



SIDLEY AUSTIN LLP
1501 K STREET, N.W.
WASHINGTON, D.C. 20005
+1 202 736 8000
+1 202 736 8711 FAX

AMERICA • ASIA PACIFIC • EUROPE

MJWARREN@SIDLEY.COM
+1 202 736 8996

May 29, 2019

247827

By Electronic Filing

Alison C. Davis
Acting Director
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

ENTERED
Office of Proceedings
May 29, 2019
Part of
Public Record

Re: *Soo Line Railroad Company—Pet. for Declaratory Order and Preliminary Injunction—Interchange With Canadian National, STB Fin. Docket No. 36299*

Dear Ms. Davis:

CN submits this letter to respectfully respond to the Board's May 9, 2019 decision in the above-referenced proceeding ordering the parties to engage in mediation and the Board's statement that it "expects that CN and CP will maintain the status quo and continue to interchange railcars at Spaulding while they mediate this dispute."

CN looks forward to the mediation the Board has ordered, and CN will participate with the goal of reaching a negotiated solution in the coming weeks that will make any further action from the Board unnecessary.

But in the event that mediation is not successful in promptly resolving this case, CN hopes that the Board will reevaluate its "expectation" of continued interchange at Spaulding in light of the full record that is now available to the Board. That record includes detailed evidence describing the harm caused by continued interchange operations at Spaulding, including regular blockages of CN's single-track main line and of nearby at-grade road crossings.¹ Indeed, the Village of Bartlett submitted a letter detailing the regular grade crossing blockages caused by

¹ See CN Reply to Petition for Declaratory Order at 5-7, 13-15 (filed May 20, 2019); *id.* V.S. Albritton at 3-15.

interchange operations at Spaulding and asking the Board not to require continued interchange operations at that point.²

The record also shows that the parties are willing as an operational matter to move the interchange of CN-bound traffic from Spaulding to the existing CN-CP interchange at Clearing Yard and to move the interchange of CP-bound traffic from Spaulding to CP's Bensenville Yard.³ The only dispute is over whether CN is required to pay CP's fees to the Belt Railway Company for interchange deliveries to Clearing. This financial dispute creates no basis for the Board to require continued interchange operations at Spaulding. CP can keep account of its expenses to the Belt, and the Board can order any appropriate relief at the conclusion of this case if the parties do not successfully resolve the dispute in mediation.

If the Board is concerned with ensuring an orderly transition, then the Board could set a date certain for the parties to transition to the new interchange arrangement, such as 14 days after a Board decision clarifying that its expectation has been lifted.

While CN does not believe that the Board's statement that it expects continued interchange operations at Spaulding is a formal preliminary injunction, CN does not want to act contrary to the Board's expectation. CN therefore respectfully requests the Board to reevaluate whether its expectation is consistent with the record in this case and the best interests of the community, and whether it is appropriate for this expectation to govern the parties' conduct going forward in the event that this matter is not resolved in mediation.

Sincerely,

/s/ Matthew J. Warren

² *See id.* Ex. 1.

³ *See id.* at 9-10.