project Budget Summary

A detailed project budget is included as Appendix D and summarized below.

Table 4 – Project Budget Summary

Item	Cost
Track construction – land, rail, loop track, strip tracks, crossovers	\$ 7,469,464
Intermodal Facility – paving, utilities, security & equipment	\$ 8,695,674
Total	\$ 16,165,138

3.2 Public and Private Investments in Supporting Infrastructure.

Though IANR has received Federal loans and grants in the past, no federal funds have been expended on this project nor are other federal funds sought for the project other than this application.

The infrastructure in place at the Manly Logistics Campus will provide meaningful support to the expansion into intermodal markets. Without the existing rail yard support and infrastructure in place, development of a greenfield intermodal facility of this magnitude would be over double the estimated cost of this TIGER project application. A greenfield development would require additional land acquisition, grading, trackage, and other improvements beyond those included in this application.

Without the partnership of TIGER funding to leverage past investments (discussed below) and considerable the private match from IANR/UMTH, LLC, the full construction and operation of the UMTH would take years to complete. The full investment of \$7.1 million in TIGER funding will provide the needed capital to build the UMTH and begin reaping *immediate* benefits.

3.2.1 Past Investments

The existing infrastructure at the Manly Transportation Campus has seen significant growth through state, local and private investment since 2006.

Table 5 – Past Investment Summary

Iowa state investment	\$	4,100,000
Worth County highway investment	\$	1,715,000
Public investments subtotal	\$	5,815,000
Manly Transportation Campus investments by IANR, MLP, MT (Private investment)	\$	24,775,237
Other private development	\$	6,500,000
Private investment subtotal	\$	31,275,237
Total Past Investments to date	\$	37,090,237

Public investments in the Manly Transportation Campus demonstrate the commitment of both state and local officials in the Manly Transportation Campus.

Iowa DOT investments

- The Rail Revolving Loan and Grant (RRLG) program provided a \$3 million loan at zero percent interest to develop the Manly Logistics Park and construct the existing loop track. A copy of the project summary is included in Appendix E.
- The Highway Division has invested \$1.1 million in incremental costs for road improvements on Iowa Highway 9 and U.S. Highway 65 directly related to increased truck traffic at the facility. These improvements include improved access and capacity to the facilities, turning lanes, increased pavement strength, and facility access roads.

Worth County

- Worth County demonstrated their local support by providing matching funds in the amount of \$1.5 million for the Iowa DOT's RRLG loan to develop the Manly Logistics Park
- Worth County has invested \$215,000 in local road improvements to support the Manly Logistics Campus.

Private investments in rail and other infrastructure at the Manly Transportation Campus by the Manly Logistics Park, Manly Terminal, and IANR have totaled nearly \$25 million. Other private investments have included \$3 million from Union Pacific Distribution Services to prepare ground for a storage facility for wind energy components. Customers of the Manly Transportation Campus have invested \$3.5 million for infrastructure as tenants. See Appendix E for detail on past and future investments

3.2.2 Future Investments

The Iowa DOT has a \$2.9 million highway improvement project planned for FY2016 on U.S. Highway 65 from Manly to Mason City.

The Manly Transportation Campus also has future growth planned in facilities that will be served by IANR.

- Viafield is planning a major fertilizer storage and transload operation with an investment of \$8 million on property adjacent to the IANR Manly Yard. New Heaven Chemicals is planning a sodium methyrate production facility with an investment of \$15 million at Manly Terminal. Private investments in these two facilities total \$23 million.
- Upon completion of the UMTH, a \$20 million cold and freezer storage warehouse and cross-dock facility is planned by Florilli Logistics – a refrigerated trucking and logistics firm based in West Liberty, Iowa. This is expected to provide major shipping advantages to regional meat producers and processors through reduced shipping costs and new shipping options for cold chain products. Construction of the cold storage facility with private funding is *contingent* on development of the intermodal facility. *No TIGER grant funds are requested or needed for construction of the cold storage facility; however, these additional benefits are not likely to occur without an award to the UMTH.*

The addition of the UMTH’s intermodal services is anticipated to bring other new tenants to the Campus or at other locations nearby to take advantage of the flexible, economical shipping options.

4.0 Selection Criteria

Table 6- Benefit Estimates by Long-Term Outcome for the Full Project, Millions of 2014\$

Long-Term Outcomes	Benefit Categories	Benefit Estimate 7% Discount Rate
State of Good Repair	Avoided Pavement Maintenance Costs	\$133.1
Economic Competitiveness	Shipper Savings due to Modal Switch from Truck to Rail and Choice of More Direct Intermodal Routes	\$118.9
Livability	Reduced Road Congestion due to Modal Switch from Truck to Rail	\$83.3
Environmental Sustainability	Emission Cost Savings due to Modal Switch from Truck to Rail	\$19.9
Safety	Accident Cost Savings due to Modal Switch from Truck to Rail	\$426.5
Total Benefit Estimates		\$781.8

Table 7 – Estimation of Short-term Economic Impacts (IMPLAN Model- see B/C for details)

	Direct	Indirect	Induced	Total
Total Employment (job-years)	104.5	50.5	85.5	240.5
Labor Income (millions of 2014\$)	\$6.20	\$3.24	\$4.16	\$13.60
Value Added (millions of 2014\$)	\$6.79	\$5.14	\$7.38	\$19.31

4.1 Primary Selection Criteria

4.1.1 State of Good Repair

By encouraging shorter truck hauls, the UMTH will reduce the miles heavy trucks spend on the highway system. A total of 1.53 *billion* saved truck miles are anticipated through 2038. This is reflected in reduced highway maintenance costs, particularly in pavement resurfacing and maintenance costs. Typically, the benefits of a state of good repair are realized in terms

Truck Miles Saved
1.53 billion

Reduced Pavement Maintenance Costs
\$133.08 million

of increased cycle times between maintenance work orders. The Economic Analysis provided by HDR Decision Economics and included in full as Appendix K, estimates a savings of \$133.08 million in reduced pavement maintenance costs over a 22 year period of operation.

Adding intermodal container service at the UMTH to the menu of already available transportation services at the Manly Transportation Campus will provide a truly full service rail facility. The UMTH will add services currently unavailable in the region to ship intermodal containers. This will transform the way in which products can be shipped by harnessing the strengths of both the rail and trucking industry, adding a new dimension of service and reliability to the multimodal transportation system.

The new construction at UMTH will be a state-of-the art logistics facility that will provide a wide variety of services to producers, shippers and receivers. It will be built at a high standard of construction that will provide decades of reliable and efficient transportation support to the region. Steel cross ties rather than wood, concrete or composite material will be used in the construction for maximum longevity and reliability of the investment. Reinforced concrete paving will support the truck traffic within the center as well as the container and chassis storage.



Figure 14 - Steel tie construction at the Manly Logistics Park, 2014

The existing Manly Logistics Park where the UMTH is located has been developed to date with an eye toward expansion. The track improvements required for the UMTH will not require any demolition, only additions to the existing track structures (additional loop track, connecting tracks, and switches.) A lesser amount of grading and earthwork will be required due to the careful preplanning for expansion.

IANR's rehabilitated Manly Yard is immediately south of the UMTH. These tracks will be essential in supporting the expanded rail operations at the UMTH intermodal facility. It will provide an immediate capacity to receive inbound intermodal trains and stage outbound trains for departure into the North American railroad network

IANR will provide rail service to the intermodal facility managed with UMTH, LLC. IANR's history has shown a commitment to a state of good repair. When initially purchased in 1994, the line was badly deteriorated; handling less than 15,000 revenue cars annually at under 10 mph. IANR has since rehabilitated the line and yard to handle the demands of modern rail equipment and volumes and is now handling 60,000 revenue cars annually at an average speed of 25 mph.

IANR will supervise and construct the rail lines for the facility with the same quality construction that has been used at the Manly Logistics Park and IANR Manly Yard. The construction is expected to be resilient and withstand weather-related events. The construction will stand the test of time and has been designed to allow future expansion when volumes increase.

Lift revenues from the UMTH will provide the resources to operate and maintain the intermodal facility, including lease payments to the Manly Logistics Park. Revenues from increased freight rail traffic will provide the resources to IANR to maintain and operate its infrastructure supporting the UMTH.

The highway system in the region is in a good state of repair to support the truck operations that are associated with the UMTH. In addition to normal maintenance and repair of the highway system, Iowa DOT and Worth County have invested over \$1.2 million in highway improvements to accommodate heavy truck traffic in the area. In 2017, the Iowa DOT is planning to rehabilitate Highway 65 from Mason City to Manly as part of on-going maintenance and repair.

4.1.2 Economic Competitiveness

The Iowa DOT's FAC undertook an exercise in 2013 to identify impediments to freight transportation in Iowa. The Council identified seven key issues; two were singled out as issues that impacted the competitiveness of Iowa's producers and receivers that are addressed by this application:

- A lack of intermodal and transload facilities in Iowa.
- A shortage of truck drivers.

The UMTH will advance President Obama's goals to increase exports and improve America's competitiveness in a global economy.

Higher transportation costs for products shipped or received via intermodal container now affect the competitiveness of existing businesses and discourage new businesses from locating in the region. One of the effects of capacity constraints in the trucking industry is an increase in prices, when available trucking services can even be obtained. The UMTH will address both of these identified issues in the region it will serve.

Improved efficiency, reliability and lower costs

The UMTH, located in the Upper Midwest, will be a transformative answer to growing truck driver shortages and efficient access to the national and international intermodal shipping network. Long term outcomes will improve the efficiency and reliability of moving goods in the region and the nation and lower shipping costs through the following:

- UMTH as an independent facility (not owned or located on a Class I railroad) will have the freedom to route shipments *throughout* the national intermodal system through its interchange abilities with all Class I railroads. The UMTH will *not* be limited to specific destinations or intermodal shipping lanes as many other intermodal facilities are.
- UMTH and IANR will offer the most competitive freight rates with the leverage that comes with multiple connections to other regional or national railroads.
- A more direct, efficient, and reliable intermodal solution will allow Upper Midwest shippers to better compete in the global economy by reducing the costs of export and domestic containerized cargo.
- Trucking firms can concentrate on shorter hauls which are more attractive to employees and cost effective for their customers.
- Driver retention and recruitment will be enhanced with a conversion to more short-haul trucking.
- Businesses will have a competitive option to long-haul trucking and be able to take advantage of lower costs by eliminating truck drays of containers to distant intermodal facilities.
- Regional business and industry will be able to be more competitive and profitable through enhanced flexibility and cost savings in shipping.
- UMTH will open new avenues for agricultural producers in the Upper Midwest to containerize and ship origin identified grains and food products throughout the U.S. and the world.

Benefits to shippers quantified

Perhaps the most important benefit is the long-term economic benefits to the users of UMTH. The proposed project would contribute to enhancing the economic competitiveness of the area, region, and nation through improvements in the mobility of goods within and across the Upper Midwest.

Shipper Savings
\$118.95 million

The benefit cost analysis determined that through 2038, the project will generate \$118.95 million in shipper savings due to the modal switch from truck to rail and the choice of more direct intermodal.

Assumptions that were used and annual savings

Detailed base case information is not available on confidential freight rates, but certain assumptions have been made in an attempt to quantify the long term benefits to shippers. One key assumption is the source of the lifts for the intermodal operations. After numerous discussions with shippers, producers, and trucking companies, an assumption has been made that:

- Some existing intermodal moves will be diverted from more distant facilities, like the congested Chicago area.
- There will be a conversion of current truck moves to intermodal as a consequence of the opening of UMTH.
- The existence of a regional intermodal terminal will provide “induced loads” that will originate because of the existence of the new intermodal facility.

The discussions also provided reasonable estimates of the logistics involved and potential savings as a consequence of the intermodal facility in Manly.

A conservative approach has been taken on the truck-miles saved as a consequence of the opening of UMTH, with:

- Existing intermodal moves diverted from more distant facilities, like Chicago, netting a 250-mile savings.
- Conversion from other truck moves netting a 750-mile savings. A sampling of various destinations was used to establish the number of miles saved.

These same assumptions were used as a basis for truck ton-mile savings in calculating reduced highway maintenance and rehabilitation costs.

Table 8 – Projections of Use and Savings as a result of UMTH

Year of Operation	Lifts (excluding induced lifts)*	Truck Miles Saved per Year, by Year**	Shipper Savings (discounted at 7 %)**
2017	2,375	1,603,125	\$108,907
2018	51,000	31,875,000	\$3,642,729
2019	72,000	43,200,000	\$5,767,488
2020	81,000	45,765,000	\$7,478,869
2021	93,960	52,147,800	\$8,546,199
2022	110,419	60,730,560	\$9,626,894
2023	121,928	70,108,416	\$8,692,970
2024	131,682	79,009,137	\$7,520,754
2025	128,073	76,843,701	\$6,836,102
2026	129,354	77,612,138	\$6,452,769
2027	130,647	78,388,259	\$6,090,932
2028	131,954	79,172,142	\$5,749,384
2029	133,273	79,963,863	\$5,426,989
2030	134,606	80,763,502	\$5,122,672
2031	135,952	81,571,137	\$4,835,419
2032	137,311	82,386,848	\$4,564,274
2033	138,685	83,210,717	\$4,308,334
2034	140,071	84,042,824	\$4,066,745
2035	141,472	84,883,252	\$3,838,703
2036	142,887	85,732,085	\$3,623,449
2037	144,316	86,589,406	\$3,420,265
2038	145,759	87,455,300	\$3,228,474
Total		1,533,054,212	\$118,949,321

* Values from Table 2, Benefit Cost Analysis

** Values from Table 10.2, Benefit Cost Analysis

*** Values from Table 10.4, Benefit Cost Analysis

Diverted and converted loads require an estimate of actual freight savings vs. straight truck moves to existing intermodal facilities. One factor of consideration will be lower intermodal charges from high-density intermodal hubs like Chicago, so an estimate of net freight savings has been assumed with:

- Diverted intermodal movements save \$350 per lift.
- Conversion from straight highway move by truck save \$450 per lift.
- New “induced” business was omitted to maintain a conservative estimate of benefits.

The assumptions for savings in truck miles and cost are conservative. The induced demand from new business not currently in the base case will further improve the metrics, since the corresponding benefits will accrue within the same capital and operating costs.

Florilli Logistics, an Iowa based trucking company that handles large volumes of both refrigerated and dry freight within the region and the entire country, compared the assumptions with confidential traffic flow data in-house and confirmed that the assumptions were reasonable.

The Iowa DOT used analysis from the state-of-the-art Iowa Traffic Analysis Model that now includes freight and rail components to verify that these assumptions were realistic. See Section 4.2.1 Innovations, for additional information on this innovative new tool.

The year by year truck miles saved and shipper savings are summarized in Table 7.

Jobs and community revitalization

Short term impacts in additional jobs and income will also accrue between 2015 and 2016 during construction, further boosting the economy of this region. The project is expected to generate 240.5 job-years during the project’ construction. It is also expected to create \$19.31 million in value added benefits, including \$13.60 million in labor income. This includes \$1.19 million in income expected to benefit low wage earners.

Short term impacts during construction

240.5 job-years

\$19.31 million value added

\$13.60 million labor income

Construction and operation of the UMTH will provide opportunities to rural residents and communities in the service area. In the more rural parts of the Upper Midwest, which includes a large portion of the 150-mile service area of the UMTH, good paying jobs are scarce. The service area includes 51 counties that are classified as disadvantaged or distressed by their respective states. By encouraging the location of additional industrial or distribution centers and making existing companies more profitable, the potential for more and better paying jobs and the associated education and training activities is far greater. Many rural communities dwindle in size and vitality as job-seekers move elsewhere. Other workers suffer long, expensive commutes to more populated areas for jobs. If more well-paying jobs are made available locally, communities will be revitalized and disadvantaged individuals will benefit.

The Manly Transportation Campus has submitted an application to the Iowa Economic Development Authority (IEDA) for consideration as a certified site. Certified sites undergo rigorous evaluation to be judged suitable and relatively “risk free” for industrial development. Once certified, the Manly location will be marketed by the IEDA encouraging even further development.

4.1.3 Quality of Life

The UMTH project will contribute to enhancing livability and quality of life through the reduction in highway congestion by displacing heavy truck travel to rail. The reduction in congestion represents a time savings for the remaining on-road motorists that is quantified in the benefit cost analysis. Due to the modal switch and shorter intermodal routes, congestion savings is valued at \$83.31 million through 2038

Congestion Savings
\$83.31 million

Any conversion from long-haul trucking to shorter drays for regional commodities will provide opportunities to attract new truck drivers to the profession. The ability to be “off road” for longer periods of time will provide a better quality of life for the drivers. Creating jobs where drivers can be home and fully participate in home and family life, while still earning a living in a rural location where attractive jobs can be scarce, is a benefit that cannot easily be quantified. Just being able to attend a child’s ball game or be home each day will dramatically improve the quality of life for hundreds of families.

Though trucking per se is a dangerous occupation, it stands to reason that some of the emotional and psychological issues (loneliness and depression in particular) will be mitigated by a more “normal” home life that short-haul truckers can experience.

Diverting hauls to a rural region rather than the intermodal facilities in high congestion metropolitan areas would also reduce the risk of work related injuries or crash fatalities.

4.1.4 Environmental Sustainability

A long-term decrease in energy use and greenhouse gas emissions is expected to result from shifting freight from truck trips to rail. An estimate of the value of reducing greenhouse gas and critical air contaminants associated with transporting goods on rail as opposed to truck can be calculated. The benefit cost analysis estimates \$19.92 million in emissions reductions through 2038.

Emissions Reductions
\$19.92 million

The UMTH is located in rural, north central Iowa, and is consistent with local land use plans and policies. Existing surrounding land uses are agricultural, with the Manly UMTH facilities zoned as light industrial.

The proposed project would be implemented using an existing site and utilize some existing rail lines to service the facility. Even the currently undeveloped portion of the UMTH, where new track and other facilities will be constructed, is located adjacent to an existing loop track and has been disturbed for years by agricultural production. This avoids adverse impacts to water quality, wetlands, and threatened and endangered species that would be associated with greenfield development because none of these resources are present on the existing site.

4.1.5 Safety

Fatality and injury rates per mile of freight carried by truck are greater than the fatality and injury rates for an equal volume of cargo when shipped by rail.

Safety Benefits
\$426.49 million

Through 2038, \$426.49 million in safety benefits were calculated in the benefit cost analysis. This is based on fewer truck miles due to the modal shift, using the standard TIGER guidelines for accident values.

The Iowa DOT has also performed a site review at 380th Street for safety improvements that may be warranted at the highway/railroad crossing with UP and IANR due to site restrictions and additional train traffic that will result from the UMTH. Discussions will be ongoing with UP, IANR and Worth Co. about possible solutions at this location.

4.2 Secondary Selection Criteria

4.2.1 Innovation

Though public/private partnerships are not cutting edge, they offer a means by which public benefits can be gained with a lower taxpayer investment. The UMTH is a good example of this with a 56% investment of private funding to yield total public benefits of over \$781.75 million in total benefits (discounted at 7%) over the 22-year lifecycle.

iTRAM



The Iowa DOT has developed a second generation statewide travel demand model known as iTRAM –Iowa Traffic Analysis Model. This innovative tool was developed using HSIPR (High Speed Intercity Passenger Rail) grant funding. The Iowa DOT iTRAM model was amongst the first of its kind in the U.S. to include truck, rail and water commodity movements in a statewide travel demand model. Since rail freight can offer solutions to roadway congestion, the FRA was intrigued by the idea of building upon an existing statewide travel demand model

to make an even more robust planning tool. The FRA chose to fund this project with \$500,000 in federal funding and the Iowa DOT contributed the remaining \$100,000 for development of this cutting edge modeling tool.

The modeling tool successfully integrates multiple public and private data sources to develop freight demand modeling recommendations.

The model can provide rail network “what-if” scenarios, which allows the agency to examine changes in commodity flows if a rail network were to change.

The iTRAM model was used to analyze the county by county inbound and outbound movements of freight in the 150-mile radius service area. Potential intermodal loads were identified and assigned to intermodal lanes by origin and destination. Because the iTRAM model has multiple data sources all of which are disaggregated to the county level, the amount of potential volume that could be diverted to rail was determined with a high level of specificity.

The projections provided by iTRAM validate that the projections for use and growth at the UMTH are conservative. Projections in earlier planning and grant applications were based solely on the more generalized FAF3 data and discussions with shippers and trucking companies. The much more robust and site specific data that was produced by iTRAM provides a high level of confidence that the UMTH can be a successful intermodal facility.

A white paper describing the development of the iTRAM model and a technical memo describing the specific way in which projections were developed for this project is included as Appendix F.

Regional approach

This project uses an innovative multi-state regional approach to solving a dilemma for thousands of

shippers in the region. The lack of competitive intermodal services and a growing crisis in the long term capacity of the trucking industry is difficult to address. The unique combination of location and access draws upon the characteristics of a *region* and is not state centric. Drawing upon a larger population base than is available anywhere in Iowa alone, but available at this location, makes a rural intermodal facility feasible.

This project also uses a regional approach to address the imbalance of inbound and outbound international shipping containers. With a service area essentially straddling the border between a producer state such as Iowa, and a consumption state such as Minnesota, a more equitable balance can be obtained without long drays of empty containers.

There is also the potential for large consumption markets that have large numbers of empty containers (like Dallas-Ft. Worth, Memphis, and Indianapolis) to relocate some of those empty containers for re-loading. Shipping lines may decide to use UMTH as a location to use as an alternative to shipping empty containers back to Asia without backloads. With large volumes of production, the region served by UMTH will almost always have a potential load for outbound movement.

Though Manly at first glance appears an unlikely location for a new intermodal facility, all indications are that Manly is the most likely location in the Upper Midwest region to succeed as an independent, full service intermodal facility. Appendix G addresses many of the unique and innovative reasons by answering the question “Why Manly?”

4.2.2 Partnership

Iowa DOT is presenting this application in cooperation with MnDOT, Worth Co. and IANR/UMTH, LLC. Iowa DOT has also made past financial contributions to the Manly Transportation Campus and made highway improvements to accommodate increased heavy truck traffic.

MnDOT has joined in this application as a partnering agency, recognizing that many of the problems created by a lack of sufficient and flexible intermodal capability that plague Iowa are also present in Minnesota.

Worth County, Iowa has also joined in this application as a partner since this location has been identified as a priority for future industrial development. Worth County is actively marketing the Manly location through their economic development office, Winn-Worth Betco. Worth Co. has made highway improvements to accommodate increased heavy truck traffic in the region.

IANR/UMTH, LLC will inject private funding into a project that will leverage a smaller amount of federal grant funds to create a development that generates significant public benefits.

Since 1984, the State of Iowa through the coordinated and combined efforts of the Iowa DOT, Iowa Railway Finance Authority, and Iowa Economic Development Authority, along with Worth County has provided loans, grants and other support to assist IANR in bringing the rail line up to a safe and efficient operating condition and developing the Manly Logistics Park to support the new services that UMTH will make available.

The UMTH is strongly supported by a variety of agencies, elected officials, organizations and others including – the Iowa Economic Development Authority; the Iowa Department of Agriculture and

Land Stewardship, the Iowa DOT; MnDOT, Worth County, other federal, state, and local government officials.

The Iowa Motor Trucker Association, the Iowa Association of Business, economic development officials in the area and many potential users of the facility also support the project.

Letters of support to date are included in Appendix H. However since additional letters are expected, the most current letters of support should be viewed on the Iowa DOT's web page at www.iowadot.gov/tiger15-freight.

5.0 Project Readiness

5.1 Technical Feasibility

The proposed project is consistent with the existing light industrial zoning. There are no bridges or waterways involved in the construction that will require state or local permitting. Plans are complete for the development and represent standard high quality construction practices that will withstand the test of time. Cost estimates were prepared by IANR using standard rail construction costs. IANR has rehabilitated their line extensively and are familiar with both material and labor costs. The Iowa DOT has confidence in the cost estimate. There are no state legislative barriers to timely completion and the project is broadly supported on a regional, multistate and local level.

All necessary pre-construction activities will be complete to allow grant funds to be obligated no later than June 30, 2017; in fact, because the project is “shovel ready” the entire project is expected to be complete prior to that date.

5.2 Financial Feasibility

The Upper Midwest Transportation Hub (UMTH, LLC) was recently formed by principals of IANR. IANR is a financially sound railroad operator. IANR is currently going through an equity recapitalization that will provide funds to not only build the intermodal facility, but to also finish substantial improvements to the tracks.

Iowa DOT will provide oversight on the grant and IANR will oversee the construction and operations of the intermodal facility, which will be within the existing loop track of Manly Logistics Park (MLP).

IANR/UMTH, LLC will match 56% or \$9.065 million through non-federal funds including land conveyance by an existing shareholder (\$2.724 million) and through operating cash flows

<i>Table 9 – Funding Distribution</i>			
Item	TIGER Grant	IANR/UMTH, LLC	
Land Conveyance		\$2,724,193	
Rail		\$ 577,500	
Track Construction		\$1,412,362	
TIGER Grant	\$7,100,000	----	
All Other Expense		\$4,351,083	Total
Project Cost	\$7,100,000	\$9,065,138	\$16,165,137

Iowa DOT has worked with both IANR and MLP on projects with matching funds. The department has confidence in the financing package offered by IANR/UMTH, LLC. .

See Project Party letter from IANR in Appendix H for more detail.

5.3 Project Schedule

The UMTH is “shovel-ready.” A fully funded TIGER grant and the associated matching contribution will be expended over an 18-24 month period. A rapid construction schedule is anticipated, with construction activities beginning immediately upon completion of agreements. All property has been optioned under a preexisting agreement and conveyance will be rapid. A Project Schedule is included as Appendix I.

All necessary pre-construction activities will be complete to allow grant funds to be obligated no later than June 30, 2017 and the project is anticipated to be completed in 2016 well before the September 30, 2022 date for final expenditures.

5.4 Assessment of Project Risks and Mitigation Strategies

The UMTH is a straight forward construction project with no unusual risks associated with it. Standard risks include those that affect timelines such as a delay in NEPA clearance, unexpected complications in preparation of grant agreements, and funding delays. The UMTH is not located in an area that is prone to extreme flooding, the primary risk of extreme weather. The Iowa DOT has experience in working through these possible complications on other federal projects and is confident that the required timelines can be met for completion of this project.

5.5 Environmental Reviews

5.5.1 NEPA

Iowa DOT consulted with an FRA environmental specialist in 2013, who advised the Iowa DOT to complete an initial environmental review and submit a completed FRA Categorical Exclusion (CE) Worksheet with the application. Without a federal action (i.e. grant award), the FRA was unable to take further action toward completing the CE. The Iowa DOT’s Office of Location & Environment and Office of Rail Transportation have previously worked with the FRA on other projects that require a CE and are fully familiar with FRA’s NEPA requirements.

As recommend by FRA, the Iowa DOT conducted a desktop NEPA review of the project and is confident that the project will not have significant impact on the environment, either individually or cumulatively. The completed CE Worksheet is included as Appendix J. After review of the 16 classes of action listed in the CE Worksheet, the Iowa DOT considered the applicability of three classes to the proposed project. However, it is unclear whether the proposed project fully meets the requirements of any of these three classes. The three classes are 1) Financial assistance for the construction of minor loading and unloading facilities, provided that proposals are consistent with local zoning, do not involve the acquisition of a significant amount of land, and do not significantly alter the traffic density characteristics of existing rail or highway facilities; 2) Minor rail line additions including construction of side tracks, passing tracks, crossovers, short connections between existing rail lines, and new tracks within existing rail yards, provided that such additions are consistent with existing zoning, do not involve acquisition of a significant amount of right of way, and do not substantially alter the traffic density characteristics of existing rail lines or rail facilities; and 3) Assembly or construction of facilities or stations that are consistent with existing land use and zoning requirements, do not result in a major change in traffic density on existing rail or highway facilities and result in approximately less than ten acres of surface disturbance.

If the proposed project does not meet the requirements of these three classes of action, the project would qualify for categorical exclusion under Section 4(e) of FRA's May 26, 1999, *Procedures for Considering Environmental Impacts*. Specifically, the proposed project will satisfy the seven criteria for exclusion of actions not excluded under subsection (c) and (d).

Iowa DOT will work closely with the FRA and the Iowa DOT's Office of Location & Environment, which is responsible for NEPA compliance, to complete the remaining requirements to obtain an approved CE, including obtaining a Clean Water Act Section 402 permit from the Iowa Department of Natural Resources, consultation with the State Historic Preservation Office on the results of the Phase I archaeological survey, and notification to the Tribes. Completion of these remaining tasks is expected to be routine and cause no significant delays in the project schedule.

5.5.2 State and Local Planning

The Iowa DOT's Freight Advisory Council (FAC), the Iowa DOT's State Rail plan, the MnDOT's draft State Rail Plan have all acknowledged the lack of intermodal service as a hindrance to growth and competitiveness in the Upper Midwest.

The Iowa DOT's State Freight Plan and an update to the federally compliant State Rail Plan are currently under development and will address the lack of intermodal facilities.

One freight improvement strategy included in Iowa's draft State Freight Plan is to "Optimize the freight transportation network to minimize cost and travel time and improve supply chain efficiency." This objective includes increasing the availability of transload and intermodal facilities to increase the connectivity in the system, resulting in elevated efficiency for all modes of freight transportation, as well as the expansion of the system to handle larger capacities.

The draft Iowa State Freight Plan will include the results of an exercise conducted with the FAC (detailed in Appendix B) to identify impediments to efficient freight movement. Two of the seven identified impediments address rail/truck multimodal shipments. They are:

- Examine strategies that provide more local rail connections and intermodal centers to decrease the distance exports must be trucked to get to a transload or intermodal facility.
- Evaluate ways to make it feasible and cost effective to invest in rail transfer facilities within Iowa to reduce transportation costs for Iowa's producers and receivers of goods.

MnDOT's Draft Rail Plan acknowledges that intermodal services in Minnesota are limited geographically and by capacity. One of its stated Freight Rail Goals is to "expand intermodal service access options throughout the state."

This project is also part of the Iowa Statewide Transportation Improvement Program as an illustrative project. See Appendix L for references to planning documents.

The Iowa DOT and the MnDOT also recognize the importance of rail infrastructure on the continued economic health of the Upper Midwest by their support for short line and regional railroads (as well as Class I railroads), through their planning processes and a history of financial assistance available to railroads and rail-served industry, particularly in rural locations

The UMTH, by meeting the multi-state needs identified in these planning documents holds the power to transform the way shippers approach shipping in the Upper Midwest, by increasing market access and lowering shipping costs.

6.0 Results of Benefit Cost Analysis

HDR Decision Economics was contracted by the Iowa DOT to conduct a rigorous analysis of the expected cost, benefits and the assumptions that went into the benefit cost calculations. As discussed in section 4.2.1, the Iowa DOT also did an independent analysis of volume assumptions and concurred with the initial estimates. Appendix K includes full documentation on the Benefit Cost Analysis

Many of the individual benefits summarized below (from the Benefit Cost Analysis) have been discussed in the respective selection criteria. The benefit cost analysis has taken a conservative approach to estimated volume and cost saving.

Total benefits
\$781.75 million

Benefit/Cost ratio
5.62

Payback period
1.51 years

A modest investment of \$7,100,000 in TIGER funding, coupled with \$9,065,138 in private investment are expected to yield \$781.75 million in total benefits (discounted at 7%) over the 22-year lifecycle.

A positive benefit cost ratio is a prerequisite for consideration for an award. The project proposed in this application will see benefits (discounted at 7%) exceeding 5 times the cost – a benefit/cost ratio of 5.62 and a payback period of only 1.51 years.

Table 10: Benefit Estimates by Long-Term Outcome for the Full Project, Millions of 2014\$

Long-Term Outcomes	Benefit Categories	7% Discount Rate	3% Discount Rate
State of Good Repair	Avoided Pavement Maintenance Costs	\$133.1	\$214.5
Economic Competitiveness	Shipper Savings due to Modal Switch from Truck to Rail and Choice of More Direct Intermodal Routes	\$118.9	\$189.4
Livability	Reduced Road Congestion due to Modal Switch from Truck to Rail	\$83.3	\$134.3
Environmental Sustainability	Emission Cost Savings due to Modal Switch from Truck to Rail	\$19.9	\$35.1
Safety	Accident Cost Savings due to Modal Switch from Truck to Rail	\$426.5	\$697.6
Total Benefit Estimates		\$781.8	\$1,270.9

7.0 Federal Wage Certification

The applicant will comply with the requirements of Subchapter IV of Chapter 31 of Title 40, United States Code (Federal wage rate requirements), as required by the FY 15 Appropriations Act. A certification to that effect is included in Appendix M and may be found at www.iowadot.gov/tiger15-freight.

VERIFIED STATEMENT OF JON HARMAN

ATTACHMENT D

**KAG Ethanol Logistics Enters Into Alliance With Manly Terminal LLC In Iowa, Logistics
Online, July 12, 2007**



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News | July 12, 2007



KAG Ethanol Logistics Enters Into Alliance With Manly Terminal LLC In Iowa

KAG Ethanol Logistics recently announced that it has joined efforts with LB Transport and Iowa Northern Railway Company, entering into an investment alliance with Manly Terminal, LLC, of Manly, Iowa, to streamline the nation's already constrained ethanol marketing and distribution process. Through this alliance, KAG Ethanol Logistics has strategically partnered with truck, rail and storage stakeholders to seamlessly bring ethanol from production point to final destination. [Manly Terminal](#), a first of its kind facility, will feature over 20 million gallons of liquid storage capacity on a unique 100-acre reload facility that is strategically located within the largest growth area of ethanol production in North America.

Dennis Nash, President and Chief Executive Officer of Kenan Advantage Group stated, "By bringing all of the key players of the ethanol transportation industry together, we are able to provide a truly unique service to ethanol customers throughout the country. Our ability to package these services and manage the delivery process from beginning to end, will allow us to help solve many of the challenges facing this growing and exciting industry. At KAG, we have always taken great pride in being in the forefront of innovation and technology. This alliance with Manly Terminal, LLC puts us dead center in the ethanol logistics arena -- and that's exactly where we want to be."

As part of the Manly alliance, locally operated, LB Transport will join with KAG to provide the trucking arm that delivers ethanol from the production facilities to the Manly Terminal. Once the product has been brought to the terminal, it will be distributed across the country through rail interline agreements secured by the Iowa Northern Railway Company. Iowa Northern's line is adjacent to the Manly Terminal and connects with the entire North American rail network. Iowa Northern is offering direct tariff access to all major rail carriers. With multiple rail connections, the Manly Terminal can leverage the various combinations of freight routes to insure that ethanol customers are getting the lowest possible rate, to the

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DRAFT
April 24, 2024

combinations of freight routes to insure that ethanol customers are getting the lowest possible rate, to the best possible markets.

Unlike petroleum products such as oil and natural gas, ethanol cannot be distributed through pipelines due to its chemical makeup and attraction to water. As a result, ethanol moves from production to market by utilizing truck, rail and barge transportation services along with transload/storage facilities. The key to effectively manage the logistics of the ethanol industry is to coordinate this unique movement of product.

KAG Ethanol Logistics along with its partners in the Manly Terminal LLC have combined the synergies of multiple transportation services to enhance this infrastructure. As a starting point, the development of a common origin ethanol storage point began on October 27, 2006 with the ground breaking of a truck and rail transload, storage and trading terminal located in north-central Iowa.

"Today there are over twenty-five ethanol plants in operation or under construction with over two billion gallons of production that are less than one hundred miles from Manly, Iowa," stated Lee Kiewiet, President of Manly Terminal, LLC. "It is estimated that more than half of all ethanol production in the U.S. will be located within 300 miles of the Manly Terminal by end of 2009, making this location the ideal common origin point for the country's ethanol marketing and distribution," continued Mr. Kiewiet. Manly Terminal also provides sufficient storage that allows ethanol producers and marketers to consolidate volumes to capitalize on price fluctuations, and to trade and arbitrage ethanol, all contributing to improved margins. Other benefits will include rail car trip leasing, unit train economics and faster turn time on deployed rail assets.

"Visualize Manly Terminal as the 'hub' from which 'spokes' will run in every direction to supply the country's long-term ethanol needs," said Daniel Sabin, President of Iowa Northern Railway Company. "Our rail system of 'unit trains', consisting of 65 or more tank cars, is a faster, more efficient and economical way to ship ethanol than utilizing a few tank cars at a time. We want to remove every possible obstacle to fluid transportation of ethanol and related products," continued Mr. Sabin.

The federal government has mandated that by 2012, 7.5 billion gallons of ethanol must be blended with gasoline. The passage of the Energy Policy Act of 2005 and the continued commitment to ethanol by the Bush Administration and Congress are resulting in an unprecedented period of growth for the U.S. ethanol industry. With that growth come unique challenges such as the ability to quickly build the infrastructure needed to effectively and efficiently bring the product to market.

Finally, the overall logistics from ethanol production point to the final marketplace will be coordinated and managed by KAG Ethanol Logistics. The concept will provide the simplicity of a single invoice from producer to consumption point. By combining the various services of the partner companies, KAG Ethanol Logistics can provide the most cost effective, door-to-door delivery solution to the ethanol industry. KAG Ethanol Logistics is a division of KAG Logistics, a subsidiary of Kenan Advantage Group,

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industry. KAG Ethanol Logistics is a division of KAG Logistics, a subsidiary of Kenan Advantage Group, Inc.

About KAG Logistics

KAG Logistics is the nation's first, fully- automated, end-to-end logistics services committed to the petroleum and related industries. The company focuses on optimal execution in the distribution supply chain for its customers. It utilizes latest technologies managed by highly trained personnel, fleet resources and advanced processes to provide premier value-added services.

SOURCE: KAG Logistics

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET No. FD 36744

**CANADIAN NATIONAL RAILWAY COMPANY
AND GRAND TRUNK CORPORATION
—CONTROL—**

IOWA NORTHERN RAILWAY COMPANY

EXHIBIT 2

**VERIFIED STATEMENT OF NATHANIEL S.
ZEBROWSKI**

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 36744

CANADIAN NATIONAL RAILWAY COMPANY AND GRAND TRUCK CORPORATION
—CONTROL—
IOWA NORTHERN RAILWAY COMPANY

VERIFIED STATEMENT OF NATHANIEL S. ZEBROWSKI

April 29, 2024

PART I
INTRODUCTION

1. I am Nathaniel S. Zebrowski. I am a Senior Managing Director in the Network Industries Strategies Group of FTI Consulting, Inc. I previously submitted a verified statement in this proceeding on February 26, 2024. Details of my credentials are provided in that statement.

2. I have been asked by counsel for Canadian Pacific Kansas City (“CPKC”) to analyze available data relevant to an assessment of the competitive effects of the proposed acquisition and control of Iowa Northern Railway Company (“IANR”) by Canadian National Railway (“CN”) (the “Transaction”).

3. My analysis shows that CN and IANR historically have provided alternative, independent route options to most regions in North America where customers in IANR’s territory ship to or from,¹ that in many cases other rail carriers do not provide separate routes to/from these regions, and that a significant amount of rail traffic originating or terminating at stations served by both IANR and CN travels to/from these locations. Were the Transaction implemented, these alternative IANR and CN route options would both be controlled by CN, which would reduce the competitive transportation options available to customers in the regions served by IANR.

4. I also find that the diversion figures estimated by CN’s witness David Hunt do not provide a reliable basis for assessing the potential benefits of the Transaction. Much of diverted traffic could be readily achievable without the Transaction. Many diversions also appear

¹ Consistent with the Board’s practice and available data, I have examined regions shipped to or from by IANR customers at the BEA level for origins and destinations within the United States, at the province level for origins and destinations within Canada, and at the country level for origins and destinations in Mexico.

unfounded, or if they are to be achieved, they imply that CN will need to significantly cut costs in IANR's operations to attract such traffic. However, no explanation of how such diversions could be achieved without compromising IANR's service levels has been provided. If the cost reductions and service improvements required to attract the diversion traffic under Mr. Hunt's modelling are not achieved, CN may alternatively look to exercise market power gained through consolidation under the Transaction to achieve the growth in revenues and traffic it anticipates.

5. My analysis is based on 2021 to 2023 traffic data provided by IANR, CN, and CPKC in this proceeding and Confidential Carload Waybill Sample ("CWS") data for 2020-2022². I also rely on select documents produced by IANR and CN in this proceeding. Details of my work are provided in the remainder of this report.

PART II

IANR AND CN'S RAIL LINES IN EAST-CENTRAL IOWA ARE OVERLAPPING AND SERVE THE SAME TYPES OF TRAFFIC

6. To provide context for the Transaction, I summarize traffic for IANR and CN using the traffic data each has provided for 2021 to 2023 for movements to, from, or within Iowa. This data shows that the two carriers move similar types of traffic, and in similar proportions, to and from shipper facilities in east-central Iowa.

7. The following map summarizes CN and IANR traffic originating and terminating in the east-central Iowa region that surrounds IANR service territory from 2021-2023. Each dot represents a CN- and/or IANR-served rail station and is scaled based on relative volumes originating or terminating at said station.

² 2023 CCWS data has not yet been released by the STB. I use 2020-2022 CWS data to include 3 years of data, as with the traffic tape data sets.

FIGURE 1³
MAP SHOWING TRAFFIC ORIGINATING AND TERMINATING
ON IANR AND CN IN EAST-CENTRAL IOWA
 {{{

[REDACTED]

}}}

8. This shows that areas served by CN and IANR have {{{ [REDACTED] [REDACTED] }}}. One way to express this overlap is by looking at the IANR-served region defined by Mr. Hunt, which includes 19 counties in a “catchment area” where he states IANR provides service and may attract traffic for diversion.⁴ CN already originates or terminates traffic in or adjacent to {{{ [REDACTED] }}} of these counties, i.e., CN is already providing rail transportation in {{{ [REDACTED] }}}.⁵

³ {{{ [REDACTED] }}}}

⁴ See CN Hunt V.S. at footnote 9 and exhibit B-2. The 19 “catchment area” counties are shaded in grey in Figure 1

⁵ {{{ [REDACTED] [REDACTED] }}}.

9. Another way to appreciate the overlap between CN and IANR is to consider the proximity between IANR's originating and terminating traffic and CN's rail line, and vice versa. Chart 1 below shows that {{{█}}} percent of the traffic that IANR originates or terminates is within {{{█}}} miles of CN lines, and {{{█}}} of the traffic that IANR originates or terminates is within {{{█}}} miles of CN lines.⁶

CHART 1⁷
PERCENT OF IANR ORIGINATING AND TERMINATING TRAFFIC WITHIN GIVEN DISTANCE
RANGES TO CN LINES{{{

[REDACTED]

}}}

10. Similarly, Chart 2 below shows that{{{█}}} percent of the traffic that CN originates or terminates in the "catchment area" is within {{{█}}} miles of IANR lines, and

⁶ {{{█}}}
 {{{█}}} }}}

⁷ {{{█}}}
 {{{█}}} }}}

of the traffic CN originates or terminates in the “catchment area” is within miles of IANR lines.⁸

CHART 2⁹
PERCENT OF CN ORIGINATING AND TERMINATING TRAFFIC WITHIN GIVEN DISTANCE
RANGES TO IANR LINES {{{

[REDACTED]

$$\} \} \}$$

11. Reflecting the fact that the two carriers provide alternative means of shipping Iowa’s agricultural products by rail, they also serve the same basic mix of commodities in similar proportions. The following table summarizes traffic originated by IANR and CN within the 19 county “catchment area” discussed above, and adjacent counties to this area, by commodity group.

8 {{{
}}}

9 {{{
}}}

TABLE 1¹⁰
CN AND IANR 2021-2023 UNITS ORIGINATED IN THE 19 COUNTY “CATCHMENT AREA” AND
ADJACENT COUNTIES BY 2-DIGIT STCC

[illegible]

12. This shows that IANR and CN originate similar types of traffic, and at similar proportions, in east-central Iowa, where {{{ [REDACTED] [REDACTED] [REDACTED] }}} comprise {{{ [REDACTED] }}} of both carriers' originating traffic base within this region.

13. The following table summarizes the traffic terminated by IANR and CN within the 19 county “catchment Area” and adjacent counties, by commodity group.

10 { { { [REDACTED] } } }

TABLE 2¹¹
CN AND IANR 2021-2023 UNITS TERMINATED IN THE 19-COUNTY “CATCHMENT AREA” AND
ADJACENT COUNTIES BY 2-DIGIT STCC

[illegible]

14. This shows that IANR and CN terminate similar types of traffic, and at similar proportions, in east-central Iowa, where {{{ [REDACTED] [REDACTED] [REDACTED] }}}} comprise {{{ [REDACTED] }}}} of both carriers' terminating traffic base within this area.

15. Were CN's and IANR's overlapping rail lines to be combined under CN's control, this would likely reduce some of the benefits of competition shippers in east-central Iowa currently enjoy. For example, oats traffic {{{ [REDACTED]

11 {{{[REDACTED]}}}

TABLE 3¹³
ALL CN AND SINGLE-SERVED IANR 2021-2023 UNITS ORIGINATING OR TERMINATING IN THE
19-COUNTY “CATCHMENT AREA” AND ADJACENT COUNTIES BY 2-DIGIT STCC {{{

15. COUNTY OFFICIALS' TRAINING AND REVENUE COUNCILS OF EDUCATION				
	2000	2001	2002	2003
15.01	15.01.01	15.01.02	15.01.03	15.01.04
15.02	15.02.01	15.02.02	15.02.03	15.02.04
15.03	15.03.01	15.03.02	15.03.03	15.03.04
15.04	15.04.01	15.04.02	15.04.03	15.04.04
15.05	15.05.01	15.05.02	15.05.03	15.05.04
15.06	15.06.01	15.06.02	15.06.03	15.06.04
15.07	15.07.01	15.07.02	15.07.03	15.07.04
15.08	15.08.01	15.08.02	15.08.03	15.08.04
15.09	15.09.01	15.09.02	15.09.03	15.09.04
15.10	15.10.01	15.10.02	15.10.03	15.10.04
15.11	15.11.01	15.11.02	15.11.03	15.11.04
15.12	15.12.01	15.12.02	15.12.03	15.12.04
15.13	15.13.01	15.13.02	15.13.03	15.13.04
15.14	15.14.01	15.14.02	15.14.03	15.14.04
15.15	15.15.01	15.15.02	15.15.03	15.15.04
15.16	15.16.01	15.16.02	15.16.03	15.16.04
15.17	15.17.01	15.17.02	15.17.03	15.17.04
15.18	15.18.01	15.18.02	15.18.03	15.18.04
15.19	15.19.01	15.19.02	15.19.03	15.19.04
15.20	15.20.01	15.20.02	15.20.03	15.20.04
15.21	15.21.01	15.21.02	15.21.03	15.21.04
15.22	15.22.01	15.22.02	15.22.03	15.22.04
15.23	15.23.01	15.23.02	15.23.03	15.23.04
15.24	15.24.01	15.24.02	15.24.03	15.24.04
15.25	15.25.01	15.25.02	15.25.03	15.25.04
15.26	15.26.01	15.26.02	15.26.03	15.26.04
15.27	15.27.01	15.27.02	15.27.03	15.27.04
15.28	15.28.01	15.28.02	15.28.03	15.28.04
15.29	15.29.01	15.29.02	15.29.03	15.29.04
15.30	15.30.01	15.30.02	15.30.03	15.30.04
15.31	15.31.01	15.31.02	15.31.03	15.31.04
15.32	15.32.01	15.32.02	15.32.03	15.32.04
15.33	15.33.01	15.33.02	15.33.03	15.33.04
15.34	15.34.01	15.34.02	15.34.03	15.34.04
15.35	15.35.01	15.35.02	15.35.03	15.35.04
15.36	15.36.01	15.36.02	15.36.03	15.36.04
15.37	15.37.01	15.37.02	15.37.03	15.37.04
15.38	15.38.01	15.38.02	15.38.03	15.38.04
15.39	15.39.01	15.39.02	15.39.03	15.39.04
15.40	15.40.01	15.40.02	15.40.03	15.40.04
15.41	15.41.01	15.41.02	15.41.03	15.41.04
15.42	15.42.01	15.42.02	15.42.03	15.42.04
15.43	15.43.01	15.43.02	15.43.03	15.43.04
15.44	15.44.01	15.44.02	15.44.03	15.44.04
15.45	15.45.01	15.45.02	15.45.03	15.45.04
15.46	15.46.01	15.46.02	15.46.03	15.46.04
15.47	15.47.01	15.47.02	15.47.03	15.47.04
15.48	15.48.01	15.48.02	15.48.03	15.48.04
15.49	15.49.01	15.49.02	15.49.03	15.49.04
15.50	15.50.01	15.50.02	15.50.03	15.50.04
15.51	15.51.01	15.51.02	15.51.03	15.51.04
15.52	15.52.01	15.52.02	15.52.03	15.52.04
15.53	15.53.01	15.53.02	15.53.03	15.53.04
15.54	15.54.01	15.54.02	15.54.03	15.54.04

$$\left. \begin{array}{l} \text{ } \\ \text{ } \\ \text{ } \end{array} \right\} \left. \begin{array}{l} \text{ } \\ \text{ } \\ \text{ } \end{array} \right\} \left. \begin{array}{l} \text{ } \\ \text{ } \\ \text{ } \end{array} \right\}$$

12 {{{[REDACTED]}}}

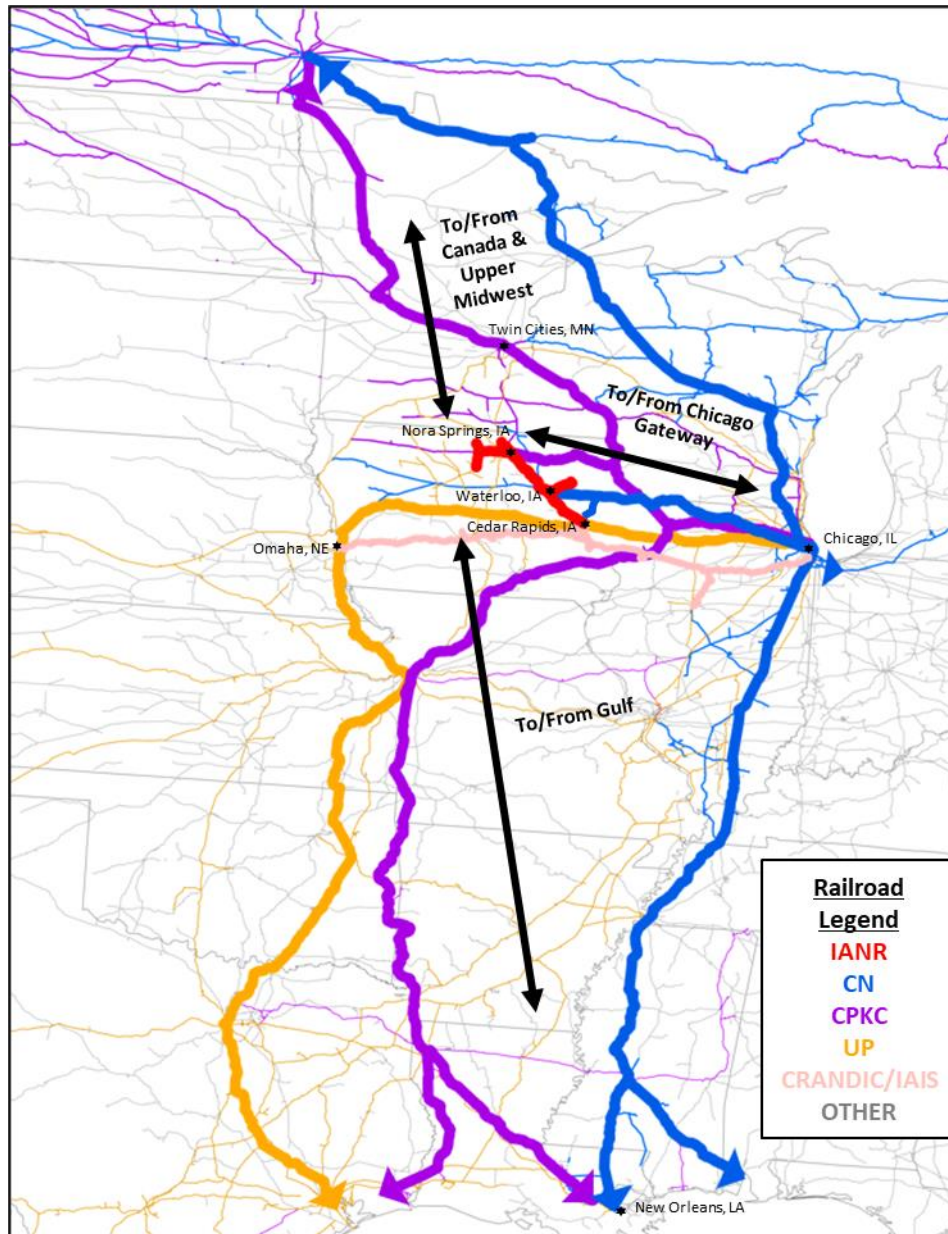
13 {{{ [REDACTED] }}}}

17. Since customers that are single-served by IANR {{{ [REDACTED] [REDACTED] }}, the Transaction may have indirect competitive effects, including reduced geographic competition. For instance, to take {{{ [REDACTED] }}} traffic as examples, if CN was in a position to determine the rates charged by both IANR and CN, there would no longer be the threat of receivers sourcing volumes from IANR customers enjoying lower rates and thereby displacing CN volumes that CN was moving at higher rates.

PART III
IANR PROVIDES ALTERNATIVE INDEPENDENT ROUTE OPTIONS TO CN THAT THE
TRANSACTION WOULD ELIMINATE

18. The effects of railroad mergers on horizontal competition are most clearly seen in terms of customers losing alternative route possibilities on the two carriers as a result of the two becoming one. A simple look at the below map shows that IANR and CN have the potential to offer many parallel routes.

FIGURE 2
MAP OF IANR AND SURROUNDING RAIL NETWORK



19. Because of how it is situated in the surrounding rail network, IANR's network presents opportunities (at least on paper) to participate in linehaul routes carrying traffic for over one-hundred miles over its lines in every direction, as an indispensable part of interline routes connecting east-central Iowa with Canada, the East, and the Gulf regions of North America among others. Many of these routes would move traffic in the same corridors as routes CN

independently offers. For an example of a conceivable movement to the north with CN and IANR alternative routes, traffic from Cedar Rapids to Canada may move using an IANR-CPKC route via Nora Springs or using a CN direct route. For example movements to the south or east with CN and IANR alternative routes, traffic from Waterloo may reach Chicago or the Gulf using an IANR-CPKC route via Nora Springs, an IANR-CIC-IAIS route via Cedar Rapids and Iowa City, an IANR-UP route via Cedar Rapids, or a CN direct route. Since these possibilities are strictly “on paper” and do not necessarily represent viable route options, it is beneficial to analyze available traffic data to examine where active and viable routes have actually been provided in recent history to support a more complete assessment.

20. Given the wide array of opportunities for IANR to participate in interline routes that provide independent alternatives to CN routes, I examine the carriers’ traffic data to determine where IANR and CN have historically provided alternative route options for customers in IANR served territory to reach the different regions they need to access throughout North America. While this analysis does not necessarily identify every route that could conceivably become a viable option in the future, examining actual routes over which traffic has moved is the best available approach for identifying the traffic flows for which IANR and CN have served as competitive alternatives from the perspective of rail shippers, as well as for identifying where the transaction will have the immediate effect of reducing the number of competitive independent alternatives.

21. My analysis determines what route options have actually been chosen by customers between (a) any station served by the IANR at one end and (b) the BEA origin or destination regions at the other end. Looking at stations served by the IANR is a more fitting level of geographic aggregation than looking at the entirety of the two BEAs (Cedar Rapids, IA

and Des Moines, IA-IL-MO) that encompass the IANR, which also encompass a large majority Iowa. In particular, this level of geographic aggregation focuses on customers to or from stations along the IANR most immediately impacted by the Transaction, while also recognizing that customers accessing stations located anywhere along the IANR may be able to participate in the same interline route connections offered to customers elsewhere on IANR's system.

22. To analyze the route options provided in recent history to customers at stations served by IANR, I use CN, CPKC, and IANR's 2021 to 2023 traffic data¹⁴, as well as 2020-2022 CWS data. I start by combining the data, removing duplicates contained in multiple traffic files, and identifying the shipments in this data originating or terminating at stations served by IANR.¹⁵ I identify the region (again, BEA for the United States, provinces for Canada, or country for Mexico) where the other end of the movement originates or terminates (using end-to-end routing where available, and otherwise the rebilled gateway).¹⁶ I then identify routes that represent IANR routes that are independent of CN (routes in which IANR participates as a linehaul carrier and CN does not), CN routes that are independent of IANR (routes in which CN participates as a linehaul carrier and IANR does not), and other independent other routes (routes in which neither IANR or CN participate as a linehaul carrier).¹⁷ CN and CPKC traffic data provide revenue route information which identifies the linehaul carriers on the route. IANR traffic data does not explicitly identify whether and where it participates as a linehaul carrier, but

¹⁴ CN and IANR 2022 and 2023 traffic tape data is from CN and IANR submissions in response to the STB's information requests, which contain more details than the information initially produced to CPKC. CN and IANR 2021 traffic tape data is from responses to CPKC's discovery requests.

¹⁵ {{{ [REDACTED] }}}

¹⁶ {{{ [REDACTED] }}}

¹⁷ {{{ [REDACTED] }}}

based on the traffic category descriptions such as forwarded freight and received freight, I treat IANR as a linehaul carrier unless the traffic is noted as {{{ [REDACTED]

[REDACTED] }}}¹⁸. I have appropriately included only linehaul carriers when identifying independent routes, since a carrier's participation in a route is not independent if its pricing is determined by another carrier in the route (e.g., as a "handling" carrier acting on behalf of its connecting carrier). Thus, for example, to the extent IANR has served as a handling carrier for CN or another Class I carrier, I do not treat IANR as an independent participant in the route.

23. From this work, I create a unique list of regions (again, BEAs for the United States, provinces for Canada, or country for Mexico) on the non-IANR end of moves to or from IANR-served stations, and identify which have been served by independent CN routes, independent IANR routes, and routes on other carriers independent of CN and IANR.¹⁹ To be clear, this analysis considers a route used by shippers at any IANR-served station as indicative of a viable route option that may be available to shippers at all stations served by IANR. For example, supposing a shipper at Waterloo, IA has moved traffic to the New Orleans BEA using an IANR-CPKC route, I consider this as indicating that an IANR-CPKC route would also be viable for a shipper at Manly, IA moving traffic to the same destination BEA, regardless of whether a shipper at Manly, IA has actually utilized this route option in recent history. This is appropriate because the use of a route by a customer at one station on the IANR to reach a given region indicates that there is a viable route option that may be available to customers at other stations on the IANR to reach that same region.

¹⁸ See CN Application at 31, footnote 43.

¹⁹ {{{ [REDACTED] }}}
[REDACTED] }}}}

24. Chart 3 below summarizes the number of origin/destination regions reached by all traffic originating or terminating at any station served by IANR. This chart identifies which of these regions have been served by both independent CN and independent IANR routes (where customers would lose a competitive option), and which have been served only by CN and IANR independent routes (and no other independent routes, such that customers would lose all competitive routing options as a result of the Transaction).

CHART 3²⁰
REGIONS SERVED INDEPENDENTLY BY BOTH CN AND IANR ROUTES FOR TRAFFIC
ORIGINATING OR TERMINATING AT IANR-SERVED STATIONS BETWEEN 2021 AND 2023{{{

[REDACTED]

}}}

²⁰ {{{ [REDACTED] }}}

25. Chart 3 shows that {{{[REDACTED]}}} of the regions that customers at IANR-served stations ship to or from have been served by both independent IANR and CN routes in the period between 2021 and 2023. This choice between the two carriers' routes would be eliminated under the Transaction where CN would control both. As shown in the rightmost bar above, more than {{{[REDACTED]}}} of these regions have not been served by other independent routes not including IANR or CN, meaning under the Transaction a route involving the combined CN and IANR may be the shipper's only viable choice.

26. I next look at how much traffic moving to or from regions served by independent IANR and CN routes originates or terminates at stations served by both CN and IANR. This identifies traffic where shippers are most likely to currently have a choice between independent CN and IANR routes, or at least some competitive leverage based on the possibility of choosing one or the other, that would be lost under the Transaction. Table 4 summarizes 2021-2023 CN and IANR traffic originating or terminating at stations served by both carriers, broken out by type of active route options available to reach the region on the other end of the move.

TABLE 4²¹
2021-2023 TRAFFIC AT STATIONS SERVED BY BOTH CN AND IANR TO OR FROM REGIONS
WITH INDEPENDENT ROUTE OPTIONS ON BOTH CN AND IANR

{{{

}}}

27. Table 4 shows that, based on historical route offerings, {{{ [REDACTED] }}} units of traffic in the past three-years have moved on CN and IANR from stations served both by CN and IANR to regions where CN and IANR have offered alternative independent routes. This potential to utilize the two carriers' independent routes would be eliminated by the Transaction because CN would control both sets of routes. For {{{ [REDACTED] }}} of this traffic, only CN and IANR have historically offered independent routes, i.e., shippers would no longer have the option to choose a route that was not controlled by CN.

²¹ {{{ [REDACTED] }}}}

PART IV
APPLICANTS' TRUCK-TO-RAIL AND RAIL-TO-RAIL DIVERSION ESTIMATES ARE UNRELIABLE
AND OVERSTATED

A. Many of Applicants' Anticipated Diversions, if Realistic at all, Appear Achievable Without the Transaction

28. Many of the traffic diversions posited by Mr. Hunt, if realistic at all, could be achieved by CN without the need to acquire IANR. As discussed above, practically all traffic originated and terminated by CN and IANR is in close proximity to the other carriers' lines. CN has not explained why the type of manifest train operations it believes are sufficient to attract truck diversions post-Transaction would not also be sufficient to attract this same traffic to its current lines in the same regions, or via interline service with IANR.²² In other words, since the post-transaction single-line CN-IANR operations outlined in CN's operating plan are nearly identical to current CN-IANR interline operations, it does not make sense to suppose that one set of operations would be entirely sufficient to attract diversion volumes while the other nearly identical set of operations would not be able to attract any of these volumes. Nor does it make sense to think that new CN-IANR single line service could succeed in attracting this traffic but existing CN single-line service to the same regions could not succeed. In fact, nearly all of the truck traffic Mr. Hunt posits will divert to CN-IANR is already moving to or from counties where CN and IANR already operate in or nearby (and most of these counties do not have any terminal infrastructure on IANR to facilitate transloading or intermodal lifts as part of rail intermodal moves).²³ Accordingly, it is reasonable to assume that CN lines in close proximity to

²² See, et al, CN Application Operating Plan at page 12. "There will be few initial changes to the current train operations."

²³ {{{ [REDACTED] }}}
 [REDACTED] }}

IANR lines have the same opportunity to attract the posited diversion traffic, to the extent the opportunity exists.

B. Applicants' Anticipated Diversions Are Premised on Cost Efficiencies And Service Improvements That the Operating Plan Does Not Contemplate

29. The diversion figures estimated by Mr. Hunt are unfounded, and, if they are to be achieved, imply that CN will need to significantly cut costs in IANR's operations. However, no explanation of how this could be done without compromising IANR's service levels (which in turn would make the diversions harder to achieve) has been provided. As explained below, Mr. Hunt's view that there will be significant diversions is not realistic and relies on unreliable and unsupported modelling exercises.

30. In my February 26 statement I explained why Mr. Hunt's estimated truck-to-rail and rail-to-rail diversion figures appear unrealistically high in light of the at-best limited cost savings and operational changes outlined in the Application.²⁴ Mr. Hunt's truck-to-rail diversions are premised on average savings of approximately {{{[REDACTED]}}} per diverted unit, but there is no change in operations post-transaction that would account for this level of savings.²⁵ Similarly, Mr. Hunt's rail-to-rail diversions are premised on eliminating some combination of a day or two of transit time and/or hundreds of dollars of interchange costs per diverted rail car. CN has not described any change in IANR operations post-transaction that would account for this level of savings or improvement in service.

31. CN's operating plan conflicts with Mr. Hunt's diversion modelling. While Mr. Hunt's diversions require significant cost savings and/or service improvements, the operating

²⁴ See CPKC's 2/26/2024 Comments on Proposed Classification of Transaction, at Zebrowski V.S.

²⁵ {{{[REDACTED]}}}

plan does not demonstrate how these could occur through transaction-related efficiencies. The operating plan states that “[t]here will be few initial changes to the current train operations” and does not allude to any future changes either.²⁶ In fact, the only planned change associated with diversion traffic is adding one manifest train per day between Gary, IN and Dubuque, IA (which is almost 100-miles east of CN-IANR interchange locations in Cedar Rapids, IA and Waterloo, IA) within three years of the transaction to accommodate diversion volumes and organic growth. Notably, this train is added to accommodate increased volumes, not to improve service levels or transit times.

32. The limited details provided in the operating plan further highlight the concern that the cost savings and service improvements Mr. Hunt’s diversions require will not be realized through transaction-related efficiencies. Current manifest train operations most relevant to handling IANR-CN interline traffic can be summarized as follows:

- CN runs one eastbound and one westbound manifest train per day between Waterloo, IA and Gary, IN.²⁷
- It appears CN runs a daily train in either direction between Manchester, IA and Cedar Rapids, IA.²⁸
- IANR runs one northbound and one southbound manifest train between Manly, IA and Cedar Rapids, IA.²⁹

Based on the information provided in the operating plan, it appears that all of these trains would continue running between the same points in the same manner regardless of whether the transaction occurred or not. Once-daily trains would continue to exchange CN-IANR traffic in Waterloo, where it appears the majority of diverted traffic would be routed, and there may also

²⁶ See CN Application Operating Plan at 12.

²⁷ See CN Application Operating Plan at 9.

²⁸ See CN Application Operating Plan at 14, Table 1.

²⁹ See CN Application Operating Plan at 7.

be similar (but perhaps less frequent) operations in Cedar Rapids.³⁰ There would be some modifications to how IANR interchanges traffic with carriers other than CN, but this would not directly affect diversion traffic moving over CN and IANR lines (and, if anything, improvements to IANR's interchange operations with other carriers would make the other interline routes more attractive, thus diverting traffic away from IANR-CN routes). In summary, the same IANR trains would exchange traffic with the same CN trains at the same points and in the same intervals as done currently, which undermines the notion that the Transaction would result in the efficiency improvements that would normally be expected in other transactions. Unit trains running through CN's Waterloo yard would presumably experience some improvements, but, as discussed below, the level of cost savings associated with this improvement is nowhere near the level of cost savings required by Mr. Hunt's diversion.

While there are many possible benefits to single-line service, the limited changes outlined in CN's Operating Plan do not align with the magnitude of improvements required by Mr. Hunt's diversion modelling. Further, the more efficiently IANR and CN already interchange traffic, the less room there is to improve in such a way that would bolster diversion traffic by making the IANR-CN routes relatively more attractive post-transaction. It seems likely the IANR-CN interchange operations are already very efficient given that no significant improvements have been identified regarding how traffic is currently exchanged between IANR and CN lines at Waterloo and Cedar Rapids, and that IANR is already described as a carrier providing high service levels³¹. Thus, there is little reason to expect significant cost savings or service improvements from transaction-related synergies. Presumably, then, if these diversion estimates

³⁰ {{{[REDACTED]}}}

³¹ See CN00092-PUBLIC

are to be achieved, it would require either cutting costs in some other way, such as by running IANR as a leaner carrier more akin to CN's system-wide operations, by finding some other significant transaction-related efficiencies and operational improvements not yet identified, or by attempting to exercise market power gained through consolidation under the Transaction.

1. Truck to Rail Diversions

33. For truck-to-rail diversions, although no intermodal service is currently offered, and the intermodal service CN plans to provide is very similar to existing IANR-CN manifest operations, Mr. Hunt predicts over 14,000 trucks diverting to rail on the basis of reduced rail costs.³² CN has since confirmed that it plans to place diverted containers on single-stack flat cars initially, then switch them to double-stack flat cars for the remainder of the journey. It does not appear Mr. Hunt has accounted for this operational feature in his diversion estimate when developing rail costs.

34. The only support CN provided is hard-coded output data identifying total volumes and the diverted portion summarized by lane, along with certain intermediate inputs in the process that raise more questions than they answer.³³ For truck-to-rail diversions, there are hard-coded figures on assumed truck costs, pre-transaction rail costs, and post-transaction rail costs that influence what portion is diverted, but no detail on how these costs are built up is provided.³⁴ Nor is there any information on how the observed changes in costs are translated into the observed increases in rail market share, which presumably would rely on some type of regression

³² See CN's Application, at Hunt V.S. at page 2

³³ {{{ [REDACTED] }}

}}}. [REDACTED]

³⁴ {{{ [REDACTED] }}

}}}

modelling to develop the relevant relationship between relative cost and relative market share.

As explained below, the failure to provide adequate support is particularly troubling where there appear to be illogical results in Mr. Hunt's work.

35. Mr. Hunt's truck-to-rail diversions are modelled based on an assumed decrease in the costs of the rail portion of an intermodal movement under the Transaction.³⁵ Accordingly, Mr. Hunt estimates both a pre-transaction and post-transaction rail cost for the rail portion of an intermodal move. He did not provide requested calculation details on how he determined these costs, which are only provided as hard-coded total amounts per ton for assumed pre-transaction and post-transaction operations.³⁶ The description he provided indicates these rail costs are derived from a combination of CN's URCS costs and R-1 data, and include the following five components:

- Variable non interchange costs per ton-mile
- Fixed non interchange costs per ton
- Variable interchange costs per ton-mile
- Fixed interchange costs per ton
- Drayage costs

36. Mr. Hunt apparently estimates each of these components for five different service types (which is a classification he does not explain), yielding the results shown in Table 5 below (he does not provide any figures for drayage costs).

³⁵ See CN's Application, at Hunt V.S., at page 17

³⁶ {{{[REDACTED]}}}

TABLE 5³⁷
REPRODUCTION OF MR. HUNT'S EXHIBIT B-4 {{{

[REDACTED]

}}}

37. These results are not intuitive and in some cases appear illogical. For instance, it is not clear why fixed costs per ton for rail interchanges are more than six-times higher for intermodal than liquid bulk movements. Nor is it clear why the variable interchange costs would change based on ton-miles, e.g., under Mr. Hunt's approach, it appears that a 1,000-mile move with an interchange in the middle of the move would have interchange costs that are ten-times as high as a 100 mile-move with an interchange in the middle of the move, even though the interchange operations in both cases would be exactly the same.

38. Because CN and Mr. Hunt's spreadsheet is hard-coded, it is only possible to observe the hard-coded pre-transaction and post-transaction rail costs shown in the limited output information provided and infer what is driving the differences between the two. Table 6 below summarizes key fields in Mr. Hunt's diversion workpaper for example records for truck movements between {{{[REDACTED]}}} where some portion is assumed to divert to railcars and some portion is assumed to divert to rail containers.

³⁷ See CN's Application, at Hunt V.S. at exhibit B-4

TABLE 6³⁸
EXAMPLE RECORDS FROM MR. HUNT'S TRUCK DIVERSION WORKPAPER
{{{

Global Market Analysis Report - Q3 2023											
Regional Performance						Product Line Analysis					
North America			Europe			Electronics		Software		Services	
Q3 Sales: \$1.2B			Q3 Sales: \$0.9B			Revenue: \$0.5B		Revenue: \$0.4B		Revenue: \$0.3B	
Profit Margin: 18%			Profit Margin: 22%			Units Sold: 1.5M		Subscriptions: 120K		Client Retention: 95%	
Market Share: 15%			Market Share: 12%			New Products: 5		New Features: 10		New Clients: 500	
Customer Satisfaction: 4.2/5			Customer Satisfaction: 4.5/5			Customer Feedback: Positive		Customer Feedback: Mixed		Customer Feedback: Excellent	
Competitor Analysis: Strong			Competitor Analysis: Moderate			Competitor Analysis: Weak		Competitor Analysis: Strong		Competitor Analysis: Moderate	
Future Outlook: Optimistic			Future Outlook: Cautious			Future Outlook: Pessimistic		Future Outlook: Optimistic		Future Outlook: Cautious	
Risk Assessment: Low			Risk Assessment: Medium			Risk Assessment: High		Risk Assessment: Low		Risk Assessment: Medium	
Recommendations: Diversify			Recommendations: Consolidate			Recommendations: Innovate		Recommendations: Expand		Recommendations: Retain	

$$\}}}$$

39. The records summarized in Table 6 indicate certain truck and rail total cost figures, as well as total truck volumes on the lane, and what portion is assumed to divert either to railcars or intermodal containers. For example, in {{{[REDACTED]}}} above, {{{[REDACTED]}}} tons of {{{[REDACTED]}}} are estimated as currently moving trucks between {{{[REDACTED]}}}, and of these, {{{[REDACTED]}}} tons are assumed to divert to rail carload service, which Mr. Hunt converts to represent {{{[REDACTED]}}} railcars.

{}{}{} [REDACTED]

38 {{{ [REDACTED] }}}}

40. Due to the limited nature of the information provided in the workpapers, and the overview explanations in Mr. Hunt's statement, it is not possible to know how Mr. Hunt estimated costs nor derived diversion rates from the changes in these costs. The provided information does not indicate what service type assumptions a given lane uses when building up costs (e.g., intermodal, liquid bulk, auto, etc.), which would assist in trying to understand Mr. Hunt's results, nor does it identify what causes Mr. Hunt to determine whether the volumes currently being moved by truck movement will divert to a railcar or to a intermodal container. As shown in the example records in Table 6 above, the same commodities on the same lanes sometimes divert to railcars and sometimes divert to intermodal containers with no explanation provided as to what drives this different treatment. For those truck movements that inexplicably divert to rail cars³⁹, it is unclear whether Mr. Hunt has included any cost for transloading between the truck dray and railcar portions of the rail intermodal move. For those truck movements that inexplicitly divert to rail intermodal containers, it is likewise unclear whether, and if so, how, Mr. Hunt developed and applied costs for intermodal lifts (and whether these costs are any different than costs applied for railcar transloading, which presumably they should be since an intermodal lift and a railcar transload are two distinct operations).⁴⁰

³⁹ {{{

}}}

⁴⁰

41. On average, Mr. Hunt estimates a {{{[REDACTED]}}} reduction in costs per rail car and a {{{[REDACTED]}}} reduction in costs per rail container for the post-transaction costs compared to the pre-transaction costs.⁴¹ Based on the limited information Mr. Hunt provided, it is reasonable to infer that the cost reductions are largely (and possibly exclusively) due to eliminating interchange costs between IANR and CN under the Transaction. For example, eliminating fixed costs of an interchange for a 15-ton intermodal container would apparently yield a {{{[REDACTED]}}} reduction under Mr. Hunt’s approach, and eliminating the variable costs of an interchange assuming this container travelled 750-miles would apparently yield an additional {{{[REDACTED]}}} reduction.⁴² This is {{{[REDACTED]}}}.⁴³ Similarly, for example, eliminating the fixed costs of an interchange for a 80-ton rail car carrying “dry bulk” would apparently yield an {{{[REDACTED]}}} reduction under Mr. Hunt’s approach, eliminating the variable costs assuming this rail car travelled 500-miles would apparently yield an additional {{{[REDACTED]}}}.⁴⁴ This is{{{ [REDACTED]

$$^{41} \left\{ \left\{ \left\{ \right. \right. \right.$$

⁴² {{{}}}

⁴³ 15 tons x \$15.34 Intermodal Fixed IC Costs per ton = {{{[REDACTED]}}} reduction in fixed interchange costs.

750 miles x 15 tons x \$0.002 Intermodal Variable IC Costs per ton-mile = {{{[REDACTED]}}} variable interchange costs

$\{\{\{\text{[REDACTED]}\}\}\}$

44 { { {

⁴⁵ 80 tons x \$1.96 Dry Bulk Fixed IC Costs per ton = {{{[REDACTED]}}} reduction in fixed interchange costs.

500 miles x 80 tons x .002 Dry Bulk Variable IC Costs per ton-mile = {{{[REDACTED]}}} variable interchange costs

interchange costs

42. Mr. Hunt explains that his model translates this decrease in rail cost to an increase in the intermodal share of volumes in a corridor, thus diverting volumes from truck to rail.⁴⁶ It follows that if this decrease in costs does not occur, volumes would not divert, and if a lesser decrease in costs occurred, lesser volumes would divert. In other words, to the extent Mr. Hunt's figures have any meaning, it must be supposed that CN will be able to achieve the cost savings at the stated levels.

43. This raises an important question: how does CN plan to achieve these cost savings? As explained above, CN's operating plan identifies no meaningful changes to how CN and IANR would exchange cars in manifest operations post-transaction. IANR's average cost per car movement is approximately {{{[REDACTED]}}}^47, and CN's average interchange cost according to its 2021 URCS is approximately \$20 for an intermodal flat car movement carrying multiple containers and \$43 for a carload.⁴⁸ To achieve the savings of around {{{[REDACTED]}}} per car, nearly half of the costs of current operations moving traffic between IANR and CN would need to be eliminated to achieve the level of cost reductions required to achieve the diversions modelled by Mr. Hunt.

44. It is possible that CN may seek to achieve these diversions by transforming IANR's operations to more closely resemble those of its own system, but that would require significant cost cutting. For instance, as of 2022, CN's operating ratio was 60.0 and IANR's operating ratio was {{{[REDACTED]}}}.⁴⁹ Applying this difference in operating ratios to the average

⁴⁶ See CN Application, at Hunt V.S. Statement, at page 23. ("The Oliver Wyman truck-to-rail diversion model is a logistics regression model that predicts how truck-rail market share will change based on changes in the cost differential between truck and rail.")

⁴⁷ {{{[REDACTED]}}}

⁴⁸ {{{[REDACTED]}}}

⁴⁹ {{{[REDACTED]}}}

current cost of an IANR movement would produce a savings of {{{[REDACTED]}}}.⁵⁰ Assuming some savings to the current interchange costs on the CN side as well, this is {{{[REDACTED] [REDACTED]}}} required to obtain the diversions under Mr. Hunt's model. However, it also appears that this would require significant cost cutting to IANR's operations, which would presumably also result in reduced service compared to existing operations. This cost cutting and operational change, in turn, would make the predicted diversions more difficult to achieve.

45. Supposing the cost reductions were achieved, it still appears that Mr. Hunt's model is unrealistically sensitive to the posited reductions in costs. Specifically, his model implies that truck shippers would transfer {{{[REDACTED]}}} of volumes to intermodal rail service as a result of only minimally changed cost differentials between rail and truck. Table 7 below summarizes Mr. Hunt's predicted diversions from truck to rail intermodal service.

⁵⁰ {{{[REDACTED]}}}

TABLE 7⁵¹
MR. HUNT'S ANALYSIS OF COST DIFFERENTIALS FOR
TRUCK-TO-INTERMODAL RAIL SERVICE DIVERSIONS

[illegible]
$$\}}}$$

When unpacked, the information in Table 7 shows Mr. Hunt's model assumes that {{{[REDACTED]}}} of volumes in the corridor will divert from truck to rail containers (on lanes where {{{[REDACTED] [REDACTED] [REDACTED]}}}) as a result of rail costs (which are already {{{[REDACTED]}}} below truck costs) decreasing by only a {{{[REDACTED]}}}.

46. Similarly, Table 8 below summarizes Mr. Hunt's predicted diversions from truck to carload rail service.

51 {{{ [REDACTED] }}}}

TABLE 8⁵²
MR. HUNT'S ANALYSIS OF COST DIFFERENTIALS FOR
TRUCK-TO-CARLOAD RAIL SERVICE DIVERSIONS

[illegible] $\} \} \}$

When the information in Table 8 is unpacked, it shows that the portion truck volumes Mr. Hunt diverts to rail cars is unrealistically high. Mr. Hunt's model assumes that {{{[REDACTED]}}} of volumes in the corridor will divert from truck to railcars as a result of rail costs (which are already {{{[REDACTED]}}} decreasing by {{{[REDACTED]}}})

47. Further illustrating the irrationality of Mr. Hunt's diversion estimates is the fact that there are no consistent relationships between the modeled improvement in the cost differential between truck and intermodal rail service and the modeled amount of traffic that Mr. Hunt forecasts would be diverted. As observed in Mr. Hunt's workpapers, for much of the traffic he studied, the percentage of traffic diverted to rail intermodal {{{ [REDACTED] [REDACTED] [REDACTED] }}}. In other words, the

52 {{{ [REDACTED] }}}}

{{{[REDACTED]}}} the cost advantage of rail, the {{{[REDACTED]}}} traffic would be diverted, and the {{{[REDACTED]}}} the cost advantage of rail, the {{{[REDACTED]}}} would be diverted. This is depicted in Figure 3 below.

FIGURE 3⁵³
THE RESULTS OF MR. HUNT'S UNEXPLAINED DIVERSION MODELLING SHOWS DIVERSION
PERCENTAGES GOING DOWN AS RAIL'S COST DIFFERENTIAL IMPROVES

{{{

[REDACTED]

}}}

48. As Figure 3 illustrates, for example, Mr. Hunt sometimes diverts up to {{{[REDACTED]}}} of truck traffic that showed {{{[REDACTED]}}} in the cost differential of rail service relative to truck, while other times he diverts{{{[REDACTED]}}} of traffic that exhibited{{{[REDACTED]}}} in its cost differential

⁵³ {{{[REDACTED]}}}

relative to truck. Figure 3 also depicts a strange phenomenon where diversion percentages for various lanes appear to follow curves exhibiting decreasing diversion percentages as a function of increasing improvements to rail's cost differential. While Mr. Hunt may presumably have details that explain these anomalous observations, no such details have been provided in this proceeding. Accordingly, the diversion amounts he estimates are best understood at present as arbitrary and effectively random.

2. Rail to Rail Diversions

49. For rail-to-rail diversions, Mr. Hunt predicts over 10,000 annual rail units diverting to CN on the basis of lower “impedance” (which is described as a measure of cost and service combined), although it is likewise not clear there will be any meaningful changes to cost or service compared to existing IANR-CN operations.⁵⁴ If these cost and service improvements on which the diversions are based are not realized, which seems likely given how counter-intuitive many of the diversions appear and the disconnect between the modelling assumptions and the described post-transaction operations, either the anticipated diversions would not be realized or they would call into question whether the Transaction had given CN increased market power.

50. For rail-to-rail diversions, the only information provided is a summary of the lanes and hard-coded figures indicating whether all or none of the traffic on that lane diverts to a CN-IANR route.⁵⁵ Presumably this was determined by adding up the so-called “impedance” Mr. Hunt calculated for the alternative route options, although no such detail showing how this was performed is available. However, the provided workpaper details do allow for observing the

⁵⁴ See CN Application, at Hunt V.S., at page 2

⁵⁵ {{{ [REDACTED] }}}
[REDACTED] }}

specific lanes which Mr. Hunt predicts will divert. These diversions can be summarized as falling in the following four categories in roughly equal shares.

TABLE 9⁵⁶
SUMMARY OF MR. HUNT'S RAIL TO RAIL DIVERSIONS
{}{}{}

[illegible]

} } }

51. The first category of traffic terminating on {{{ [REDACTED] [REDACTED] [REDACTED] }}}} seems suspect because Mr. Hunt did not divert any traffic originating from {{{ [REDACTED] [REDACTED] [REDACTED] }}}}.

[REDACTED]

[REDACTED] }}}}. Moreover, the majority of railcars he diverts are {{{ [REDACTED] [REDACTED] [REDACTED] [REDACTED] }}}}.

[REDACTED] }}}, many of which may represent {{{ [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] }}}}.

[REDACTED] }}}}.⁵⁷

52. For traffic in the second category heading {{{[REDACTED]}}}, it is not clear why the {{{[REDACTED]}}} route under combined operations would be meaningfully improved relative to the existing IANR-CN interline option (or the alternative {{{[REDACTED] [REDACTED] [REDACTED]}}}) routes to {{{[REDACTED]}}} currently available. The limited operational changes described by CN in how it would exchange traffic post-transaction with IANR, along with IANR's current ability to provide high levels of service in its linehaul and

56 { { { [REDACTED] } } }

57 { { { }

interchange operations⁵⁸, indicates CN will need to improve its *own operations* to attract this traffic under the Transaction, which it does not need the IANR transaction to accomplish.

53. {{{[REDACTED]}}} of the diverted traffic in the third category is moving to {{{[REDACTED]}}}. It is likewise not clear why, given the limited operational changes discussed above, a post-transaction {{{[REDACTED]}}} route would be any better than the current CN-IANR route and likely to attract all of the traffic on this lane.

54. Over {{{[REDACTED]}}} of the traffic in the fourth bucket of other miscellaneous diversions are {{{[REDACTED]}}}.⁵⁹ For revenue empty moves, the prior carrier handling the car and the location where that car was last placed are more likely to dictate the routing, rather than this traffic being viewed as a market opportunity to target for diversions.

55. In summary, there are reasons to suspect the validity of each of the four categories of diversions predicted by Mr. Hunt.

56. It is likely that the questionable diversion results are driven by Mr. Hunt's unrealistic modeling exercises. Specifically, diverted volumes are predicated on an assumed reduction in so-called "impedance" that is set equal to the cost and service equivalent of a 350-mile rail move for interchange at Waterloo, IA and a 550-mile rail move for interchange at Cedar Rapids, IA. Other interchanges have impedances set between 350- and 650-miles depending on daily volume assumptions, although no information is provided how this calculation has been

⁵⁸ {{{[REDACTED]}}}

⁵⁹ {{{[REDACTED]}}}

performed (neither is there any information identifying the impedance set for Manly, IA).⁶⁰ The assumed junction impedance is then added together with the rail distance of the move to determine total impedance, and qualifying moves where the post-Transaction CN-IANR route has lower impedance than the existing route are diverted.⁶¹ Since Mr. Hunt did not provide the impedance figures he developed either for pre-transaction IANR-CN routes, post-transaction IANR-CN routes, or other routes, it is not possible to fully understand how he performed his calculations determining whether traffic would divert or not, although he does explain that he will divert traffic when the post-transaction IANR-CN route has the lowest impedance provided it also satisfies all other qualifying criteria. This appears to mean, for example, a qualifying move on a current non-CN route of 500-miles interchanged to IANR at Cedar Rapids, IA would be diverted to a post-Transaction CN-IANR route that is 1,049-miles long.⁶² It is hard to imagine how CN-IANR operations that would be at best marginally improved post-transaction would make a CN-IANR route like this over twice as long preferable.

57. The cost and service improvements implied by Mr. Hunt's 350- to 550- mile impedance assumptions are substantial and unrealistic. To put this in some perspective, URCS mileage related variable costs just for the GTM and LUM components (which are both mileage-related) are \$2.27 per mile for an typical representative rail car diversion move according to CN's 2022 URCS (this includes the loaded and empty moves).⁶³ This suggests that the basis for

⁶⁰ See CN Application, at Hunt V.S, at Exhibit C-2

⁶¹ See CN Application, at Hunt V.S, at Exhibit C-2

⁶² 500 miles in rail distance + 550 miles in junction impedance = 1,050 current route impedance. 1,049 miles in rail distance + 0 miles in junction impedance = 1,049 post-Transaction CN-IANR route impedance.

⁶³ See CN Application, at Hunt V.S, at Exhibit C-2. I develop this figure using a {{{ [REDACTED] } }}, which is representative of a typical diversion predicted by Mr. Hunt. {{{ [REDACTED] } }}}

the volumes diverting is an assumed cost reduction between approximately \$794 and \$1,248⁶⁴ per carload all else equal.⁶⁵ Alternatively, if the impedance reduction is viewed in terms of service improvements, CN's 2022 URCS shows that a car on CN's network on average travels 772 miles per day. Thus, the 350- to 550- miles impedance range assumption implies the CN would eliminate around 0.9 to 1.4 days of roundtrip transit time as a result of the Transaction in order to achieve these diversions.⁶⁶ CN's Minor Operating Plan, however, does not provide any information indicating how such cost reductions or service improvements would be achieved. Instead, as explained above, the diverted rail traffic would travel under similar operations post-Transaction as it would travel today. To the extent the diversion traffic moves in unit trains, it is equally unclear how the exchange of a unit train between IANR and CN lines would be significantly improved under the Transaction than is already currently possible without the combination.

⁶⁴ $\$2.27 \times 350\text{-miles impedance} = \794 . $\$2.27 \times 550\text{-miles impedance} = \$1,248$. {{{ [REDACTED] }}}

⁶⁵ Estimated savings for diversion traffic in unit trains under run-through operations are nowhere close to this level. The cost in 2022 URCS for CN and IANR to interchange a car in round-trip unit train service is approximately \$53. {{{ [REDACTED] }}}

⁶⁶ $350\text{-miles} \times 2 \text{ (for empty and loaded trip)} / 772\text{-miles per day} = 0.9$. $550\text{-miles} \times 2 \text{ (for empty and loaded trip)} / 772\text{-miles per day} = 1.4$. {{{ [REDACTED] }}}

VERIFICATION

I, Nathaniel S. Zebrowski, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Further, I certify that I am qualified and authorized to file this statement.

Executed on this 29th day of April, 2024.

A handwritten signature in dark ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right, positioned above a solid horizontal line.

Nathaniel S. Zebrowski

**VERIFIED STATEMENT OF
NATHANIEL S. ZEBROWSKI**

EXHIBIT A

**CN'S RESPONSES AND OBJECTIONS TO
CANADIAN PACIFIC KANSAS CITY LIMITED'S
FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS**

[REDACTED]

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET No. FD 36744

**CANADIAN NATIONAL RAILWAY COMPANY
AND GRAND TRUNK CORPORATION
—CONTROL—**

IOWA NORTHERN RAILWAY COMPANY

EXHIBIT 3

**VERIFIED STATEMENT OF
W. ROBERT MAJURE, PH.D.**

BEFORE THE SURFACE TRANSPORTATION BOARD

Finance Docket No. 36744

**CANADIAN NATIONAL RY. AND GRAND TRUNK CORP.– CONTROL –
IOWA NORTHERN RY.**

VERIFIED STATEMENT OF W. ROBERT MAJURE, PH.D.

April 29, 2024

1. QUALIFICATIONS AND ASSIGNMENT

1. My name is W. Robert Majure. I am a Vice President at Cornerstone Research. Prior to joining Cornerstone Research, I worked for approximately 25 years in the Antitrust Division of the U.S. Department of Justice (“DOJ”) as an economist, Assistant Section Chief, Section Chief, and ultimately as the Director of Economics.
2. I earned my Ph. D. in Economics from Massachusetts Institute of Technology in 1994 and a B.A. from the University of Virginia in 1990. My main area of expertise is the economics of industrial organization — particularly issues of competition.
3. While at the DOJ, I performed and supervised economic analyses of competition issues in various industries including transportation, telecommunications, banking, computer software and hardware, heavy industry, mining and drilling, healthcare, entertainment, and railroads. I submitted testimony on competitive effects in the merger of the Union Pacific and Southern Pacific Railroads and on the suitability of remedy in *U.S. v. SBC Communications Inc. and AT&T Corp.* and *U.S. v. Verizon Communications Inc. and MCI, Inc.* I also served on the committee that drafted the 2010 Horizontal Merger Guidelines. I received awards for my work at the DOJ, including Presidential recognition for my contributions as a senior executive of the civil service.
4. After retiring from the DOJ, I have testified in several matters including the merger of the Canadian Pacific and Kansas City Southern Railroads.
5. A copy of my *curriculum vitae* is attached as Appendix A.
6. I have been asked by counsel for Canadian Pacific Kansas City (“CPKC”) to explain the difference between horizontal and vertical competitive effects in the rail industry.
7. I have also been asked by counsel to examine the likely impact on competition of the proposed acquisition of Iowa Northern Railway Company (“IANR”) by Canadian National Railway Company and Grand Trunk Corporation, collectively (“CN”). I have been asked by counsel for CPKC to evaluate whether the Application’s discussion of certain limited forms of potential competitive effects provides an adequate basis for determining

“whether the Proposed Transaction would substantially lessen competition” and to provide an assessment of those effects based on a broader set of available information.¹

2. SUMMARY OF OPINIONS

8. I conclude that the various arguments on which Applicants rely are inadequate and are conceptually flawed.

- Applicants’ approach to identifying competition that could possibly be affected is inconsistent with the ordinary practice of the Board in examining the competitive effects of railroad mergers and, consequently, fails to consider forms of competition between the merging parties that modern competition economics would recognize (Section 5.1).
- I find that Applicants’ approach would also miss significant rail competition effects because it fails to properly consider the relevant competitors.
 - » First, it **undercounts** the competition at risk of a lessening as it dismisses situations in which CN and IANR may not serve the same facility but still offer competition to one another from nearby service (Section 5.2).
 - » Second, it **overcounts** the competition they may face after the acquisition as it includes options that rail shippers likely do not consider relevant (Section 5.3).
- When considered properly, it is my opinion that the proposed acquisition would likely result in a substantial lessening of competition. Relying upon Mr. Zebrowski’s analysis of the Confidential Waybill data and all supplemental data provided through discovery and in the April 12 response, I find that the errors in their approach have indeed led the Applicants to miss significant potential anticompetitive effects of the proposed acquisition (Section 5.4).
- The Applicants’ claims of efficiency do not present a cognizable justification and do not appear to offset the lessened competition. (Section 5.5).

¹ *Canadian National Railway Company and Grand Trunk Corporation – Control – Iowa Northern Railway Company*, Finance Docket No. 36744 (Decision No. 2, decided March 29, 2024), (“STB Decision No. 2”).

- Finally, the horizontal competitive effects that Applicants’ analysis fails to reliably identify are of a type that Applicants’ proposed remedy – an open gateway commitment – is not designed to address. In order to preserve competition, the Board would need to impose a remedy that is more suited to preserving the incentives of competition, such as trackage or haulage rights (Section 6).
9. Consequently, the Applicants have not given the Board a reliable basis to conclude that the proposed acquisition poses no competitive risk, despite their claims.

3. BACKGROUND

10. Canadian National Railway Company (“CN”) and Iowa Northern Railway Company (“IANR”) submitted to the Surface Transportation Board (“STB”) their application for change of control of IANR on January 30, 2024.² CN is proposing to gain control of IANR, a Class III carrier operating approximately 218 route miles in the state of Iowa.³ IANR serves 59 stations over its lines.⁴ It serves over 100 customers and handles around 60,000 cars per year.⁵ Most of the goods that travel on IANR are exchanged to other carriers, like CN, CPKC, and Union Pacific (“UP”), though some are transported locally.⁶ IANR “serves 20 grain elevators, two ethanol plants, two mineral processing facilities, and transports other commodities such as fertilizer, farm machinery, food, chemicals, and lumber.”⁷ In particular, IANR services chemical and biofuel facilities.⁸ Iowa contributes to global ethanol production with over 40 ethanol refineries and is among the top producers of corn and soybeans in the United States.⁹

² Before the Surface Transportation Board, Finance Docket No. 36744, Application, January 30, 2024 (“Application”).

³ Application, p. 1.

⁴ Before the Surface Transportation Board, Finance Docket No. 36744, Verified Statement of David T. Hunt, January 30, 2024 (“Hunt Statement”), Exhibit 6-1.

⁵ Application, p. 3.

⁶ Application, p. 3.

⁷ Application, p. 3.

⁸ Application, p. 3.

⁹ {{

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11. IANR describes itself as a leader with “high service levels, intense attention to customer needs, and deep knowledge of the regional agricultural marketplace.”¹⁰ IANR distinguishes itself from Class I railroads by offering other services, like boutique service and explicitly neutral connections with other railroads and access to efficient transloading facilities. IANR describes these attributes to a potential customer as an “advantage of having a house on IANR vs on a Class 1 carrier.”¹¹ IANR continues to grow in importance and volume in the region.¹²
12. CN is an international Class I railroad that provides similar services in Iowa to the originating and terminating service IANR offers to shippers. CN also serves many of the same endpoints that CPKC or UP offer for shippers into or out of Iowa.
13. Exhibit 1 is a map that indicates the tracks of the various railroads in Iowa around the portion of Iowa where CN and IANR overlap. It shows that IANR’s principal route runs from Cedar Rapids through Cedar Falls to Manly, with a branch line between Cedar Falls and Oelwein. Additionally, there is a distinct line between Belmond and Forest City that is connected to the rest of the IANR system via trackage rights on CPKC.¹³

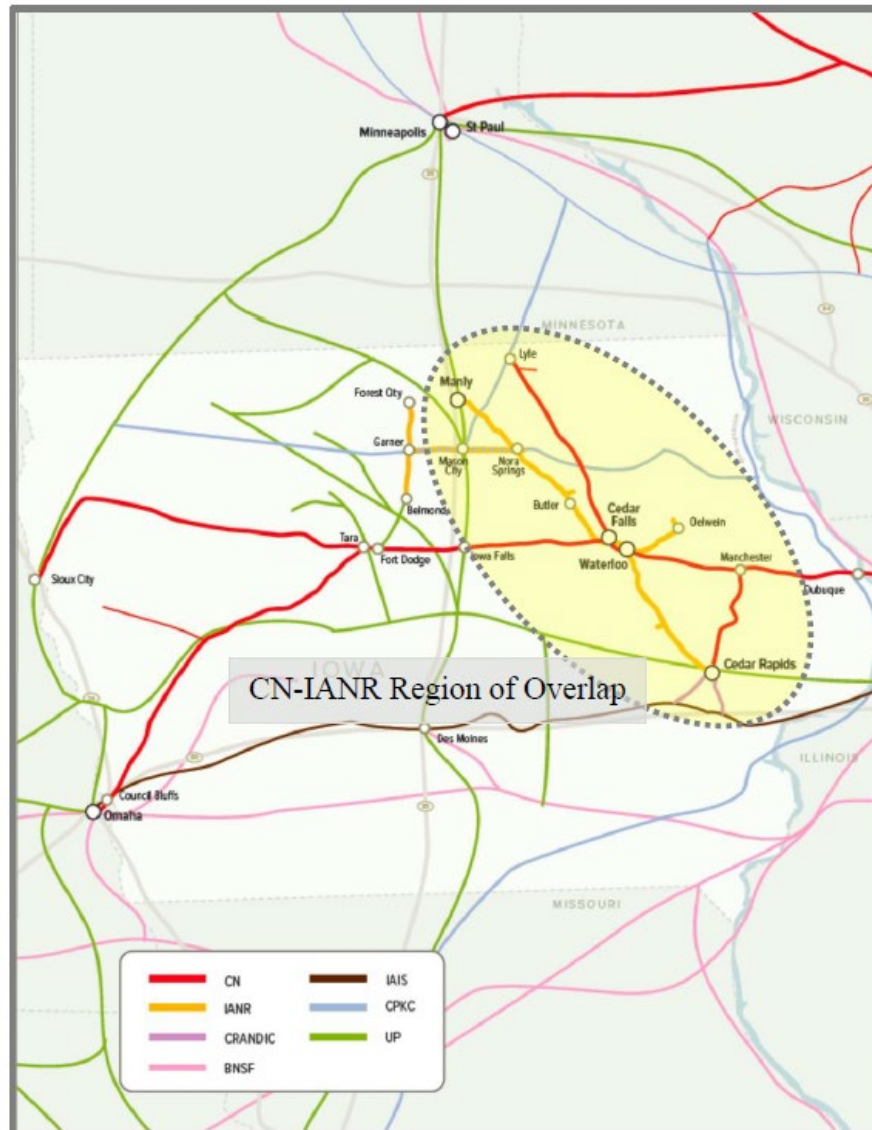
¹⁰ {{ [REDACTED] }}
([REDACTED])

¹¹ {{ [REDACTED] }}
[REDACTED] CPKC further recognizes this difference. Second Verified Statement of Jon Harman, *Canadian National Railway Company and Grand Trunk Corporation – Control – Iowa Northern Railway Company*, Finance Docket No. 36744, April 29, 2024 (“Harman Statement”), p. 8–9. (“IANR has been a successful and growing railroad serving east-central Iowa. It is known for unique attributes that has made it attractive to customers and a successful competitor. One of those attributes is its superior service. Another is IANR’s willingness and ability to provide boutique services to various customers, including frequent switching, breaking apart trains from Class I carriers and moving smaller blocks in and out of the customer facilities.”).

¹² Harman Statement, p. 4. (“IANR’s traffic and importance has grown over time. Looking back to 1994, IANR handled 15,000 revenue cars annually and its average track speed was under 10 mph. The railroad has invested millions in bringing its lines up to a state of good repair while increasing reliability and customer service. IANR now handles more than 60,000 cars per year, serving 20 grain elevators, two ethanol plants, two mineral processing facilities, and handles other commodities such as fertilizer, farm machinery, food, chemicals, lumber, and more.”)

¹³ Verified Statement of Daniel R. Sabin, *Canadian National Railway Company and Grand Trunk Corporation – Control – Iowa Northern Railway Company*, Finance Docket No. 36744, January 30, 2024 (“Sabin Statement”), p. 2. (“Today, Iowa Northern is a diversified operation that handles more than 60,000 cars per year... over an upgraded and well-maintained main line between Manly and Cedar Rapids, Iowa, a branch line between the main line at Cedar Falls and Oelwein, and a branch line between Belmond and Forest City, which we reach by trackage rights off the main line at Nora Springs.”).

EXHIBIT 1
Existing IANR network



Source: Harman Statement, p. 4.

14. As can be seen in Exhibit 1, large portions of IANR's operations appear to be close to a parallel service operated by CN. For example, both route maps include segments radiating out from Cedar Falls. The maps suggest that shippers are likely to see the two as offering competitive alternatives to one another for movements originating or terminating in a significant portion of the state.

15. Nevertheless, CN and IANR assert that the transaction “will not have any anticompetitive effects.”¹⁴ On February 26, 2024, CPKC submitted a comment to the STB identifying from the choices of shippers reflected in the Confidential Waybill data and IANR’s traffic summaries that CN and IANR are likely the most important competitive options for shippers of particular commodity types into and out of certain counties in Iowa.¹⁵
16. The STB’s March 29 decision confirmed that the STB must determine “either: (1) the transaction clearly will not have any anticompetitive effects; or (2) any anticompetitive effects of the transaction will clearly be outweighed by the transaction’s anticipated contribution to the public interest in meeting significant transportation needs.”¹⁶ The decision also clarified that concerns about the competitive effect of the proposed transaction which had been raised by CPKC and IAIS “warrant further and careful exploration.”¹⁷
17. CN and IANR responded to the Board’s request for further material on April 12, 2024, but did not update their competition analysis.
18. The April 12 response continues to assert the two primary arguments set forth in the Application for why Applicants deem competition unlikely to be harmed.¹⁸ First, they assert that “there are no two-to-one locations—i.e., no shipper has access exclusively to both CN and Iowa Northern.”¹⁹ While the Applicants recognize that their approach would identify some three-to-two locations (and even added another such location in their April 12

¹⁴ Application p. 6.

¹⁵ Verified Statement of Nathaniel S. Zebrowski, *Canadian National Railway Company and Grand Trunk Corporation – Control – Iowa Northern Railway Company*, Finance Docket No. 36744, Comment on Proposed Classification of Transaction as Minor, February 26, 2024 (“Zebrowski Statement, February 26, 2024”), p. 1 (“I observe from the data that CN and IANR originate and terminate traffic of the same commodity groups within the same counties and that there are many cases where CN and IANR participate in alternative routes for movements to and from the same regions.”).

¹⁶ STB Decision No. 2, p. 2.; Note that the STB clarified in this same decision that this standard applies regardless of a transaction’s classification. *See* STB Decision No. 2, p. 8 (“Regardless of whether the Proposed Transaction is classified as “minor” or “significant,” the standards for approval of the transaction and for the potential imposition of conditions remain the same.”).

¹⁷ STB Decision No. 2, p. 8. (“Indeed, although the Proposed Transaction is classified as minor, the assertions made by CPKC and IAIS warrant further and careful exploration.”).

¹⁸ CN also makes claims that the proposed acquisition would reduce its costs of interconnecting with IANR and asserts that traffic could be diverted from trucks because of this increased efficiency.

¹⁹ Application, p. 18; Applicants’ Supplement in Response to Decision No. 2, *Canadian National Railway Company and Grand Trunk Corporation – Control – Iowa Northern Railway Company*, Finance Docket No. 36744 (“CN, IANR Response”), April 12, 2024, p. 1. (“The Transaction would result in no two-to-one customer locations.”).

response),²⁰ they continue incorrectly to assert these do not matter – that a “lessening of competition” can only be found in a complete elimination of competition.²¹ Second, they assert that CN’s commitment to maintaining “existing active gateway access on commercially reasonable terms” addresses any competition with other railroads.²²

4. HORIZONTAL VERSUS VERTICAL COMPETITION EFFECTS

19. Economists typically identify mergers as having a horizontal or vertical nature. Mergers have a horizontal nature when they combine ownership of products that customers consider substitutes for one another. Mergers have a vertical nature when they combine two entities that jointly produce a product or service (often with one selling an input to the other, but also in cases where each sells a component that a customer needs to combine into the overall service such as two parts of an interline rail movement). Economists find this distinction useful as the theories of harm to competition and the nature of competitive effects typically differ between mergers with a horizontal or a vertical nature. Railroad mergers have the potential to be horizontal, vertical, or both.²³

20. The Board also recognizes this distinction.²⁴ It describes horizontal effects as arising where “applicant carriers currently offer competing service within a defined market,” and vertical effects as arising where “the merging parties

²⁰ CN, IANR Response, p. 11. (“The Application identified three customer locations that would go from having access to three railroads to two as a result of the proposed Transaction.”).

²¹ CN, IANR Response, pp. 12–13. (“Approval of the proposed Transaction would make these four customers three-to-twos... As such, all four customers will continue to have access to multiple rail options after the Transaction.”).

²² Application, p. 7; CN, IANR Response, p. 1.

²³ *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company — Control and Merger — Southern Pacific Rail Corporation*, Finance Docket No. 32760 (Decision No. 44, decided August 6, 1996) (“Docket No. 327620, Decision No. 44”), pp. 364–365. (“We evaluate whether effects are horizontal or vertical in nature or whether both types of effects are present.”).

²⁴ In some cases, it may refer to horizontal effects as “parallel” and to vertical effects as “end-to-end.” *Railroad Consolidation Procedures: Class Exemption for Transactions Subject to the Statutory Consolidation Provision*, Ex Parte No. 282 (Sub-No. 15), 1992 LEXIS 149 at *11-12 (ICC Served July 13, 1992). (“Railroad consolidations may involve competitive problems that can be identified in terms of parallel and end-to-end effects....Parallel effects may arise where the consolidating railroads run between common origin/destination pairs or corridors and generally involve the question of whether there is a reduction in the number of rail competitors serving transportation markets. End-to-end effects may exist where the consolidating railroads serve common destination points from different origins, or originate from common origins to different destinations, and these effects relate primarily to whether there will be a reduction in source competition or a vertical foreclosure of competition at commonly served gateways.”).

connect end-to-end or form alternative routings for interline movements in which a single railroad controls a 'bottleneck' at origin or destination.”²⁵

21. In recent mergers, the Board has been confronted with the potential for vertical effects. It has resolved these issues often with open gateway commitments. However, this case presents merger issues that are primarily horizontal in nature.
22. Horizontal effects derive from the loss of an incentive to compete as we normally think of it: a head-to-head rivalry to win business creates incentives for firms to lower their own costs, to drive their prices closer to those costs, and to invest in the quality of their product.²⁶ Without such incentives, firms deliver fewer of these benefits to their customers.
23. While these horizontal concerns may not have been before the Board in recent years, their analysis in a railroad context is well established, as I discuss in Section 5. As I discuss in Section 6, remedies to horizontal merger effects require different considerations than do remedies to vertical merger effects. The open gateway commitment that CN has made will not suffice to avoid competitive harms from the loss of horizontal competition arising from the proposed Transaction.

5. FRAMEWORK OF HORIZONTAL COMPETITION ECONOMICS IN RAILROADS

24. I show in this section that CN’s approach to identifying horizontal competition among railroads (or the lack thereof) departs from the usual analysis of horizontal railroad competition analysis and from the Board’s past guidance in several important ways. Their methodology is prone both to undercounting the instances of competition between CN and IANR that shippers would lose because of the acquisition and to overcounting the remaining competitive options shippers would have after the acquisition. When properly considered, the proposed acquisition would likely result in substantial loss of competition. Furthermore, the claims of improved

²⁵ *Canadian Pacific Railway Limited — Control — Kansas City Southern*, Finance Docket No. 36500 (Decision No. 35, decided March 14, 2023) (“Docket No. 36500, Decision No. 35”), p. 19.

²⁶ Docket No. 327620, Decision No. 44, p. 365; Docket No. 36500, Decision No. 35 (“These effects can range from loss of direct, head-to-head competition between two railroads serving the same origin/destination pair to loss of geographic competition between railroads, as would occur if each of the merging parties exclusively serves a different competing port from the same origin.”).

competition are unlikely to be cognizable. As a result, CN fails to properly account for the horizontal effects of the merger.

5.1. CN's approach departs from the usual analysis of horizontal competition in the Board's review of horizontal rail mergers

25. In the Board's past reviews of rail mergers, the analysis of competition effects has largely followed a common process. For example, I implemented these steps when I analyzed CP's combination with KCS. The other competition economists have employed the same methods in prior proceedings.²⁷
26. The process uses distinct analytic steps to examine two broad categories of horizontal competition. The first category is competition within a rail corridor (i.e., the alternatives a shipper may have when looking to move a specific commodity from a specified origin to a specified destination). The second category is competition between corridors (i.e., a shipper looking for competition among locations to ship out the commodities it needs at a certain location or a shipper looking for competition among destinations for commodities it ships out of a location).
27. CN has not presented any examination of between-corridor competition. Between-corridor competition is generally analyzed by identifying the overall flows of particular commodities across the rail system and using the shares of shipments to a given destination from all sources (and respectively shares of shipments from a given origin to all destinations). One then examines these flows for the potential that merging railroads could control all viable sources (or destinations) for a shipper and if there are non-merging railroads available to discipline any such control. In their approach, CN identifies stations which are only served by IANR and concludes that

²⁷ See, e.g., Verified Statement of Curtis Grimm, *Norfolk Southern Railway Company - Acquisition and Operation - Certain Rail Lines of the Delaware and Hudson Railway*, Finance Docket No. 35873, Nov. 5, 2014 ("Grimm V.S., 2014"), pp. 5, 7. This screening analysis has been relied on by the Board in its past reviews of railroad acquisitions. See, e.g., *Norfolk Southern Railway Company - Acquisition and Operation - Certain Rail Lines of the Delaware and Hudson Railway Company, Inc.*, Finance Docket No. 35873 (Decision No. 6 served May 15, 2015), pp. 18–20; *Kansas City Southern et al. - Control - Gateway Western Railway Company and Gateway Eastern Railway Company*, Finance Docket No. 33311 (Decision served May 1, 1997), at pp. 4–5. Majure Statement before the Surface Transportation Board, October 29, 2021, ("Majure Statement"), Sections 4–5.

many shippers at those locations are served solely by IANR.²⁸ CN concludes that each of these locations cannot see a competitive effect, but in doing so ignores that shippers may consider alternative sources or destinations. Each of these locations may be in competition with one, or more, different CN-served locations.²⁹

28. CN's claim about there being no two-to-one facilities post-acquisition appears to be misapplying a concept that is part of the usual horizontal within-corridor analysis. While horizontal analysis does include counting the number of independent rail options for shippers in a corridor and it generally identifies two-to-one counts as the most likely to generate significant harm, it also considers not just stations but all locations a shipper could consider. CN ignores two important aspects of measuring competition and miscounts and misidentifies it as a result.
29. First, the process of defining a corridor ordinarily involves consideration of the various ways that nearby rail service can generate competition even if that service does not currently reach the same station. In prior railroad merger reviews, the Board specifically directed consideration of "elimination of shippers' buildout, transloading, plant siting, and production shifting choices when two railroads serving overlapping areas merge."³⁰ How competitive any one of these options may be will likely depend on a number of factors including how far away that nearby service is. That is, an option at the same station is likely more readily substitutable for a shipper (all else equal) than a service that is nearby and could be reached with some additional costs. How large those costs are relative to the business that shipper will do over the life of a contract (or over the life of an investment in reaching an alternative nearby line) affects how credible that nearby service is as a threat and, consequently, how much it can serve as a competitive discipline.
30. Second, the process of defining a corridor ordinarily recognizes that not all rail options from a given location are equally good for all shippers. Indeed, some are obviously not credible. Rational shippers would not route traffic

²⁸ See Hunt Statement, Exhibit 6-1. Hunt Statement, p. 13. ("The SCRS file contains 61 unique CIF IDs (customer identifications) served by IANR, of which 32 show IANR as the only serving railroad.").

²⁹ Application, p. 4. ("As explained herein, this Transaction would result in no two-to-one customer locations. In other words, there are no customers who have access only to CN and Iowa Northern.").

³⁰ See *Canadian National Railway Company, et al. – Control – Kansas City Southern, et al.*, Finance Docket No. 36514 (Decision No. 3 served May 17, 2021), at p. 4.

east out of Iowa to then turn north to go around the Great Lakes and finally run west across Canada to reach Winnipeg. Even though the interconnected nature of the North American rail system means that such a route could be drawn on a map, it is not one that is competitively relevant for shipments from Iowa to Winnipeg. Even among options that may seem plausible on a map, shippers may have a reason to disfavor a particular routing or one of the railroads in that routing may have reasons that service would be particularly costly to offer (e.g., opportunity costs of serving other shippers for whom the railroad is a more critical supplier). Simply counting all the options on a map at one end of a shipper's movement is not enough to assess the relevance of the options and will tend to overstate the number of rail options that shippers in any particular corridor can realistically turn to for competition.

31. Only in the most extreme cases will such nearby options be completely irrelevant to competition, as Applicants' approach would implicitly assume. At the same time, the farther away such options are, depending on the commodity and the shipper, the more likely that the competitive significance become attenuated – a phenomenon that is ordinarily incorporated into defining an appropriate endpoint for the corridors in which to analyze competition. That is why endpoints in the horizontal analysis reflect some area within which shippers can find nearby service competitive and do not restrict competition only to service literally to the customer's premises.
32. By only considering whether two competitors are present at a given shipper facility, the analysis Applicants have relied upon precludes any of the forms of nearby competition that the Board has typically considered. When CN implies that stations without more than one competitor cannot be harmed, they are likely to miss some significant degree of competition between CN and IANR in the region where they operate nearby one another.

5.2. CN's approach misses competition between CN and IANR and does not consider how the proposed acquisition affects shippers' next-closest option in such situations

33. The Board previously instructed in merger reviews to consider "elimination of shippers' buildout, transloading, plant siting, and production shifting

choices when two railroads serving overlapping areas merge.”³¹ These are all ways in which a shipper that may have only one railroad serving a facility could nevertheless benefit from competition offered by another railroad offering service nearby. If these are not properly considered, then one can incorrectly assume that there is no close competition when there is.

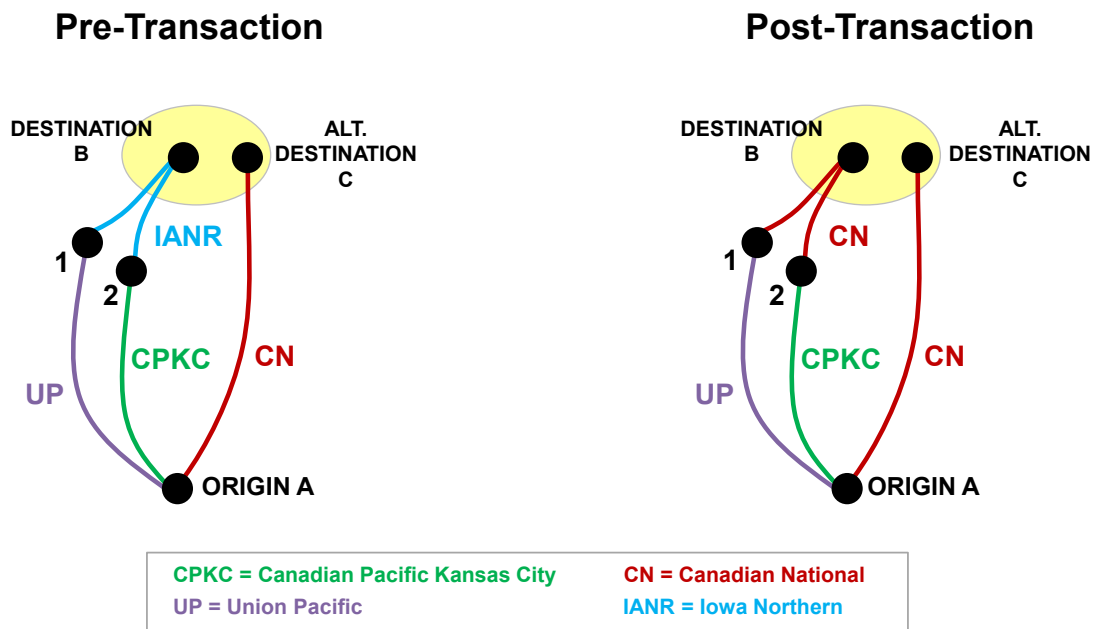
34. In Exhibit 2, I present a stylized version of an example scenario to illustrate the issues CN has left out of its analysis. It is loosely based upon shipments from the Gulf coast to Iowa, an example from the data which Mr. Zebrowski identified.³² In this example, shippers are looking at moving a product from Origin A to Destination B. The only railroad serving B directly is IANR. Exhibit 2 assumes that UP and CPKC, each working with IANR, are options to get the shipper’s product from A most of the way to B (UP interconnecting at Junction 1 and CPKC interconnecting at Junction 2). The facility is sole-sourced and as a result Applicants’ analytical approach would dismiss this facility and all the movements to it as experiencing no change in competition. However, in this example, there is an alternative Destination C that is served by a CN single-line. For example, shipments of ethanol would likely be loaded into trucks and might move from either B or C to a final destination or, if B is the final destination, might be transloaded from C to B.

³¹ See *Canadian National Railway Company, et al. – Control – Kansas City Southern, et al.*, Finance Docket No. 36514 (Decision No. 3 served May 17, 2021), at p. 4.

³² Expert Statement of Nathaniel S. Zebrowski, *Canadian National Railway Company and Grand Truck Corporation – Control – Iowa Northern Railway Company*, April 29, 2024, Finance Docket 36744, (“Zebrowski Statement, April 29, 2024”) at pp. 10–11.

EXHIBIT 2

The existence of theoretical options in the same local area does not fully protect shippers – the cost of reaching those options distinguishes them from the lost independent alternative



35. Applicants' approach, applied to this example, undercounts the competition between IANR and CN that could be affected by the proposed transaction. If the shipper can use delivery to Destination C in negotiations with IANR and either UP or CPKC for an A>B movement with any of the options the Board has identified for shippers to benefit from nearby competition, the Applicants' approach will miss that competition and fail to include it in any assessment of the transaction's effect on shippers. Recognizing that a transload option, for example, is a non-rail connection is one way to see that CN has an effective ability to serve Destination B that Applicants' approach of only counting existing rail connections would miss.

36. The usual approach to analyzing horizontal rail competition generalizes the variety of ways a shipper can induce competition with nearby rail service by defining a larger endpoint than the specific customer premises. In Exhibit 2, that larger endpoint is represented by the peach region around Destination B. In practice, this region might be defined using the Bureau of Economic Analysis's Economic Areas ("BEAs") or some other similar geography. The point of that definition is to incorporate options like the C>B transload and include in the analysis nearby service as a potential competitive constraint

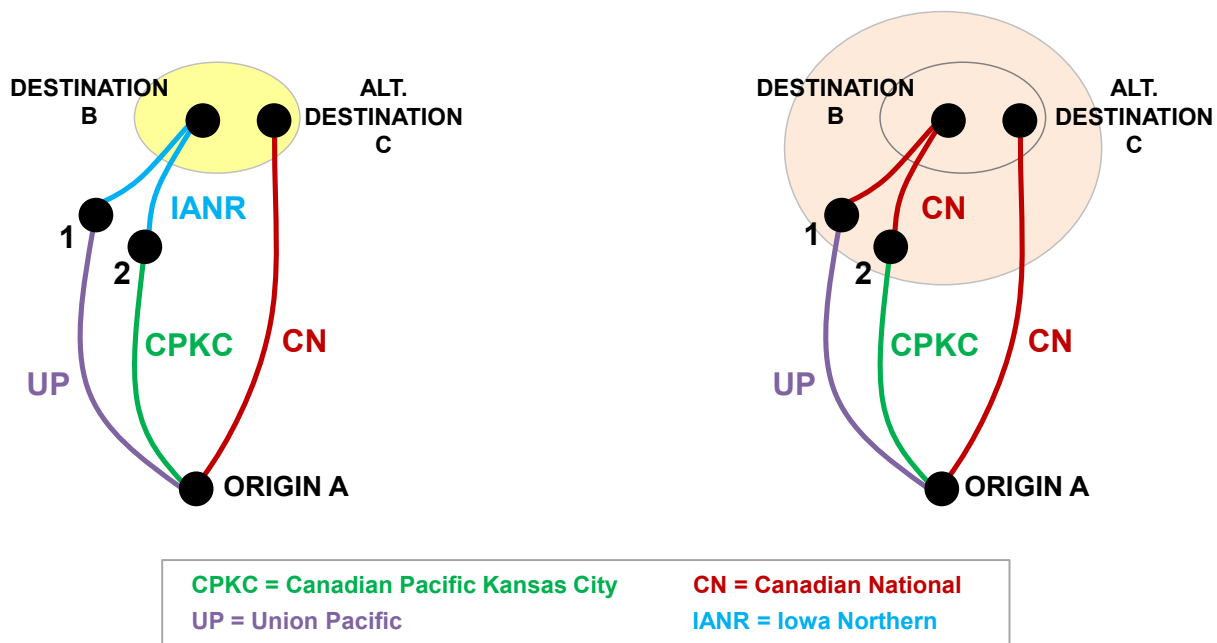
rather than assuming all service that might be nearby is competitively irrelevant as Applicants have.

37. Whether one delves into the details of each alternative or defines an endpoint in a way that recognizes the possibilities more generally, the economics of competition here should focus on the acquisition's effect on the shipper and include all options that shipper would no longer be able to use for competition. In the example, that means the shipper who has been using transloading or another of the Board's recognized forms of competition to make CN's service A>CN>C(>)B an effective constraint for the service A>UP>Junction 1>IANR>B or A>CPKC>Junction 2>IANR>B. Even though all of the ways the Board considers for that nearby competition involve some decreased value if the shipper uses the A>CN>C threat (i.e., a cost to build out a connection might limit how close CN can come to the interline's total price, or a loss of value may ensue when the shipper uses or builds an alternate facility, or the shipper can face a cost of transloading the product), these forms of competition are used as threats frequently enough that the Board has typically looked at them as a valid source of competition when the alternative is nearby and they should be included in any analysis of competitive effects in a merger.
38. Indeed, some particularly significant competitive effects can be likely in these scenarios that Applicants' approach would exclude from consideration. After the proposed acquisition, the shipper in this example cannot make the same threats and will not get the same price and service. CN, in setting its price for the previously IANR component of either interline service, would not mind losing the movement to its own single-line service. The same factors that made this a scenario where some competition can be lost may even make the shipper vulnerable to facing increased expense post-merger if that expense might be needed for CN to get profits on a longer haul. That is because the expense of reaching CN's service at Destination C is one that, by the nature of this scenario, all parties recognize as a cost that might be incurred for better rates or service. Post-merger, CN has room to manipulate what "better" means as it can affect the relative rates of service all the way to B (through its pricing of the IANR connections to Junctions 1 or 2) compared to the rate of service to C. For a high enough price on the IANR components, CN might get the shipper to incur the expense and also ensure that it profits on a longer haul.

39. Applicants' analytic approach would not consider any form of nearby competition so does not consider the possibility of CN pushing for the longer haul nor more direct ways that the shipper would be affected in this example. In Exhibit 3, I note that after IANR and CN are combined, the shipper's next best independent alternative (i.e., one not controlled by CN) will move farther away, either in the literal geographic or even if no farther way geographically in the sense that it would meet the shipper's needs less well because it would be less attractive or more costly. The shipper would, for example, have to build out even farther to Junction 1 or 2 (or transload over a farther distance, etc.). Given that the shipper was working with IANR to reach either Junction 1 or 2 rather than one of these other options of reaching UP or CPKC respectively, it is likely in this example that the shipper is significantly worse off—that its ability to induce competitive offers with any threat of movements by rail to 1 or 2 has been reduced when the rail option they previously relied upon from these points to Destination B is no longer independent of CN—and CN will be able to raise its prices significantly before any alternative way to use these points becomes a credible threat.

EXHIBIT 3

Widening the geographic scope of competition comes with increased costs



40. The Junction 2 service in this exhibit illustrates the need for caution against taking this reasoning too far. At some point, service is too far for these forms of nearby competition to be relevant. The Board's considerations become increasingly unlikely the farther one must consider building out, or relocating workers to use an alternative facility, or any of the other options. Or, put in the more typical framing of nearby competition defining an endpoint, these considerations are not an excuse to draw extremely wide circles as endpoints.³³
41. That said, CN's approach is even worse than possibly casting too wide a net—to presume there can be no harm at all no matter how nearby service may be is to ignore completely the forms of competition the Board has considered important to analyze.

5.3. CN's approach overcounts competition that will remain after the proposed acquisition by imposing no tests of competitive relevance to shippers for any particular corridor

42. The horizontal approach to analyzing the relevance of any particular route to competition in a corridor is to examine the Waybill data for actual routes used for movements in that corridor. Identifying independent competitive options is a powerful starting point as it assures that the analysis is only among the choices most likely to affect shippers' ability to generate competitive bids, as seen in the data. As I explained in implementing this test for a prior merger:³⁴

“Economists model this sort of competition as a negotiation that depends on each party's next-best alternatives. From that perspective, a merger is likely to affect competition if it is likely to reduce shippers' ability to use a specific route as a threat (i.e., what the shipper would do if a deal could not be reached). However, a credible threat needs to be independent of the railroad with which a shipper is bargaining. Attempting to bargain for better rates with a threat to switch to another

³³ In my analysis of the CP-KCS combination, I determined that a BEA was a useful size for an endpoint, but only for a screening exercise where the emphasis could be on necessary conditions and where no instances suggesting a need to dig into this issue further were identified. See Majure Statement, Section 4.1.

³⁴ Majure Statement, pp. 30-31.

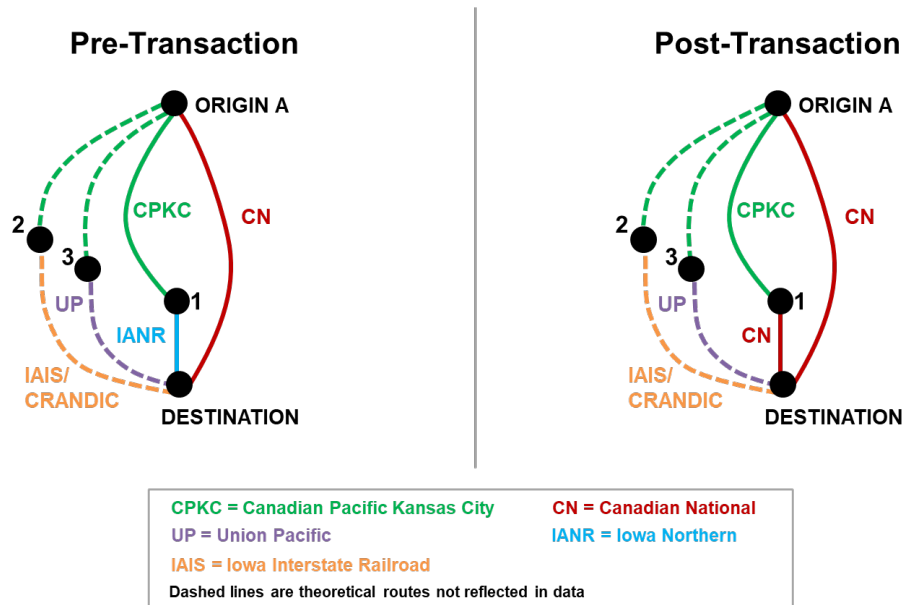
route is unlikely to be successful if that alternative route also depends on getting a rate from the same railroad.”

43. An alternative is not a credible threat if it depends on a service that is not practically offered or if no shipper would realistically use that route. Looking for credible threats to use in bargaining requires distinguishing them from theoretically plausible alternatives. Credible threats are the ones that the shippers would use in some circumstances and, likewise, that the participating railroads would be able to serve as a practical matter given other demands on their systems. Creating a set of credible threats then naturally begins with considering the routes shippers and railroads have actually used for movements in each corridor.
44. To illustrate how CN’s failure to properly implement this approach is unable to accurately identify competitive effects, I have constructed examples of relevant corridors. Exhibit 4 is loosely based on the example of an oats movement between Western Canada and Cedar Rapids that was discussed in Mr. Zebrowski’s Initial Statement.³⁵ The salient facts captured in the exhibit are that two routes are observed in the data on movements from Origin A to the destination: (i) a single-line for CN, and (ii) an interconnection at Junction 1 between CPKC and IANR. CPKC also takes grain to two other locations that could be relevant (Junctions 2 and 3). At Junction 2, there is a potential interconnect with IAIS and CRANDIC that could deliver grain to the destination. This route may only be a theoretical possibility in which shippers have not been observed to choose this route in the available data but could do so post-acquisition and thus I use a dashed line to indicate it. At Junction 3, there is another theoretical interconnect, this one with UP.

³⁵ Zebrowski Statement, February 26, 2024, at p. 7. I note that in addition to Mr. Zebrowski’s work, CPKC’s own internal work indicate that trackage rights in Cedar Rapids are important, noting “Would need to ensure UP trackage rights would still be valid: Cedar Rapids access is major component of revenue generation.”

EXHIBIT 4

The continued existence of theoretical interconnection options does not fully protect shippers if the next closest independent alternatives post-acquisition are ones shippers currently reject



45. As viewed through CN's lens, the Destination has service from four railroads pre-acquisition and three railroads after the acquisition. CN would have the Board conclude, based on its counts of serving carriers that this endpoint is not two-to-one and thus that there cannot be any significant loss of competition at the Destination (by which they appear to mean for shippers in any corridor that ends at the Destination). However, CN's conclusion depends critically on an assumption that routes using IAIS or UP are viable and credible alternatives. Yet, routings between the Origin and Destination via junctions 2 or 3 have never been regarded by shippers as optimal previously, and thus it is probable that shippers would see a significant reduction in competition if these corridors became the only non-CN-controlled options for transportation between the Origin and Destination.

46. Shippers looking to make this movement after the proposed acquisition lose the horizontal head-to-head competition between their two best alternatives. They would no longer be able to use the single-line Origin>CN>Destination route as a threat to generate more competitive pricing for the interline with CPKC, particularly on the Junction 1>CN>Destination portion of that interline route. Consistent with CN's open

gateway commitment, I assume that shippers would be able to get a “commercially reasonable” rate on this interconnect, but as I will discuss in Section 6, that regulation is unlikely to work well as a replacement for the horizontal competition that currently disciplines rate and service levels. The incentive to offer shippers a better deal to win the shipper’s business would no longer apply if CN would only be winning business from itself.

47. In the usual process of analyzing horizontal competition effects of rail mergers, economists use the data on past movements to identify the practical impact to a shipper if they have to use a new route as their threatened alternative in negotiations. An alternative route that is commonly used by other shippers that are similarly situated suggests the route is close to the same and that competitive effects are likely to be relatively small. Conversely, an alternative route may be very distant and allow a significant competitive effect if the route is less desirable for shippers or for a carrier on that routing to use for the shipment. And, in the extreme, if the route is not at all credible to use, it is the same as if the route offered no competitive constraint at all.

48. In Exhibit 4, the competitive closeness of the next options (the theoretical routes interconnecting at Junctions 2 or 3) would depend on how much CN might be able to increase fares on each of its options before those theoretical routings became credible. Answering this question requires some examination of why the alternatives were not observed in the data previously. One would need to examine the facts to understand whether post-acquisition CN would believe these alternatives are effective enough for CN to improve its service offerings. CN offers no such analysis for situations like this. Instead, the Application implicitly presumes that any route that can be drawn on a map is perfectly substitutable without any justification for making that presumption.

49. Economists look at a situation like this through a lens of revealed preference. The data reflect past behavior by shippers and railroads. Absent some other evidence, it is presumed that for the options not observed in the data there is some economic consideration that makes them a less relevant option.³⁶ In Exhibit 4, the fact that Origin>CPKC>Junction

³⁶ In particular, where the data on observed movements reflect large numbers of independent decisions across a variety of commodity types, it is most likely to reveal preferences of some shippers that are similarly situated. So, corridors based on larger endpoint areas, wider ranges of commodities, and more time periods can also be used to check inferences of revealed preference for sensitivity to thinly observed choices.

2>IAIS/CRANDIC>Destination or Origin>CPKC>Junction

3>UP>Destination have not been observed in the data indicates that shippers may have reasons for not using these routes—maybe the interconnections involved are not very efficient and cause delays or the cost for one of the railroads is prohibitive because it goes through a congestion point that is more valuable to use for other shippers. CN’s analytical approach is invalid because it would just presume away any potential problems with these other routes.

5.4. Applying the Board’s usual horizontal competition analysis reveals two-to-one and other horizontal effects of the proposed acquisition – demonstrating that Applicants’ claim of no harm is indeed a result of it methodological errors.

50. The examples discussed in Sections 5.2 and 5.3 are examples to show the type of shippers that would likely suffer from less competition after the proposed acquisition and are likely to be missed by Applicants’ approach to the analysis. In this section I consider the evidence from analyses that more properly implement the Board’s usual horizontal approach. Rather than showing no reductions in competition, as the Applicants claim, this analysis shows significant amounts of traffic would likely lose competition given the substantial overlap between them.³⁷ Indeed, even restricting attention to the two-to-one situations as the Applicants would have it, this analysis confirms that there are in fact significant amounts of traffic in corridors that would lose horizontal competition between CN and IANR and for which there is no indication in the data that another independent rail option serves the corridor.

51. In his Second Verified Statement, Mr. Zebrowski has implemented an analysis that considers horizontal competitive effects beyond those deemed relevant by the Applicants’ unduly narrow analysis. In defining endpoints, he has primarily used BEAs. Mr. Zebrowski’s analysis recognizes that the IANR system essentially serves half of two different BEAs and reasonably defines as a single endpoint a portion of each by using the region IANR serves as a more relevant grouping for this merger rather than strictly adhering to the BEA boundaries. In this respect, his analysis implements a test for the sort of competition the Board has considered and which I

³⁷ Zebrowski Statement, April 29, 2024, pp. 3-4.

discussed above in Section 5.3, and ensures it is appropriate to the facts of the setting at hand.

52. Mr. Zebrowski's analysis also identifies the corridors in which shipments occur and uses the data on movements in these corridors to identify the independent routes that have actually been used. As the Board's usual horizontal competition analysis practice reflects and as I discussed in Section 5.2, using the data in this way to identify routes that are credible — that a shipper could reasonably be expected to use in negotiations with a railroad for rates in that corridor — ensures that the analysis identifies shipments where there would be a two-to-one reduction in competition. Mr. Zebrowski finds {{[REDACTED]}} corridors where CN and IANR are parts of independent routes today and, of these, finds that post-acquisition, shippers would have no options independent of CN in {{[REDACTED]}}.³⁸ Where CN claimed that no shipper would suffer a two-to-one reduction in competition, it is clear from Mr. Zebrowski's analysis that CN's methodological issues are significantly affecting their ability to identify two-to-one shippers.
53. In Table 5 of his Second Verified Statement, Mr. Zebrowski takes a narrower look at shippers in these affected corridors. Looking only at the shipments out of stations that both CN and IANR serve, Mr. Zebrowski's analysis ensures that any assumptions about build-outs or the other ways a shipper can generate competition from nearby railroads only operate to identify competitors to the merged firm. I interpret this portion of his analysis, therefore, as a lower bound on the amount of commerce likely affected by the loss of horizontal competition. I also note that this analysis is not attempting to identify source or destination competition across corridors making it even more of a lower bound estimate.
54. Applicants' methodological errors are indeed significant as the lower bound on competitive effects I observe in Mr. Zebrowski's analysis shows that a significant volume of traffic is likely to see two-to-one reductions in competition.

³⁸ Zebrowski Statement, April 29, 2024, Chart 3.

5.5. Applicants' claim of "markedly improved" competition is not consistent with claims of no change of service

55. In their April 12 response, Applicants assert that, even if there are anticompetitive effects that they have not addressed, they should get credit for "markedly improved" competition.³⁹ However, it is well established that claims that a merger will improve efficiency and benefit competition (whether against other railroads or against non-rail transportation) should be merger specific.⁴⁰ In other words, these claimed benefits should be assessed on the basis of both whether the benefits likely will happen as a result of the merger and whether the merger is necessary for them to happen.
56. It is unlikely that CN's own claims of improved service are merger specific given that it already offers service in the same area as IANR. If CN wanted to improve its service offered to shippers in this region, that does not inherently require sacrificing competition. For example, if CN wanted to offer better intermodal service to shippers in this area, it can build a new intermodal terminal on its own line. It does not need the IANR line for such an improvement in service. So, even if it does plan to build such a terminal on IANR's line after an acquisition, that would not constitute a merger-specific efficiency.
57. Moreover, it is not clear that the plans CN has for a post-acquisition IANR are properly interpreted as an efficiency. As Mr. Zebrowski discusses, several specific aspects of CN's plans are inconsistent.⁴¹ While their plan posits a diversion of traffic from trucks to rail using an assumption of reduced costs, they promise to maintain IANR's pre-acquisition rail service unchanged.⁴² Mr. Zebrowski also notes that, even if some scheduling changes were envisioned, the IANR service is unlikely to offer much room

³⁹ CN, IANR Response, April 12, 2024, p. 1. ("While the statutory standard does not require the enhancement of competition (and indeed requires the Board to approve the Transaction unless it finds 'substantial lessening of competition'), rail competition will be markedly improved by a Transaction that adds a single-line option to the rail choices available to Iowa Northern customers while maintaining the joint-line options that are currently available to them.").

⁴⁰ See 49 C.F.R. § 1180.6(b)(11) (Major merger applications must affirmatively "discuss whether the particular benefits they are relying upon could be achieved short of merger")

⁴¹ Zebrowski Statement, April 29, 2024, Part IV.

⁴² Application, p. 3. ("The proposed CN-Iowa Northern combination will benefit Iowa freight rail customers by giving them access to a broader network of more efficient single-line service while maintaining their existing transportation options.").

for improved coordination as the service is simply a single train running north while another train runs south every day.⁴³

58. What seems clear from Mr. Zebrowski's analysis is that the reduced costs that Applicants' analysis of diversion from trucks, in particular, relies upon is not necessarily an efficiency and may well be a manifestation of the acquisition's lessening of competition between rail options. In documents from their ordinary course review of opportunities being pursued with IANR, CPKC executives identified a number of investments that they were expecting IANR to make in pursuit of business with specific shippers.⁴⁴ That expected investment in competitive opportunities is the sort of investment that CN would be able to cut post-merger as CN has none of the incentive IANR currently has to steal business from CN.

59. Reduced investment in quality, while it would save the merged firm costs, is more appropriately considered as a competitive effect than as an efficiency when firms, after a merger, lose their competitive incentives to invest in quality.⁴⁵ IANR has demonstrated that competitive incentives currently lead it to make investments to differentiate itself from Class I's such as CN. The "boutique service" it touts to customers as a reason to have their home on IANR instead of on CN, for example, is the result of IANR's incentive to invest in quality in order to be competitive.⁴⁶ To the extent the Applicants' plans identify a cost saving associated with shippers losing the benefit of this incentive to invest, it is not an efficiency.

60. Consequently, the more plausible interpretation of CN's plans for IANR is that the cost reductions it assumes in its plans are the direct manifestation of a significant loss of competition for shippers.

⁴³ Zebrowski Statement, April 29, 2024, ¶ 31-32.

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⁴⁶ See footnote 11.

6. A COMMITMENT TO MAINTAIN OPEN GATEWAYS DOES NOT RESOLVE THE HORIZONTAL COMPETITIVE EFFECTS OF IANR'S ACQUISITION BY CN

61. In this section, I consider the open-gateway commitment that CN has offered and that the Applicants rely upon in their application to resolve any competitive effects that may have been missed in their analysis. As a remedy, however, open-gateway commitments are a solution to the wrong problem. As a class of remedies, open gateway commitments are designed to address vertical effects. They are a poor remedy for the type of horizontal competitive effects that are likely in this proposed transaction.

62. I first discuss why a good remedy for a vertical effect would make a bad remedy for a horizontal effect. This is a natural result of fundamental differences between the nature of horizontal and vertical competitive effects.

63. I then turn to a question of what would make for a more reliable remedy to address horizontal competitive effects. While there is always some question of how well a regulatory remedy might replicate lost competition in any specific case, it is clear from examining the aspects of competitive that need to be recreated that something more like haulage or trackage agreements rather than open-gateway commitments are needed.

6.1. Open-gateway commitments are a poor remedy for the loss of horizontal competition

64. CN argued that any competitive effects of the proposed acquisition would be resolved by their commitment to maintain open gateways.⁴⁷ The regulatory obligation to keep “gateways open on ‘commercially reasonable terms’” is a form of regulation designed to address potential reductions in competition from vertical merger effects.⁴⁸ It is not well suited as a remedy for horizontal effects because a “commercially reasonable” rate and service bundle chosen by CN would not be the same as a “competitive” rate and service bundle offered by IANR in head-to-head competition against CN. As CN’s methodology did not find the horizontal competitive effects in the proposed acquisition, the mismatch of their proposed remedy to these effects is

⁴⁷ Application, p. 4.

⁴⁸ See Harman Statement, p. 17.

understandable. However, as there are likely to be substantial horizontal effects, a different form of remedy is needed.

65. Consider again the rail movements represented in Exhibit 4. As I discussed in that example, shippers currently use two routes, a CN single-line and an interconnect involving CPKC and IANR. After the proposed acquisition, those two routes would no longer be independent, as CN would be involved in both, and thus cannot be expected to generate any incentives for CN to do all the things that horizontal competition normally ensures. In order to remedy the loss of horizontal competition, one needs to enable a replacement to the lost competitor. The remedy needs to recreate the independent decision making that IANR currently offers shippers. And this new decision maker needs to have incentives that recreate, as much as possible, the incentives IANR currently has to invest and deliver on competitive initiatives for shippers. That generally means that it should face costs as close as possible to what IANR faces without the merger. It may be obvious, but this new decision maker also needs to be someone with the incentives to drive prices toward those costs and otherwise deliver the best offer possible to the customer in order to win business against CN — i.e., it needs to be a railroad independent of CN.

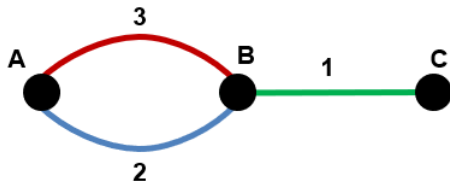
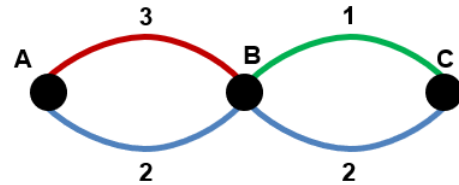
66. Vertical effects, in contrast, derive from a particular alignment of incentives and ability to change the terms of working relationships. In particular, vertical effects do not derive from a change in the number of independent routes, but rather from a change in a merging railroad's incentive to participate in them. That incentive need not reflect a lessening of competition, but it could. An example where it could is a railroad that prior to a merger already lacks competition on its portion of some movements and finds that its profits post-merger would be greater if it forced shippers to use its own service rather than continuing to work with whichever interline partner a shipper preferred. The proposed acquisition of IANR by CN is not likely to have vertical effects (whether good or bad for shippers) as it is predominantly a merger of parallel rail systems rather than the end-to-end merger that could have vertical effects.⁴⁹

⁴⁹ There are also hybrid cases, including one that may arise in this proposed acquisition where horizontal combinations create so much new ability to dictate terms that new vertical relationships become part of a firm's consideration — essentially a vertical add-on to the horizontal effects. If the root cause of the hybrid effect is a horizontal combination, a remedy tailored to the horizontal effect has the benefit of addressing the underlying incentives and not risking that a treatment focused on the vertical symptoms of that incentive could be circumvented as long as the incentive is still a factor.

67. Unlike horizontal effects, a remedy to vertical effects has both the incentive and ability parts of the effect to consider. This can lead to some striking differences in what form of remedy is appropriate. Open gateway commitments, in particular, address an existing ability and a changing incentive by preventing the most extreme effect, foreclosing interconnection, while allowing the merged railroad to earn a contribution to margin when it does interconnect. If the price was not allowed to include such a margin, the remedy would have a counterproductive effect on incentives. Margins make a railroad less likely to seek out ways to disrupt competition when working with other railroads. Interconnection should be allowed to have some contribution to margin, otherwise regulation could have the unintended and counterproductive effect of encouraging the railroad to circumvent the connection instead of encouraging them to work with other railroads to pursue whatever routing a shipper wants.
68. A horizontal effects remedy such as haulage or trackage rights, in contrast, seeks to replace lost horizontal competition by enabling the railroad with these rights to make the kind of decisions and seek business as the acquired railroad used to. Such a remedy is most effective in recreating the benefits of horizontal competition if the railroad with those rights has a cost of interconnection that most closely reflects the cost of the acquired railroad. Allowing the rights to contribute to the merged railroad's margins would undermine the remedy's usefulness in addressing horizontal effects.
69. More generally, open gateway commitments do not resolve a loss of horizontal competition. Exhibit 5 illustrates this with a comparison of a stylized horizontal and vertical merger for comparison. In either box, Railroads 1 and 2 are merging. In the vertical merger (lefthand box), competition between B and C is unaffected. There is one provider before and one provider after the merger for this segment. Holding aside the nuance of why and how competition between 2 and 3 might be lessened for the segment between A and B, if there is such a vertical effect, it can be addressed by requiring the merged railroad to continue offering its B to C service when a shipper chooses to work with Railroad 3 on the A to B segment. That will not make the B to C segment competitive, but since that segment was not competitive prior to the merger, this is not a failing of the remedy.

EXHIBIT 5

Horizontal and vertical competition settings require different considerations

Vertical/End-to-End Setting**Horizontal/Parallel Setting**

70. In contrast, the horizontal merger (righthand box) changes the competition available to shippers on the B to C segment. Shippers lose an independent alternative. The only way to restore an independent alternative on this segment is to empower someone other than the merged railroad to make shippers an offer to get their goods all the way from A to C at a rate and service level that is not set by the merged firm. In this case it is necessary for a remedy to increase competition on the B to C segment relative to the post-merger state because that post-merger level of competition is reduced from the level shippers enjoy pre-merger.

6.2. Horizontal competition effects require horizontal remedies such as the haulage or trackage rights historically used in railroad mergers

71. Recognizing that open gateway commitments do not address the horizontal competition effects in this case, one might be tempted to ask if there is some variant of these commitments, perhaps a different regulation on the price CN can charge, that would restore competition. That question goes to the

heart of why U.S. policy values competition so highly.⁵⁰ Economists have long recognized that competition is a powerful mechanism for ensuring the best uses of society's resources.⁵¹ Regulation, in comparison, has been associated with numerous shortcomings and even the most well-intentioned regulations can have problems ranging from an inability to adapt to changing circumstances to creating perverse incentives.⁵²

72. In particular, a variation of open gateway commitments would not replicate the key incentives IANR currently faces to compete. The incentive to make those investments disappears when CN is reviewing the same opportunities and seeing them cannibalizing their own single-line business. To replicate the pre-acquisition incentives, then, another decision maker needs to be enabled. Railroads have often relied on trackage or haulage rights to do exactly that. While these rights may not be perfect, they get at the relevant issues of horizontal merger effects in a way that open gateway commitments are not designed to do and would not be designed to do. The nature of open gateway commitments, as a fix for a different type of problem, makes them a poor solution compared to these established protocols that empower a different decision maker to make competitive decisions for the sizable portion of the move IANR used to try to win.
73. In the case of IANR, appropriately-priced haulage or trackage rights would appear to be a particularly suitable remedy for horizontal effects. In effect, such haulage rights could be considered as replicating the rail service IANR currently provides to interconnecting railroads. The price would need to reflect the likelihood that IANR will no longer have an incentive to invest in individual customers to win their business away from CN. The haulage or trackage rights holder, then, will need to have an appropriate incentive to make a compensating offer or other investments to the shipper. That could, conceptually, be implemented with a discount off the rates IANR would

⁵⁰ See Joseph R. Biden, "Executive Order on Promoting Competition in the American Economy", July 9, 2021, available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/>.

⁵¹ This point is one of the main contributions for which Kenneth Arrow won the Nobel Prize for Economics in 1972. For a summary of his research see Eric S. Maskin, "The Economics of Kenneth J. Arrow: A Selective Review," *Annual Review of Economics*, Vol. 11, April 24, 2019, pp. 1-26.

⁵² Nancy L. Rose, "Learning from the Past: Insights for the Regulation of Economic Activity," NBER Chapters, in: *Economic Regulation and Its Reform: What Have We Learned?*, June 2014, p. 1 – 23 at p. 18–19 ("[E]ven where regulation might be intended to restore imperfect markets to a competitive ideal, outcomes frequently are associated with higher production costs and, in some cases, higher prices, distorted product offerings, and significant rent redistribution. Responding to market imperfections with government regulation may trade one set of costs for another, perhaps even greater, set of costs, as recognized by generations of regulatory economists.").

have charged – rates that may be best approximated as a projection of trends in IANR’s historic rates or by pegging existing rates to a measure of inflation in rail cost for the future. As no change in IANR’s relatively straightforward operation of one-train-each-way is expected, these sorts of baselines to the haulage rate would not be likely to diverge far from what IANR would have charged absent an acquisition. And, to ensure the recipient of those rights is truly independent of CN, they would need to include access to related facilities such as the IANR transload facilities at Manly and Buster which would otherwise leave a potentially critical dependence on CN as an impediment to an effective remedy.

7. CONCLUSION

74. Based upon my investigation, shippers will lose some benefits of the competition they currently enjoy between CN and IANR under the terms of the proposed acquisition. This loss of horizontal competition occurs despite CN’s claims that few or no shippers would be in the extreme two-to-one situation and despite the commitment to open gateways. The extent of this loss that I discuss is a lower bound and the proposed acquisition requires a separate remedy for this loss of horizontal competition, which gateway commitments are ill-suited to redress.

8. APPENDIX A

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- 2003 – 2010 **Antitrust Division – U.S. Department of Justice** Washington, DC
Chief of Competition Policy Section
Managed a section of about 18 economists and other staff. Supervised economic analysis of antitrust investigations in various industries including computer software (*U.S. v. Oracle Corp.*), real estate (*U.S. v. Kentucky Real Estate Commission*), and telecommunications (*U.S. v. Cingular Wireless et al.*). Testified in *U.S. v. SBC Communications Inc. and AT&T Corp.* and *U.S. v. Verizon Communications Inc. and MCI, Inc.* Consulted on appellate arguments of the United States in Circuit Court (including *FCC v. Prometheus Radio Project*).

1997 – 2003 **Antitrust Division – U.S. Department of Justice** Washington, DC
Assistant Chief of Economic Regulatory Section

Assisted with the management of a section of about 18 economists and other staff. Supervised economic analysis of antitrust investigations in various industries including telecommunications (*U.S. v WorldCom and Sprint*), computer software (*U.S. v Mathworks and Wind River*), publishing, radio and television advertising (*U.S. v Univision and Hispanic Broadcasting Corp*), electricity, and airlines. Consulted on appellate arguments of the United States in Circuit Court and the U.S. Supreme Court (including *Iowa Utilities Board v FCC and U.S.*).

1994 – 1997 **Antitrust Division – U.S. Department of Justice** Washington, DC
Economist

Performed economic analysis in antitrust investigations. Applied developments in the fields of industrial organization, microeconomics, and econometrics to practical questions raised in antitrust analysis. Examined mergers or practices in telecommunications (including *U.S. v Sprint and Joint Venture Co.*), computer software, and banking. Testified in the merger of Union Pacific Railroad and Southern Pacific Railroad (before the Surface Transportation Board).

TESTIMONY

Library of Congress Copyright Royalty Judges Case No. 16-CRB-0009 CD (2014-17) – Submitted testimony in re: Distribution of Cable Royalty Funds on behalf of joint sports claimants. Testified at hearing.

STB Finance Docket No. 36500 – Submitted testimony in support of the application by Canadian Pacific Railway Limited, *et al.* to combine with Kansas City Southern, *et al.* Testified in deposition and at hearing.

STB Finance Docket No. 36514 – Submitted testimony on behalf of Canadian Pacific Railway Limited analyzing prospective combination of Canadian National Railway Company, *et al.* with Kansas City Southern, *et al.*

Real Estate Exchange, Inc. v Zillow, Inc. et al. – Filed declaration in support of motion for preliminary injunction.

U.S. v SBC Communications Inc. and AT&T Corp. and *U.S. v. Verizon Communications Inc. and MCI, Inc.* – Filed declarations in Tunney Act proceeding to explain the economic analysis of the United States for the proposed mergers and of the proposed consent decrees.

ICC Finance Docket No. 32760 – Submitted testimony on behalf of the U.S. Dept. of Justice analyzing prospective merger of Union Pacific Railroad and Southern Pacific Railroad. Testified in deposition.

PUBLICATIONS

“Evaluating Innovation Theories of Harm in Merger Review: Economic Frameworks and Difficulties” with Nathaniel Hipsman and Jessica Liu in *Getting the Deal Through—Merger Control* 2022 September 2021

“Comparing Vertical Merger Guidelines Across Jurisdictions” with Peter Davis and Kostis Hatzitaskos in *Law360* February 2020.

“Revisiting Guidance on MFN Terms” with Andrew Sfekas in *Antitrust Chronicle* September 2019.

“Economics at the Antitrust Division 2016-2017: Healthcare, Nuclear Waste, and Agriculture,” with A. Gerstle, H. Knudsen, D. Williamson, and J. Lee, *Review of Industrial Organization*, Vol 51, Issue 4, 2017, pp. 515-528

“The Year in Review: economics at the Antitrust Division: 2011,” with F. Scott Morton, *Review of Industrial Organization*, Vol. 41, Issue 4, 2012, pp. 321-331

“The Antitrust Division: Economic Issues Presented in 2010-2011,” *Review of Industrial Organization*, Vol 39, Issue 4, 2011, pp. 327-334

“The Year in Review: Economics at the Antitrust Division, 2004–2005,” with E. Emch and K. Heyer, *Review of Industrial Organization*, Vol 27, Issue 3, 2005, pp. 197-221

“Ensuring Fair and Efficient Access to the Telecommunications ‘Bottleneck’” with D. Rubinfeld, in C.D. Ehlermann and L. Gosling (eds.), Third Competition Law Annual 1998: Regulating Telecommunications (Hart Publishing: Oxford)

“An Empirical Analysis of Bank Branching: Portugal 1989-1991” with L. Cabral, in The Empirical Analysis of Industrial Organization Conference Report of the Centre for Economic Policy Research

WHITE PAPERS

“Comment on the January 2022 DOJ and FTC RFI on Merger Enforcement,” with John Asker, Kostis Hatzitaskos, Nathan Miller, Aviv Nevo, and Ana McDowall, April 2022, available at https://downloads.regulations.gov/FTC-2022-0003-1847/attachment_1.pdf.

“Comments on the January 2020 Draft Vertical Merger Guidelines,” with Kostis Hatzitaskos, Aviv Nevo, and Ana McDowall, February 2020, available at <https://media.justice.gov/vod/atr/comments-draft-vmg/dvmg-0012.pdf>.

“Comparison with the EU Non-Horizontal and the UK Merger Assessment Guidelines,” with Peter Davis and Kostis Hatzitaskos, February 2020, available at <https://media.justice.gov/vod/atr/comments-draft-vmg/dvmg-0011.pdf>.

“Review: Selected Research of Andrew Sweeting, New Bureau of Economics Director” with Andrew Sfekas, Ross Askenazi, and Laurien Gilbert, January 2020, available at <https://www.cornerstone.com/Publications/Articles/Selected-Research-of-Andrew-Sweeting.pdf>

HONORS AND AWARDS

President’s Award for Meritorious Executive	2017
Assistant Attorney General’s Award for Excellence	2015

Attorney General’s John Marshall Award for Legal Advice (Nominated)	2004
Assistant Attorney General’s Award for Excellence	2001
Distinguished Service Award	1997
National Science Foundation Fellowship	1990 – 1993
Phi Beta Kappa	1989

CONFERENCE PARTICIPATION

8 th Annual Bill Kovacic Antitrust Salon	2020
Discussed vertical merger guidelines and enforcement issues in a panel hosted by George Washington University School of Law and <i>Concurrent Review</i> .	
“New Debates and Tensions in Antitrust: The 2020 Vertical Merger Guidelines”	2020
Discussed newly issued vertical merger guidelines with attorneys and economists in government and private practice.	
ABA panel “Sequences & Sparks: Life Sciences Innovation Mergers.” (podcast)	2020
Discussed issues of innovation competition, potential competition, and merger enforcement.	
DOJ Workshop on Proposed Vertical Merger Guidelines	2020
Discussed issues of vertical merger analysis and suggested modifications to draft guidelines.	
ICN Chief/Senior Economist Workshop	2016
Discussed tools and techniques of current interest with senior economists representing competition authorities around the world.	
FCC Roundtable on Media Ownership Policies	2001
Discussed economic issues related to prospective changes in the FCC’s rules governing media ownership.	

PERSONAL

U.S. Citizen. Married with two daughters and one son.

Verification of W. Robert Majure, PH.D.

I, W. Robert Majure, declare and certify under penalty of perjury under the laws of the United States that the foregoing is true and correct. Further I certify that I am qualified and authorized to file this statement.

A handwritten signature in cursive script, appearing to read 'WR Majure', written in dark ink.

W. Robert Majure

April 29, 2024

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET No. FD 36744

**CANADIAN NATIONAL RAILWAY COMPANY
AND GRAND TRUNK CORPORATION
—CONTROL—**

IOWA NORTHERN RAILWAY COMPANY

EXHIBIT 4

VERIFIED STATEMENT OF JASDEEP S. KHAIRA

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

DOCKET No. FD 36744

**CANADIAN NATIONAL RAILWAY COMPANY
AND GRAND TRUNK CORPORATION
—CONTROL—**

IOWA NORTHERN RAILWAY COMPANY

VERIFIED STATEMENT OF JASDEEP S. KHAIRA

1. My name is Jasdeep S. Khaira, and I am an attorney at Gentry Locke Attorneys.
2. I verify that the documents attached hereto are true and correct copies.

/s/Jasdeep S. Khaira
Jasdeep S. Khaira
Gentry Locke Attorneys
919 E. Main Street, Suite 1130
Richmond, VA 23219
(804) 956-2064
khaira@gentrylocke.com

Attorney for Canadian Pacific Kansas City

April 29, 2024

INDEX TO ATTACHMENTS

ATTACHMENT 1 {{{[REDACTED]}}

ATTACHMENT 2 {{ [REDACTED] }}

ATTACHMENT 3 {{{[REDACTED]}}

ATTACHMENT 10 {{{[REDACTED]}}

ATTACHMENT 11 {{[REDACTED]}}

ATTACHMENT 12 {{[REDACTED]}}

ATTACHMENT 13 {{[REDACTED]}}

ATTACHMENT 24 {{ [REDACTED] }}

**ATTACHMENTS TO KHAIRA VERIFIED STATEMENT
ARE REDACTED
AS HIGHLY CONFIDENTIAL MATERIAL**