

HARKINS CUNNINGHAM LLP

Attorneys at Law

David A. Hirsh
202.973.7606
dhirsh@harkinscunningham.com

1700 K Street, N.W.
Suite 400
Washington, D.C. 20006-3804
Telephone 202.973.7600
Facsimile 202.973.7610

244447

ENTERED
Office of Proceedings
October 2, 2017
Part of
Public Record

October 2, 2017

BY E-FILING

Ms. Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

**Re: Canadian National Railway Company and Grand Trunk Corporation –
Control – EJ&E West Company [Barrington Petition for Mitigation] (Docket
No. FD 35087 (Sub-No. 8))**

Dear Ms. Brown:

Enclosed are the Confidential version of CN's Reply to Motion of Village of Barrington to Supplement Petition for Reconsideration of Decision Denying Reopening (CN-10), which is being filed under seal in accordance with the Protective Order entered by the Board in the main docket on October 22, 2007, and the Public version of that Reply, which is being filed for inclusion on the public record of this proceeding.

Very truly yours,



David A. Hirsh

Counsel for Canadian National Railway Company
and Grand Trunk Corporation

Enclosures

cc: Richard H. Streeter, Esquire (by e-mail)

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 35087 (Sub-No. 8)

**CANADIAN NATIONAL RAILWAY COMPANY
AND GRAND TRUNK CORPORATION
– CONTROL –
EJ&E WEST COMPANY**

[Barrington Petition for Mitigation]

**CN'S REPLY TO THE VILLAGE OF BARRINGTON'S MOTION TO SUPPLEMENT
ITS PETITION FOR RECONSIDERATION OF STB'S APRIL 26, 2017, DECISION
DENYING REOPENING**

Kathryn J. Gainey
CN
Suite 500 North Building
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 347-7840

Thomas J. Healey
CN
17641 Ashland Avenue
Homewood IL 60430
(708) 332-4381

David A. Hirsh
Simon A. Steel
James M. Guinivan
HARKINS CUNNINGHAM LLP
1700 K Street, N.W., Suite 400
Washington, D.C. 20006-3804
(202) 973-7600

Counsel for Canadian National Railway Company and Grand Trunk Corporation

October 2, 2017

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 35087 (Sub-No. 8)

**CANADIAN NATIONAL RAILWAY COMPANY
AND GRAND TRUNK CORPORATION
– CONTROL –
EJ&E WEST COMPANY**

[Barrington Petition for Mitigation]

**CN’S REPLY TO THE VILLAGE OF BARRINGTON’S MOTION TO SUPPLEMENT
ITS PETITION FOR RECONSIDERATION OF STB’S APRIL 26, 2017, DECISION
DENYING REOPENING**

CN hereby replies to Barrington’s September 12, 2017, motion (“Motion” or “Mot.”) to supplement its May 16, 2017, petition for reconsideration (“Petition for Reconsideration”) of the Board’s decision served April 26, 2017 (the “April 2017 Decision”), in which the Board denied the January 10, 2017, petition of Barrington and IDOT to reopen and impose additional mitigation (“Petition for Reopening”).¹

INTRODUCTION

Barrington moves to supplement the record with (1) argument and evidence about the National Highway-Rail Crossing Inventory for the crossing at US 14, and (2) argument and evidence about the expansion of the Fairview Container Terminal at the Port of Prince Rupert.

¹ Barrington’s Petition for Reopening was filed on January 10, 2017, and amended on January 17, 2017. Except as stated, this reply uses the same abbreviations for the parties and other terms as were used in CN’s Reply to Illinois Department of Transportation and the Village of Barrington’s Petition Seeking Additional Mitigation and Reopening (filed Jan. 30, 2017) (“CN Reply to Petition for Reopening”).

Barrington also asks the Board to use the 2015 Carload Waybill Sample to conduct a study to develop an estimate of rail traffic at the US 14 crossing.

Barrington's Motion should be denied. Barrington's proffered evidence and arguments should have been presented in Barrington's Petition for Reconsideration; they are cumulative of evidence already in the record and arguments already repeatedly rejected by the Board; and they are immaterial to the issue of whether to impose a grade separation construction condition on CN for a transaction that occurred almost a decade ago.

BACKGROUND

1. Petition for Reopening

Two aspects of Barrington's January 10, 2017, Petition for Reopening are relevant to Barrington's present Motion. First, Barrington's Petition for Reopening raised a question regarding the update of US 14 crossing data in the National Highway-Rail Crossing Inventory.² By mentioning this issue in its Petition for Reopening, Barrington made the issue known to CN. Within three days, CN updated those data.³ Forty days later, when Barrington filed surreply

² Barrington alleged that CN updated the National Highway-Rail Crossing Inventory on April 14, 2016, but that Illinois Commerce Commission ("ICC") records still contained outdated information about the U.S. 14 crossing. Petition for Reopening at 27-28 (citing <https://www.icc.illinois.gov/railroad/search.aspx>). However, the web page cited by Barrington merely enables a search of ICC's (not FRA's) crossing inventory; it does not document reports of crossing information made by the railroads. In Appendix B to Barrington's Motion to Supplement, Barrington attached "[t]he history of the Grade Crossing Inventory Data filings" for the U.S. 14 crossing. That history shows no filings by CN regarding the U.S. 14 crossing between May 9, 2013 and January 13, 2017.

³ See Mot. Appx. B (reproducing U.S. DOT Crossing Inventory Form for DOT Crossing Inventory Number 260514W (Northwest Highway (US 14)), dated Jan. 13, 2017).

comments in support of its Petition for Reopening, it raised no further issues about the timing or content of CN's update.⁴

Second, Barrington alleged that the Board's environmental review of the CN/EJ&E transaction had not anticipated growth in train volumes that has occurred since consummation of the transaction and further increases in intermodal traffic that could result from the projected completion of Phase 2 of the Fairview Container Terminal at the Port of Prince Rupert.⁵ In reply, CN pointed out that if Phase 2 of the Port of Prince Rupert terminal were completed as planned the additional intermodal freight traffic moving through Barrington would not be material, but would bring total train volumes to roughly the level of rail traffic that the Board had in 2008 projected would move through Barrington in 2015.⁶ Contrary to Barrington's suggestion, CN was not relying on the fact that the new terminal had not been completed.⁷

In the Board's April 2017 Decision denying the Petition for Reopening, the Board found that Barrington failed to present material new evidence. In doing so, the Board considered and rejected Barrington's argument concerning potential additional traffic due to the expansion of the Port of Prince Rupert terminal, finding that "the potential impact on future traffic volumes appears minimal."⁸

⁴ See Motion of Illinois Department of Transportation and Village of Barrington, IL for Leave to File Comments in Response to Reply filed by Canadian National Railway Company and Grand Trunk Corporation (filed Feb. 23, 2017) ("IDOT/Barrington Reopening Surreply").

⁵ Petition for Reopening at 20-22.

⁶ CN Reply to Petition for Reopening at 17-18 (filed Jan. 30, 2017); *see also* CN's Reply to Motion of Illinois Department of Transportation and Village of Barrington, IL for Leave to File Comments in Response to CN's Reply to Petition Seeking Additional Mitigation and Reopening at 8 (filed March 15, 2017) ("CN Reply to Surreply").

⁷ See CN Reply to Surreply at 8.

⁸ April 2017 Decision at 6.

2. Petition for Reconsideration

On May 16, 2017, Barrington filed its Petition for Reconsideration, renewing its argument that the Board made “multiple material errors repeated time and again” in rejecting Barrington’s arguments and that the Board should require CN to fund the proposed grade separation at the US 14 crossing. Petition for Reconsideration at 6. That Petition for Reconsideration did not raise any issues regarding the National Highway-Rail Crossing Inventory data, but Barrington did re-argue its claims regarding the expansion of the Port of Prince Rupert terminal.

CN responded on June 5, 2017, explaining that Barrington had failed once again to demonstrate that the Board had committed material error or that material new evidence or changed circumstances called for a different outcome than the Board had previously ordered. With respect to the Port of Prince Rupert terminal, CN noted that Barrington cited CN investor calls and news articles to reprise its argument that expansion of the terminal facilities would materially add to traffic on the EJ&E line. CN explained, however, that Barrington had failed to acknowledge (1) CN’s estimate of the potential additional traffic that could result from such a future expansion, and (2) the Board’s finding that that additional traffic would not materially impact traffic volumes in Barrington.⁹

3. Motion to Supplement

Barrington’s present Motion seeks to “supplement” the record of its Petition for Reconsideration by proffering arguments and evidence on the National Highway-Rail Crossing Inventory and the expansion of the Port of Prince Rupert terminal. Barrington also seeks to

⁹ CN’s Reply to Barrington’s Petition for Reconsideration of the Board’s April 26, 2017, Decision Denying Reopening at 11 (filed June 5, 2017) (“CN Reply to Petition for Reconsideration”).

supplement the record by requesting the Board to use the 2015 Carload Waybill Sample to conduct a study.

First, Barrington revives the argument it made in its January 2017 Petition for Reopening, but did not advance in its Surreply or in the Petition for Reconsideration it moves to “supplement,” regarding the National Highway-Rail Crossing Inventory data for the US 14 crossing.¹⁰ This time, however, Barrington also speculates that CN’s reporting “likely” caused Barrington to “suffer[] negative consequences in its efforts to secure additional federal funds” for the US 14 grade separation, “essentially undercut[ting] Barrington’s repeated efforts since 2010” to obtain that funding. Mot. at 5.

Second, Barrington claims that the Board’s April 2017 Decision incorrectly relied upon CN’s evidence that the expansion of the Port of Prince Rupert terminal was not yet certain. Mot. at 8-9.

Finally, Barrington requests that the Board conduct a study using the 2015 Carload Waybill Sample “to determine the actual number of carloads that have moved through Barrington” from 2009 to 2015, in order to re-evaluate the effects of the CN/EJ&E transaction on Barrington highway crossings. Mot. at 10-11.

ARGUMENT

As the party moving to supplement the record, Barrington bears the burden of showing “that the material sought to be introduced is central to its case, could not reasonably have been introduced earlier, and would materially influence the outcome of the case.” *Total Petrochems. & Refining USA, Inc. v. CSX Transp., Inc.*, NOR 42121, slip op. at 4 (STB served July 24, 2015)

¹⁰ See Petition for Reopening at 27-28 & Attachments 3 and 4.

(granting in part and denying in part a petition to supplement) (citation and internal quotation marks omitted); *see also Chicago, Lake Shore & S. Bend Ry.—Acquisition & Operation Exemption—Norfolk S. Ry.*, FD 34960, slip op. at 2 (STB served Feb. 14, 2008) (denying a motion to supplement the record with evidence already in the record). Barrington’s proffered evidence and argument is cumulative and immaterial, and fails to meet this test. Accordingly, the Motion should be denied.

I. THE BOARD SHOULD REJECT BARRINGTON’S PROFFER REGARDING CN’S US 14 UPDATE IN THE NATIONAL HIGHWAY-RAIL CROSSING INVENTORY.

Barrington proffers only one piece of evidence relating to the US 14 crossing data that was not available to it when it filed its Petition for Reconsideration: Barrington’s own August 16, 2017, letter to FRA. That letter, along with Barrington’s related arguments and older evidence, are not central to the issues raised in Barrington’s Petition for Reconsideration and would not materially affect the outcome of this proceeding.

A. CN Updated US 14 Crossing Inventory Data Immediately After Barrington Raised a Concern in its January 2017 Petition for Reopening, and that Update Has No Bearing on the Issues Before the Board.

Barrington suggests that CN deliberately delayed updating the FRA Crossing Inventory relating to the US 14 crossing until January 13, 2017, when “the Board’s oversight of this transaction was about to end.”¹¹ That suggestion is incorrect.

While submission of information to the Crossing Inventory was previously voluntary, rail carriers are now required to update the information every three years. The deadline for initial

¹¹ Motion at 5-6 & attached Letter from Karen Darch to Robert C. Lauby, P.E. (Associate Administrator for Railroad Safety & Chief Safety Officer, FRA) at 3-4 (Aug. 16, 2017) (“August 2017 Letter”).

updating of information in the Crossing Inventory was the later of August 9, 2016, or three years from the railroad's last submission.¹² CN has been working diligently with FRA to update the data on CN's crossings, and to improve the updating process where feasible through automation. This process is, however, a huge undertaking, requiring CN to inspect and submit data on each of its highway-rail crossings in the United States. It should also be noted that not all of the information submitted is railroad-supplied data. Each public highway authority has a set of data that must be input as well.

CN was alerted to Barrington's concern that the US 14 crossing had not yet been updated in the Crossing Inventory through Barrington's January 10, 2017, Petition for Reopening. CN updated that crossing just three days later, on January 13, 2017.¹³ Barrington apparently wrote to Chicago Metropolitan Agency for Planning ("CMAP") and others in February 2015 expressing its concerns that the US 14 crossing data were out of date, without copying CN.¹⁴

In any event, the update to the US 14 crossing data revealed nothing that would materially influence the Board's consideration of Barrington's grade-crossing separation in this proceeding. CN has provided actual traffic volume data for the US 14 crossing in its reports to the Board for 8 years during the oversight period. These reports were available to Barrington, CMAP, and anyone else who might be interested, and the Board considered them in its decisions denying Barrington's repeated requests for a grade separation mitigation condition at the US 14 crossing.

¹² See 49 C.F.R. § 234.409(a). Barrington incorrectly suggests that CN was obligated to update its crossing information beginning on October 16, 2010. Mot. at 5.

¹³ Barrington's Motion incorrectly states that its Petition for Reopening was filed on January 13, 2017, rather than on January 10, 2017. See Mot. at 2.

¹⁴ Letter from Karen Y. Darch (President, Village Board, Barrington) to Jill Leary (Acting Director, CMAP), at 2-3 (Feb. 3, 2015) ("February 2015 Letter").

Moreover, the speed data in CN's update to the FRA Crossing Inventory for the U.S. 14 crossing – maximum timetable speed (45 mph) and typical speed range (1-45 mph) – were not material to the Board's consideration of Barrington's Petition for Reconsideration. Their immateriality and Barrington's inexcusable delay in raising these issues are reflected in the fact that, although CN's update was published on January 13, 2017, Barrington made no reference to these data in either its Surreply in support of its Petition for Reopening, filed in February 2017, or its Petition for Reconsideration, filed in May 2017.

Barrington suggests that CN's failure to update the US 14 crossing information in the Crossing Inventory sooner has prevented Barrington since 2010 from securing public funding for a grade separation at the US 14 crossing. Barrington's argument does not hold together. Barrington was aware as early as 2015 that the FRA Crossing Inventory for US Route 14 had not been updated, and it decided to work with CMAP – and not CN – to address its concern. During that time, Barrington and CMAP had accurate train count information from CN's STB reporting. Accurate maximum timetable speed information was already in the Crossing Inventory for US 14, as it did not change, and it is this information that Barrington says was relied upon to assess crossings.¹⁵ CN updated the crossing information immediately after Barrington raised a concern, and CN's update was just five months after FRA's August 2016 deadline.

B. CN's January 2017 Update for the US 14 Crossing in the Crossing Inventory Was Not Misleading.

Barrington also alleges that CN “[f]alsif[ied] [o]perational [d]ata [i]t [r]eports” to FRA in the National Highway-Rail Crossing Inventory for the US 14 crossing. Mot. at 3. Barrington could have raised this argument about CN's January 13, 2017, Crossing Inventory updates on

¹⁵ February 2015 Letter at 2 (“The ICC uses the ‘maximum time table speed’ for the basis of its calculations – or 45 mph at that particular crossing.”).

two prior occasions in this proceeding: in its Surreply (February 23, 2017), and in its Petition for Reconsideration (May 16, 2017). Barrington provides no explanation for its failure to do so. In any event, as described below, there is nothing misleading about the US 14 information CN submitted to FRA.

Barrington acknowledges that CN's update of the "Estimated Number of Daily Train Movements" was consistent with actual data reported to the Board as part of EJ&E oversight.¹⁶ And Barrington also appears to recognize that the maximum timetable speed CN reported to FRA (both before and after the January 2017 update) – 45 mph – is accurate.¹⁷ Further, as noted above, Barrington says CMAP used the maximum timetable speed to assess crossings.

However, Barrington claims that CN's update does not accurately account for the 30 mph slow order at "the Barrington Interlocking" and that "trains are now moving at speeds far slower than the stated 45 mph timetable speed indicated in the FRA reporting." Mot. at 6. In other words, Barrington suggests that CN has incorrectly reported to FRA the "typical speed range" at the US 14 crossing. There is no merit to that suggestion. The slow order referenced by Barrington applies to the rail-to-rail crossing diamond for EJ&E and UP that is approximately one half mile away from US 14. Moreover, that slow order has been imposed by CN as a precaution. It is not required by FRA, and it could be lifted by CN at any time. As updates to the information in the Crossing Inventory are made on a three-year interval, it was appropriate for CN to continue to reflect 45 mph as within the speed range at the US 14 crossing.

¹⁶ See Mot. at 6 ("slight undercount"); August 2017 Letter at 2 (same). CN's "Estimated Number of Daily Train Movements" over the US 14 crossing reported to FRA was 17; CN reported an average of 18.1 trains per day to the Board for 2016.

¹⁷ See Exhibit A (timetable page showing maximum track speed). As explained below, the slow order CN imposed on a different area of track in Barrington does not affect the maximum timetable speed at the US 14 crossing.

II. THE BOARD SHOULD REJECT BARRINGTON’S PROFFER REGARDING THE EXPANSION OF THE PORT OF PRINCE RUPERT TERMINAL BECAUSE IT REHASHES PRIOR ARGUMENTS THE BOARD HAS ALREADY REJECTED AND MISCHARACTERIZES THE RECORD AND THE BOARD’S DECISION.

Barrington next seeks to add to the record more general statements by CN about the importance of the Port of Prince Rupert traffic to CN and more references to new CN intermodal facilities south of Barrington. Barrington claims that the Board was misled by CN’s evidence regarding the expansion of the Fairview Container Terminal at the Port of Prince Rupert. Mot. at 8. On two prior occasions in this proceeding, Barrington has made these arguments to the Board,¹⁸ and CN has refuted them.¹⁹ And Barrington’s proffered “new” evidence and argument does not differ materially from evidence it already placed in the record.²⁰

CN did not mislead the Board. CN “acknowledged and estimated the potential for increased traffic from Prince Rupert along the EJ&E,” projecting that Phase 2 could result in addition of an average of half a train per day moving through Barrington.²¹ Contrary to

¹⁸ IDOT/Barrington Reopening Surreply at 11-12; Petition for Reconsideration at 17-18.

¹⁹ CN Reply to Surreply at 8; CN Reply to Petition for Reconsideration at 11.

²⁰ Compare Mot. at 7-8, 9-10 (quoting press release regarding expansion and 10th anniversary of Fairview Container Terminal; referring to intermodal facilities south of Barrington) with Petition for Reconsideration at 18 (quoting statement by J.-J. Ruest (CN’s Chief Marketing Officer and Executive Vice-President) about expansion of Prince Rupert terminal and intermodal terminals in Memphis and Joliet) and Petition for Reopening at 22 (quoting statement by Mr. Ruest about expansion of intermodal rail terminals in Chicago and Memphis).

²¹ CN Reply to Petition for Reconsideration at 11; see also CN Reply to Petition for Reopening at 17-18.

Barrington selectively quotes CN’s witness Keith Reardon to the effect that “[w]hether Phase II of the Fairview Container Terminal will be completed and precisely when is uncertain” and that, “[a]ssuming it is completed, the additional traffic volumes it could generate are uncertain.” Motion at 7. Barrington omits that Mr. Reardon stated “our best estimate is that the project expansion will result in 4 additional loaded trains and 4 additional empty trains per week,” and “[o]f this total, we estimate that 2 additional southbound loaded trains and 2 additional northbound empty trains each week, equivalent to about 0.5 total additional trains per

Barrington's assertion, CN "did not rely" on uncertainty about the terminal expansion.²²

Likewise, in denying the Petition for Reopening, the Board did not rely on uncertainty about the terminal expansion. Rather, the Board found that "the potential impact [of the Prince Rupert terminal expansion] appears minimal, as CN estimates that approximately 0.5 total additional trains per day would move through Barrington."²³ Barrington's cumulative arguments and evidence in its Motion add nothing new, and would not materially influence the Board's finding.

III. THE BOARD SHOULD DENY BARRINGTON'S REQUEST THAT THE BOARD SUPPLEMENT THE RECORD BY CONDUCTING ITS OWN STUDY, BASED ON THE 2015 WAYBILL SAMPLE, TO DEVELOP ESTIMATES OF TRAIN VOLUMES THROUGH BARRINGTON.

Rather than proffering new evidence, Barrington asks the Board to devote its resources to the development of new evidence by conducting a study using the 2015 Carload Waybill Sample. Barrington urges the Board to use the 2015 Carload Waybill Sample to determine "the increase in the number of cars that have moved through Barrington from 2009 to 2015" to evaluate the effect of CN rail traffic on vehicular delays at the US 14 crossing, rather than focus on "outdated and misleading projections regarding the number of daily trains." Mot. at 10-11.

day (all intermodal), will move through Barrington." CN Reply to Petition for Reopening, Ex. B. (V.S. Reardon) at 2.

The 2008 letter from CN's counsel to the Board's environmental staff that Barrington attaches to its Motion as Appendix D is a red herring. At the time the letter was sent, it was correct that expansion of the Fairview Container Terminal was not "reasonably foreseeable," as the Board's environmental staff found. See II Final Environmental Impact Statement at 3.4-76 (quoted in Petition for Reopening at 21).

²² See CN Reply to Surreply at 8.

²³ April 2017 Decision at 6 (citing CN Reply to Petition for Reopening, Ex. B. (V.S. Reardon) at 2).

The Waybill Sample, for several reasons, cannot be used for Barrington’s intended purpose. As its name suggests, the Waybill Sample is a sample of a railroad’s traffic; it does not contain every movement.²⁴ Even for the subset of traffic it includes, the Waybill Sample provides only limited information for sampled movements. Any conclusions about movements through Barrington would require assumptions about routing, because the Waybill Sample only includes general origin, destination, and carrier interchange information.²⁵ For example, Waybill Sample data will not generally reveal whether a car travelled through Barrington or along one of CN’s alternative routes through Chicago. The Waybill Sample data also provide no information at all about empty cars.²⁶ And while they provide information on intermodal units (trailers and containers), they do not reveal the actual number of intermodal cars carrying those units (which varies significantly, depending on the size and type of intermodal units and the size and type of intermodal cars).²⁷ Accordingly, the Waybill Sample cannot be used to accurately determine the total number of cars, much less train lengths, moving through the US 14 crossing during 2015.

Moreover, Barrington fails to demonstrate that adding into the record a car-count estimate based on 2015 Waybill Sample data would be helpful, even if it were possible. Barrington argues that train count data fail to address train lengths through Barrington, which

²⁴ See 49 C.F.R. § 1244.4.

²⁵ Cambridge Systematics, Inc., National Rail Freight Infrastructure Capacity and Investment Study: Final Report, at A-6 (2007) (“Cambridge Systematics Study”). See also Railinc – Business Services Division, 2015 Surface Transportation Board Carload Waybill Sample Reference Guide, at 51-53 (2017) (describing routing elements in file record data) (“Railinc Reference Guide”).

²⁶ Cambridge Systematics Study at 4-2.

²⁷ See Railinc Reference Guide at 188-189 (2017).

may have increased. Mot. at 8-10. But there is no reasonable dispute concerning train lengths in Barrington's Petition for Reopening that would materially affect the Board's decision in the Petition for Reconsideration. CN has provided actual train length data for 2015 and 2016. Those data do not differ significantly from either CN's original projections in support of its Application or Barrington's own observed train lengths.²⁸ Given those actual 2015 and 2016 data, an effort to generate an estimate for 2015 based on the Waybill Sample would be a waste of the Board's resources.

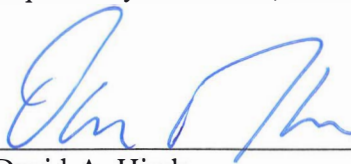
CONCLUSION

Barrington's Motion to supplement the record should be denied. Barrington's proffered argument and evidence about the US 14 information in the Crossing Inventory and the expansion of the Port of Prince Rupert terminal would not assist the Board, nor would it materially influence the outcome of Barrington's Petition for Reconsideration. Barrington's request that the Board conduct a study using the 2015 Waybill Sample would similarly neither assist the Board

²⁸ Compare CN Reply to Petition for Reopening, Ex. A (V.S. Orr) at 7 n.5 (average length of CN trains through Barrington of 7,657 feet in 2015-16) with Petition for Reopening at 15 (average train lengths of 7,700-8,000 observed by Barrington in selected months of 2015-16).

nor influence the outcome. Barrington has failed to show that the April 2017 Decision was wrongly decided, and the Board should deny Barrington's Petition for Reconsideration.

Respectfully submitted,



David A. Hirsh
Simon A. Steel
James M. Guinivan
HARKINS CUNNINGHAM LLP
1700 K Street, N.W., Suite 400
Washington, D.C. 20006-3804
(202) 973-7600

Kathryn J. Gainey
CN
Suite 500 North Building
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 347-7840

Thomas J. Healey
CN
17641 Ashland Avenue
Homewood IL 60430
(708) 332-4381

Counsel for Canadian National Railway Company and Grand Trunk Corporation

October 2, 2017

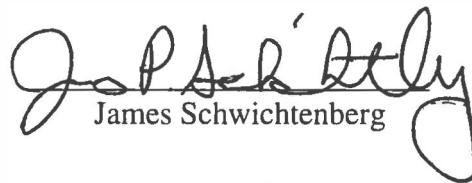
EXHIBIT A

REDACTED

VERIFICATION

I, James Schwichtenberg, Director, Safety and Regulatory Affairs - U.S., Network Operations, for the U.S. rail operating affiliates of Canadian National Railway Company ("CN"), declare under penalty of perjury under the laws of the United States that I have read Part I of the foregoing CN's Reply to the Village of Barrington's Motion to Supplement Its Petition for Reconsideration of STB's April 26 2017, Decision Denying Reopening and that the facts asserted there are true as stated. I certify that I am qualified and authorized to file this Verification.

Executed on October 2, 2017.


James Schwichtenberg

CERTIFICATE OF SERVICE

I certify that I have this 2nd day of October, 2017, caused a true copy of the foregoing
Reply to Motion of Village of Barrington to Supplement Petition for Reconsideration of
Decision Denying Reopening (CN-10) to be served by e-mail upon:

Richard H. Streeter
Law Office of Richard H. Streeter
5255 Partridge Lane, N.W.
Washington, DC 20016
rhstreeter@gmail.com



Spencer R. Leroux