



City of Aurora

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Thomas J. Weisner
Mayor

September 30, 2008

Ms. Phillis Johnson-Ball
Section of Environmental Analysis (SEA)
Surface Transportation Board
395 E. Street, SW
Washington, DC 20423

RE: Draft EIS Comments, STB Finance Docket NO. 35087

Dear Ms. Johnson-Ball,

I am writing to you on behalf of more than 180,000 residents who live in Aurora, Illinois, our state's second most populous city. A socially and economically diverse community, we pride ourselves on providing a quality of life that is second to none.

The city of Aurora has been outspoken regarding the proposed acquisition and its negative impacts on congestion, safety and quality of life for the businesses and residents of our region. Not only is the CN acquisition contrary to the goals and objectives of our community, but we believe it also will have permanent negative impacts throughout Northern Illinois. As you know, rail congestion is already a serious problem for communities throughout our region. This CN acquisition would significantly increase freight traffic in the Chicago metropolitan area and the deal provides nothing but short-term relief to a few communities who currently have the infrastructure in place to support rail traffic.

Throughout this process a few things have become increasingly clear. First, there have been no demonstrated local benefits for this proposed acquisition. Next, the overwhelming negative impacts this acquisition will have on our community and others bordering the EJ&E have been well documented. Third, CN has failed to demonstrate any long-term benefits to "winner" inner ring communities. Lastly, the real negative impacts to U.S. trade, homeland security and use of alternative ports have not been fully explored.

The DEIS, as currently presented, fails to demonstrate any guaranteed long-term benefits to anyone but CN. The DEIS also fails to fully evaluate and quantify the significant impacts on affected local communities. What is clear is that CN, a private foreign corporation with little evident civic responsibility in our region, stands to gain significant economic benefit from this acquisition at a cost of more than one billion dollars to the American taxpayers.



It has also become clear that current rail law, as historically interpreted, is outdated and fails to fully contemplate rail acquisitions in light of the complex issues we face in today's modern economy. A majority of U.S. Representatives recently voted for House Bill 6707 sending a clear signal that the STB should apply a broader interpretation of the current law and balance the public interest of residents and communities with potential transportation benefits. A much more thorough evaluation of community impacts is required in the Final EIS to sufficiently evaluate this balancing test.

Furthermore, it is the city's belief that expediting the EIS process would do a disservice to the American public, who deserve to know the full cost to taxpayers. While we have faith in the STB's selected consultants' ability to adequately and thoroughly evaluate this acquisition, we do not believe that the draft EIS is a complete or thorough document. We strongly believe that the inadequacies are a direct result of a needlessly expedited process.

With estimated mitigation costs topping \$120 million in our community alone, the city of Aurora was forced to reallocate significant resources to prepare a response to the DEIS. Based on the sheer volume of the report, the time allocated for communities to review and comment on draft EIS was woefully inadequate – a sentiment echoed by other communities and state agencies such as the Illinois Commerce Commission, Illinois Department of Transportation and Chicago Metropolitan Agency for Planning. As such, Aurora requests no less than 120 days to evaluate the Final EIS prior to its submission to the STB for a final decision. This request is made to assure that our concerns have been adequately addressed.

Thank you for the opportunity to provide comments and to participate as an active member of the process. The city trusts that the Surface Transportation Board understands that the comments above are neither condemnation of freight traffic nor a minimization of its importance to this nation's economic health. Instead, the comments are presented from a community that fully understands the long-term impacts of the acquisition and the expansive burden placed on the local community.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tom Weisner", with a long horizontal flourish extending to the right.

Thomas J. Weisner
Mayor, City of Aurora, Illinois

CITY OF AURORA, ILLINOIS

DEIS Comments, STB Finance Docket No. 35087

*Prepared by: Eric Gallt, City of Aurora, City Traffic Engineer and
Rae Keasler, City of Aurora, Transportation Planner*

Narrowly Defined Purpose and Need Statement Should be Rejected

The purpose and need as defined by the applicant does not allow for any true long-term alternatives to be evaluated. The second stated “Need” necessitates this proposed corridor be independent of the environmental and social impact. As stated, the Purpose and Need does not allow more appropriate corridors to be investigated. Therefore, the alternative evaluation section is flawed and should be considered incomplete.

CN has refused to participate in CREATE and work toward finding long-term solutions to freight congestion in the Chicago area. They also fail to recognize that the communities along the EJ&E are part of the Chicago metropolitan planning area and are already experiencing rail-related congestion.

Overall, CN’s proposal will significantly increase congestion in the Chicago area. The “Purpose and Need” as defined fails to allow evaluation of alternatives that could have a lasting positive impact on the Chicago area. A full range of solutions should have been investigated in the DEIS.

In evaluating the expense of various alternatives, the study did not account for the significant economic investment local communities have already made along the EJ&E. The DEIS should have evaluated cost-effectiveness of the proposal considering the combined costs local communities have expended to date along the EJ&E for quiet zones, safety enhancements and future commuter rail via the STAR line, which are not guaranteed in this proposal.

Non Equitable Redistribution of Freight Should be Considered

The CN proposes rerouting freight through the suburban corridors. There has been an outcry that the outer ring suburbs are not “carrying their load” or that this is a simple case of NIMBY (not in my backyard). However, *existing* train volumes in the city of Aurora tell a different story. The city of Aurora has five different rail lines bisecting the community. Some of the existing lines carry as many as 72 trains per day. The existing EJ&E already carries 10 to 15 trains per day. The DEIS should evaluate the cumulative impact of all rail operations in a community.

The DEIS needs to better quantify the stated “benefits” and compare them equitably with the obvious negative impacts on communities, like Aurora, which are already significantly burdened with heavy rail traffic. The DEIS hails the decrease in inner ring freight traffic however, the increases of 15 to 25 trains per day in affected communities

do not match the slight decreases. Most inner ring communities will experience slight decreases of one to four trains per day. The exceptions are a one to two-mile stretch between Harvey and Markham and a nine-mile stretch between Harvey and Griffith, as well as one other short stretch between Leighton and Schiller Park. The reality is only 38 miles of trackage will see a decrease of 17 or more trains. On the contrary, more than one hundred miles will see an increase of 17 to 24 trains.

Impact of Increases in Average Train Lengths Should be Considered

The existing average length of a freight train is 2,590 feet, while the proposed average length is 6,321 feet. This is an overall increase in the average length of 3,731 feet. The DEIS fails to account for this increase when considering freight traffic increases. Taking into account the length of trains, communities such as Riverdale will see 2,590 feet of freight decrease 6.4 times while communities such as Aurora will see 2,590 feet of freight increase 42.5 times.

Failure to Accurately Assess Proximity of Trains to Property Owners Minimizes Resulting Impacts

We have attached a cross-section of the existing right-of-way and the location of homes along the corridor. In some cases, back doors will be less than 50 feet from one mile plus long freight trains which will run approximately 20 minutes of every hour. The DEIS does not sufficiently evaluate the serious impact on these property owners and fails to quantify or address the significant change in quality of life that will occur.

Failure to Identify Two At-Grade Crossings in Aurora

The DEIS states the city of Aurora has only three at-grade crossings however, the city actually has five at-grade crossings including Liberty Street, Ogden Avenue, Montgomery Road, Hafenrichter Road, and Keating Drive. In addition, the city has a significant interest in the Wolf's Crossing/95th Street crossing. Given the traffic volumes and population growth in the area, the final EIS should assess all at-grade crossings.

Inaccurate Traffic Counts

The DEIS incorporated inaccurate traffic counts for vehicle delay calculations. For example, the DEIS states the existing traffic volume on Keating Drive is 1584 vehicles per day. In a traffic study conducted by the city of Aurora in April of 2008, the actual traffic counts were 5,650 vehicles per day - a 357% difference. Although the city of Aurora observed the highest percentage difference in traffic counts at the Keating Drive crossing, the STB should note the city also observed significant disparities at two additional at-grade crossings. The city informed the consultant during one of the STB

public meetings that existing traffic counts would likely be higher than ones previously observed given significant population growth in the area.

It is quite apparent that consultant did not update the traffic data. At a minimum, basic traffic data in high growth areas should have been updated as part of the study. Without up-to-date data, the results of the study become highly questionable. By not taking the time to collect accurate data, it appears that the STB is prioritizing the expedience of a decision over the quality and accuracy of the DEIS. The city implores the STB to spend the time necessary to thoroughly and adequately complete the Final EIS. The inaccurate traffic counts are just one very visible sign of a rushed and incomplete document.

Severely Underestimated Traffic Delay Estimates

The traffic delay methodology is severely flawed because it did not consider whether facilities were already at capacity and it did not evaluate the impacts of traffic controls near the vicinity of the crossing. Specifically, the departing vehicle rate is significantly overestimated when traffic signals are located in the vicinity of rail crossing. As a consequence, the queue clearance time is significantly underestimated. A more appropriate response would be to model the corridor with both the rail crossing and adjacent traffic control features.

Aurora estimates the traffic delay in heavily traveled corridors is underestimated by 150 percent. The city of Aurora conducted two days of field data collection using the existing rail traffic and delays on the given corridors. The time of delay and vehicle queues are significantly underestimated given the equations used in the DEIS. In most cases, both the delay and queue were underestimated by 80 to 120 percent. The given methodology in the DEIS is not accurate nor refined enough to indicate the true impact of the acquisition on the city of Aurora.

Failure to Consider Traffic Delay Impacts on Adjacent Roadways

Aurora has a number of cross streets in the vicinity of the rail crossings that were not investigated for traffic delay or system failure created by railway traffic. For example, Normantown Road runs parallel to the EJ&E rail lines and intersects with three of the crossings. A single vehicle along this roadway desiring to cross the track during a train event will effectively close Normantown Road. The DEIS did not evaluate these ancillary delays. Normantown Road will, without doubt, be significantly impacted by the increased train volume and length. The Final EIS needs to investigate ancillary impacts on roadway/rail congestion.

Total Transaction Delay Assumptions Flawed

The total delay is shown to increase moderately however, this is based on the assumption that the vacated CN lines would not be used by other freight companies. CN has been questioned on future plans for vacated rails and has unequivocally refused to guarantee that the vacated lines would remain freight free. It is therefore inaccurate, at best, to state the lines previously occupied by the CN would actually experience a decrease in travel delay or freight volumes due to the transaction.

Failure to Assess Long-Term Impacts

As a rule, planning experts use no less than a ten-year timeframe when projecting traffic volumes in the construction of new roadways. It would be nearly impossible for a municipality to gain approval for state or federal funding of a roadway project without providing long-term traffic projections. Currently, the DEIS has only evaluated traffic projections based on CN's three-year forecasting period. Since train traffic has an equal, if not greater impact on the community, it only makes sense the STB should require long-term train traffic projections.

We understand the STB requested additional operating information on traffic forecasts from CN, but CN continues to refuse to provide data beyond three years. Aurora urges the STB to use whatever means necessary to acquire or develop more realistic figures.

CN has not provided any assurance that freight reductions for inner ring communities will persist for any length of time. In fact under the current scenario, CN reserves the right to either lease or use their current trackage rights on the lines running through inner ring communities. Given CN's ambitious and public expansion plans for Prince Rupert Port, it is highly feasible that CN would once again utilize vacated tracks once capacity is reached on the EJ&E lines. Any discussion of freight reductions, therefore, should include definitive language on committed long-term benefits.

Inadequate Safety Record Evaluation

CN's poor safety record in Canada should have been considered in the DEIS. The Standing Committee on Transportation, Infrastructure and Communities on Rail Safety in Canada recently reported that CN received the lowest grade level possible on implementing safety management systems (SMS) that were designed to offset accidents and other safety hazards. The Committee also indicated that due to recent increases in rail accidents in Canada, there have been "serious" repercussions in terms of "human fatalities and environmental damage." The Committee also reported several safety concerns that include: failed communication between CN senior management and frontline workers on clearly defining management's commitment to safety, limited training for newly hired employees, and creating a "culture of fear" for workers with

regard to non-punitive reporting on safety violations. The Committee indicated that on a scale of one to five, with five being the optimum level, CN was at level 1 or 2.

The Surface Transportation Board has a responsibility to balance commerce and safety. They cannot turn a blind eye to CN's abysmal safety record and jeopardize the lives of hard-working Americans. CN's past history is a concern to residents of our community. Their blatant disregard of safety and environmental concerns is a travesty and CN should not be permitted to increase any traffic in the United States, much less in Aurora.

Inadequate Land Use Impact Evaluation

The DEIS fails to thoroughly analyze long-range impacts on existing land uses. Had the economic losses to the area been sufficiently studied, the report would have noted that approximately three-fifths of the land surrounding the track is zoned as a planned development district, one-fifth of the land surrounding the track is zoned for single-family residential and one-fifth is zoned for parks and open space. These last two types of land uses are especially sensitive to traffic, noise and vibration. Given that fact, DEIS should have more thoroughly evaluated the environmental and economic impacts, and suggested appropriate mediation.

Minimized Impact on Biological Resources

Aurora is also concerned about the appreciable negative effect this acquisition would have on natural areas and parks along the EJ&E rail line. While the DEIS states there will be habitat loss and mortalities, it does not provide a realistic remediation plan.

Of the main impacts in natural areas, the DEIS indicates the rookery on the east side of the EJ&E will be "highly disturbed" and will experience a 4 dBA change in noise levels within 500 feet of the rail line. Another resource-rich natural area that will be adversely affected is the Night Heron Marsh Forest Preserve. It is located on the west side of the tracks and just north of Liberty Street.

Though the negative impacts on flora and fauna are described in the DEIS, we are concerned that they are undervalued. The DEIS indicates that a total of four state-listed species along the EJ&E will experience habitat loss. Among those marsh birds are the: sandhill crane, least bittern, yellow-headed blackbird, and black-crowned night heron. In addition, the DEIS indicates that one wetland reptile species, the Blanding's turtle, will experience habitat loss or individual mortality in the construction area.

The negative impact on our greenways, which is of great concern, has also been underreported in the DEIS. An inordinate amount of parks in our community will be negatively affected. Seven parks will be impacted including: Frontenac Park, Clearwood Park, Andover Park, Middlebury East Park, McCarty Park, South Spring Lake, and Oakhurst Wetlands.

The 62-mile long Illinois Prairie Path, the largest, regional trail in our community will also be negatively impacted. The segment affected crosses the EJ&E rail line south of Diehl Road and provides the only connection between Aurora and the main trail that heads east to Maywood.

Unclear Methodology for Grade Separation Recommendations

DEIS does not provide clear methodology for evaluating when grade separations should be recommended. According to standards set by the Illinois Commerce Commission to ensure safety, separations would be recommended at several crossing within the city of Aurora. The DEIS, however, falls short of recommending grade separations and offers no definitive funding solution.

Failure to Require Mitigation and Identify Funding

The State of Illinois along with affected communities, including Aurora, have made it clear that no immediate funding exists to mitigate the traffic, safety and environmental problems that will result from a significant increase in freight traffic on the EJ&E. Thus, it is incredibly concerning that the DEIS falls short of requiring CN or the federal government to appropriately mitigate the adverse impacts.

The DEIS provides a blanket statement of “no significant impact” when certain measures could mitigate adverse impacts however, no funding sources are identified for recommended mitigation and “voluntary” mitigation falls well short of the recommended mitigation. It is irresponsible, at best, for the DEIS to conclude there would be “no significant impact” without mandating the various improvements necessary to achieve that condition. If the STB seriously considers the comments and failures of the current DEIS and takes the time to accurately and thoroughly complete the Final EIS, Aurora is confident that additional improvements would be recommended for this community. We urge the STB to mandate the necessary improvements and identify funding sources that do not place any additional burden on the communities that would see increases in freight traffic.

Failure to Evaluate Impact on Rush Copley Hospital

Rush Copley Hospital is a regional hospital that services a large area and provides local service to nearly a third of Aurora's population, approximately 60,000 people. The hospital is located exactly two miles from the tracks, within the arbitrary study limit, however the impact on Aurora and surrounding communities was not evaluated. Both Ogden Avenue and Montgomery Road were identified as candidates for mitigation. Both are also critical emergency routes for the hospital. It is imperative that the final EIS evaluate the impact of increased freight traffic on Rush Copley Hospital, especially the potential delay of emergency services.

Failure to Evaluate Impacts of Train Operation Curfews of Quality of Life

While Aurora understands the idea behind operation curfews, we have significant concerns with regards to the impact of the implementation. The city of Aurora would experience one of the most dramatic increases in train volumes, and we believe the length and volume of forty-plus trains fails to lend itself to reasonable curfews.

If curfews were imposed to prevent gridlock and protect safety during peak hours, then train volumes would be substantially increased during non-peak hours. As a result, during off-peak times, area roadways would not have the capacity to recover from delays.

In addition, the quality of life for Aurorans located in close proximity to the tracks would also be substantially diminished if curfews were imposed, necessitating an increase in late night trains. Many residents live within 50-100 feet from the railroad right-of-way. The city already fields complaints from residents concerned about the noise and vibration caused by existing trains during the late night hours. The impact curfews would have on quality of life should be more fully explored.

Failure to Consider the Impact on STAR Line Commuter Rail

Metra's Suburban Transit Access Route (STAR) Line is a proposed 55-mile commuter rail line, which runs along the EJ&E. We are extremely concerned about the future of this commuter service given the lack of commitment from CN on sharing track rights.

CN's proposal does more than threaten the construction of the long-awaited suburb-to-suburb STAR Line; it invariably makes the proposal a public impossibility. Affordable and convenient public transit between suburban communities is critical to reducing congestion and promoting long-term economic growth. The STAR Line is designed to provide much needed connections between the Chicago suburbs, from Joliet to O'Hare Airport. The DEIS barely skims the potential operations of the STAR Line and fails to investigate how the acquisition would truly impact the future of this commuter service.

The STAR Line is projected to connect approximately 100 communities and serve 1.6 million residents in the area. It will fill a critical void for inter-suburban rail service and will provide seamless connection points to four existing Metra lines. Based on current regional transportation plans, many communities have already purchased millions of dollars worth of land along the EJ&E right-of-way in preparation for the STAR line. Studies currently underway are being funded by the federal government's New Starts Program. The project is currently in an Alternatives Analysis study phase, and soon an Environmental Assessment and Preliminary Engineering will be undertaken.

The Federal Government has identified projects such as the STAR Line as essential to the economic viability and environmental future of our country. The impact of eliminating this project from the Chicago area will have economic and environmental impacts on generation to come. A project of this magnitude should be thoroughly investigated, and not merely mentioned in a few passing sentences in the DEIS.

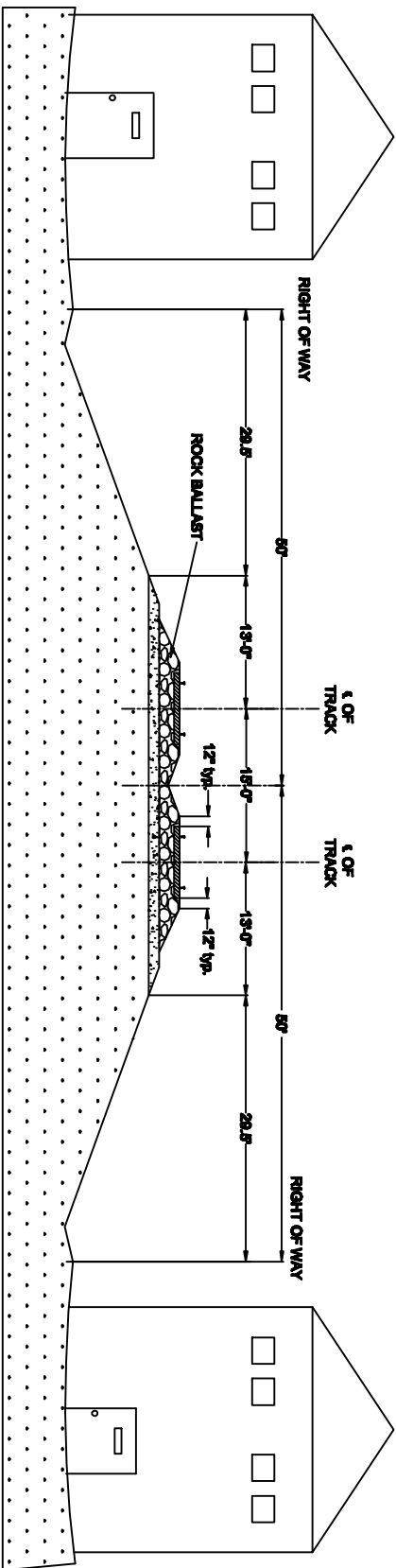
Inadequate Evaluation of School Impacts

Several at-grade crossings within the city of Aurora are designated busing routes. Indian Prairie School District currently operates a coordinated busing system with one a bus providing service to three different levels of schools including high school, middle school and elementary school. Crossings such as Ogden Avenue and Montgomery Road experience 150 bus crossings per day. This is a simple data point the DEIS should have reported and evaluated. The increase in train traffic, and the resulting vehicular delay, will necessitate additional buses or significantly longer student travel times. Longer student days may negatively impact student performance, and more buses would mean financially strapped schools would need to divert much needed funds to meet basic student learning requirements.

The consultant should contact school districts and busing companies to evaluate the impact that increased that delays will have on the district's ability to provide cost efficient and timely busing. Many of the same arguments hold true for suburban bus public transportation, which was also ignored in the DEIS.

Failure to Identify Quiet Zone and Resulting Long-term Impacts

The DEIS fails to identify the joint jurisdictional Quiet Zone being established by the city of Aurora, city of Naperville, and city of Warrenville. The Notice of Intent was submitted in 2007 to the Federal Railroad Administration and concerned parties. The Quiet Zone should be fully established by late 2008. The communities involved have invested substantial time and funds into establishing this quiet zone, their effort should not be dismissed. The quality of life for our residents is of upmost importance, the DEIS needs to recognize and protect the city's efforts by identifying and incorporating impacts and recommendations with regards to the soon to be established Quiet Zone.



CITY OF AURORA
DEPARTMENT OF ENGINEERING
44 E. DOWNER PLACE

REVISION

REVISION	DATE	BY	CHKD	APPD
1	01/11/11	01/11/11	01/11/11	01/11/11

EJ&E RAIL ROAD MAINLINE TRACKS

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