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September 30, 2008

By e-filing

Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

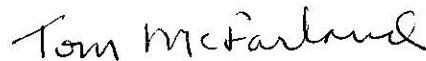
Attention: Phillis Johnson-Ball
Environmental Filing

Re: Finance Docket No. 35087, *Canadian National Railway Company and Grand Trunk Corporation -- Control -- EJ&E West Company*

Dear Ms. Johnson-Ball:

Hereby transmitted is the Comments On Draft Environmental Impact Statement And Request For Mitigating Conditions on behalf of the City of West Chicago, Illinois, for filing with the Board in the above referenced matter.

Very truly yours,



Thomas F. McFarland
Attorney for Commenter

BEFORE THE
SURFACE TRANSPORTATION

CANADIAN NATIONAL RAILWAY	)	
COMPANY AND GRAND TRUNK	)	FINANCE DOCKET
CORPORATION – CONTROL – EJ&E	)	NO. 35087
WEST COMPANY	)	

**COMMENTS ON DRAFT ENVIRONMENTAL IMPACT
STATEMENT AND REQUEST FOR MITIGATING CONDITIONS**

CITY OF WEST CHICAGO, ILLINOIS
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Due Date: September 30, 2008

BEFORE THE
SURFACE TRANSPORTATION

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**COMMENTS ON DRAFT ENVIRONMENTAL IMPACT
STATEMENT AND REQUEST FOR MITIGATING CONDITIONS**

Pursuant to the Board's decision served July 25, 2008, Ordering Paragraph 2 at 8, the CITY OF WEST CHICAGO, ILLINOIS (the City) hereby submits comments on the Draft Environmental Impact Statement (Draft EIS) and seeks conditions that are necessary to mitigate the extensive adverse environmental impacts on the City that would result from control of EJ&E WEST COMPANY (EJ&E) by CANADIAN NATIONAL RAILWAY COMPANY (CN).

BACKGROUND

CN's control of EJ&E would result in exponential increases in numbers of trains and quantities of freight tonnage passing through densely-populated Chicago-suburban communities. Those huge increases in rail traffic inevitably would result in serious adverse environmental impacts in those cities and villages. That is why the proposed control has generated such intense opposition.

Of all the communities that would experience such increased train traffic and resulting adverse environmental effects, the City of West Chicago, Illinois would experience the greatest increase in rail freight tonnage and the worst associated adverse effect on quality of life. On the segment of EJ&E in West Chicago north of the tracks of Union Pacific Railroad Company (UP),

current rail freight tonnage of 14,397 tons per day would increase to 184,969 tons per day, an increase of 1,185 percent . . . the largest increase on the EJ&E system. Whereas there currently are 4.4 trains per day on that segment, CN, after control of EJ&E, would add 20 more trains per day. On the segment of EJ&E in West Chicago south of UP's tracks where there currently are 10.7 trains carrying 87,162 tons per day, CN would add 13.8 trains carrying an additional 157,887 tons per day.

The length of those trains would add substantially to their adverse environmental effect. The CN intermodal trains from the Port of Prince Rupert in Canada that would be routed over EJ&E would be nearly 10,000 feet long . . . consisting of approximately 160 railcars, stretching out for almost two miles! Those seemingly endless trains would be bound to disrupt the quality of life in populated areas through which they are routed.

Worse yet, much of the increase would consist of dangerous hazardous materials traffic. From the current 21 carloads of hazardous materials carloads per year north of UP's tracks in West Chicago, and 31 carloads of such traffic per year south of those tracks, the number of hazardous materials carloads over EJ&E under CN control would increase to 265 per year north of UP's tracks and 301 per year south of those tracks . . . increases of 1,162 percent and 871 percent respectively.

These factors would have a particularly serious adverse effect on the human environment in West Chicago because West Chicago is one of two communities on the EJ&E having the highest population density residing adjacent to the EJ&E tracks. Moreover, the serious adverse effect would fall disproportionately on a minority population that is least able to cope with it. West Chicago is 48 percent Hispanic. The huge increases in EJ&E train traffic under CN control

would effectively “wall off” the Southwest quarter of West Chicago, which is heavily Hispanic.

That adverse effect would be diametrically opposed to West Chicago’s program of community cohesion whereby interaction of all ethnic elements of West Chicago’s population is strongly encouraged. The Draft EIS ignores this serious adverse effect on West Chicago’s minority population. Indeed, the Draft EIS expends more print on owls and salamanders than on minority citizens of West Chicago. Environmental justice demands that the serious adverse effect on West Chicago’s minority population be given the strongest consideration in connection with West Chicago’s request for a school-related pedestrian tunnel at George Street and a grade-separated vehicular crossing in the central area of West Chicago. (See Conditions A[1] and A[6], *infra*.

In view of those substantial adverse effects, the City, in Resolution 08-R-0007, adopted on January 21, 2008, opposed the proposed acquisition of control of EJ&E by CN, and directed that its environmental concerns be presented in response to the Draft EIS. On January 28, 2008, the City filed an Opposition Statement and Request for Conditions in regard to the CN Control Application.

This pleading constitutes the City’s comments on the Draft EIS and its requests for imposition of mitigating conditions in the event of approval of CN’s Control Application.

COMMENTS AND REQUESTS FOR MITIGATING CONDITIONS

A. Conditions Required For Safety Of Citizens Of West Chicago

In all instances in which the conditions requested below would require CN to take particular action, such action should be started and completed within a reasonable period of time

after consummation of the proposed control, not to exceed six months to start the action and two years for completion of the action.

1. CN Should Be Required To Fund Construction And Maintenance Of A Grade-Separated Pedestrian Crossing (Tunnel) At George Street In West Chicago

If CN acquires control of EJ&E, a tunnel for pedestrians to cross under EJ&E trackage is essential for the safety of numerous high school students who cross EJ&E trackage on their way to and from West Chicago Community High School (the High School). The High School is located one block east of the at-grade crossing of EJ&E tracks at Ann Street. (See map of West Chicago attached hereto as Appendix 1). There is a vehicular crossing at Ann Street and a pedestrian crossing only at nearby George Street. It is extremely congested in the area of the High School at the beginning and ending of classes.

Average train speed at Ann Street and George Street is 45 m.p.h. The High School has a current population of 2,160 students. Approximately 35 percent of that student population, i.e., approximately 750 students, walk to and from the High School every day. The majority of those students live west of the High School. Consequently, those students must walk across the EJ&E tracks every day, twice per day. These are teenagers susceptible to taking risks that more mature adults might avoid. Moreover, much of student population is minority.

The substantially increased number and length of trains moving at speeds of 45 m.p.h. on EJ&E following CN control would correspondingly increase the likelihood of accidents in which trains would injure or kill these young citizens of West Chicago and environs. A pedestrian tunnel is absolutely essential for the safety and well-being of those students in the event that the proposed acquisition puts numerous additional lengthy trains on EJ&E tracks. The most logical

location for the pedestrian tunnel is at or near the pedestrian-only crossing of EJ&E tracks at George Street.

Condition 16 proposed at ES-40 of the Draft EIS is wholly inadequate for the protection of West Chicago's high school students. That Condition merely requires CN, after the acquisition is effective, to identify at-grade crossings located within one-quarter-mile of schools, and to work with state or local agencies to determine those crossings where additional pedestrian warning devices are warranted. The City strongly disagrees that pedestrian warning devices are generally effective where large numbers of teenagers are crossing trackage having numerous trains moving at high speeds. Even if such warning devices may be effective at some locations having less pedestrian and train traffic, the City submits that a grade-separated tunnel is an absolute safety requirement in view of the large number of high school students who will cross EJ&E trackage on which rail traffic density will increase so substantially.

The condition should require that CN fully fund construction and ongoing maintenance of the pedestrian tunnel. CN's control of EJ&E, and the resulting increased number and length of trains on EJ&E, is the sole reason that the pedestrian tunnel would be needed. As the sole cause of the pedestrian tunnel, CN, not the City, should pay for the tunnel.

2. CN Should Be Required To Fund The Purchase And Installation Of Chain-Link Fencing Along EJ&E Right-of-Way Adjacent To Parks And Schools

Chain-link fencing is required for the safety of citizens of West Chicago to prevent them from crossing substantially more active EJ&E tracks at or near public parks and grade schools. This condition is distinct from the condition for a pedestrian tunnel near West Chicago Community High School. This condition would apply for the safety of citizens crossing EJ&E tracks to and from public parks and grade schools.

Included in the requirement for fencing are the EJ&E rights-of-way near to Reed-Keppler Park and Pioneer Park and the grade schools near EJ&E rights-of-way between Aurora Street and south of Ann Street as shown on Appendix 1 attached hereto. The City estimates that approximately 2,000 linear feet of chain-link fence would be required. The fencing should be approximately five feet high in order to discourage the ability to climb over it. It would be necessary to fence only one side of the railroad right-of-way.

As in the case of the pedestrian tunnel, CN should be required to fully fund the purchase, installation, and ongoing maintenance of the required fencing because its control of EJ&E, and the resulting substantial increases in number and length of trains on EJ&E, is the sole cause of the need for such fencing to protect public safety.

CN's Voluntary Mitigation 6 at ES-26 is inadequate because it does not place responsibility on CN to provide the required fencing, i.e.,:

Applicants shall work with school and park districts to provide fencing where schools or parks are adjacent to EJ&E's right of way.

3. CN Should Be Required To Provide Hazmat Training To Local Police And Fire Officials

This condition appears to be substantially provided for in CN's Voluntary Mitigation Measures, VM14 at ES-27, i.e.,

Applicants shall continue their ongoing efforts with community officials to identify the public emergency response teams located along EJ&EW and shall provide, upon request, hazardous materials training.

4. CN Should Be Required To Timely Inform The City's Police And Fire Dispatching Personnel When Emergencies Require Trains To Be Held And When Emergency Vehicles Must Be Rerouted When At-Grade Crossings Are Blocked

This requested condition would require CN to communicate to avoid disruption of emergency vehicles. CN's Voluntary Mitigation 22 at ES-28 is inadequate because it does not place responsibility on CN to act, i.e.,

Applicants shall work with affected communities to minimize emergency vehicle delay by:

- maintaining facilities for emergency communication with local Emergency Response Centers through a dedicated toll-free telephone number; and
- providing on request, dispatching monitors that allow Emergency Response Center dispatching personnel to see real-time train locations.

5. CN Should Be Required To Fund The Cost Of A Traffic Study Of Town Road At Roosevelt Road, And The Cost Of Traffic Improvements Recommended As A Result Of That Study

Reference is made to the map of West Chicago that is attached hereto as Appendix 1. Town Road is the north-south road that intersects Roosevelt Road between the letters "O" and "A" in the word "Road" following the word "Roosevelt". If CN acquires control of EJ&E and increases train traffic as proposed, there would be much more vehicular traffic in the southwest

quadrant of West Chicago that would traverse Town Road to access Roosevelt Road because that traffic would have difficulty crossing the more heavily used EJ&E tracks at Ann, Aurora, or Church Streets.

Motorists may choose to use Pearl Road to access Roosevelt Road. That would be unsafe because sight distance is hampered by the EJ&E viaduct over Roosevelt Road interfering with ability to see westbound traffic. Thus, Town Road must be improved.

A traffic study is required to determine the improvements to Town Road at Roosevelt Road that would be required to ensure vehicular traffic safety at that intersection. Inasmuch as CN's control of EJ&E would be the sole cause of the need for such a traffic study and for traffic improvements recommended as a result of that study, CN should be required to fully fund the cost of such traffic study and the cost of improvements to Town Road at Roosevelt Road that are recommended as a result of that study.

CN should be required to set aside funding for a traffic study, engineering plans, signalization, and pavement improvements (i.e., widening Town Road for a turn lane; deceleration lane on Roosevelt Road for right turns onto Town Road).

6. CN Should Be Required To Fully Fund Construction And Maintenance Of A Grade-Separated Crossing Of EJ&E Tracks In The Central Part Of West Chicago

Recall that West Chicago, more than any other suburban community, will experience the greatest increase in rail freight tonnage as a result of CN's acquisition of EJ&E. Recall also that the adverse effect of that huge increase would fall disproportionately on West Chicago's minority Hispanic population that is least able to cope with it. That substantially-increased rail freight traffic is sure to result in correspondingly-increased vehicular danger and delay, especially in the

central part of West Chicago. In order to mitigate that danger and delay, CN should be required to fully fund a grade-separated crossing of EJ&E tracks in the central part of West Chicago. CN should be required to fund a feasibility study to determine the crossing location in the central part of West Chicago that makes the best traffic sense and impacts surrounding neighborhoods the least.

Whereas streets in central West Chicago at their crossing of EJ&E tracks are adequately protected by gates and flashing lights under current rail traffic volume, that will not be true if and when EJ&E rail traffic increases exponentially under CN control. A grade separation is essential for public safety and efficiency at West Chicago's most active EJ&E crossing area with the greatest increase in EJ&E tonnage.

CN should be required to fully fund construction and ongoing maintenance of a grade separation in central West Chicago because the increase in EJ&E rail traffic under CN control would be the sole cause of the need for the grade separation.

B. Conditions Required Because Of Increased Noise Levels

1. CN Should Be Required To Fully Fund The Technical Assistance And Capital Improvements Necessary To Achieve "Quiet Zone" Status for The EJ&E Rail Corridor In West Chicago

In order to mitigate the substantially increased noise level of locomotive horns that would result from huge increases in rail traffic in West Chicago, it will be necessary for the City to qualify the EJ&E rail corridor as a "Quiet Zone". That involves an application by the City to the Federal Railroad Administration and implementation of grade crossing improvements in response to an analysis of risks along that corridor.

Because CN control of EJ&E, with resulting substantially increased EJ&E rail traffic, would be the sole cause of the need for quiet-zone status, CN should be required to fully fund both the technical assistance that is required for preparation of the required FRA application, and the rail and/or road improvements that are required to achieve that status. Preliminary estimates by the City indicate that gates and flashing lights would be required at the South Aurora Street crossing; constant warning devices would be required at the Church, Washington and South Aurora Street crossings; and 100-foot concrete medians would be required at Smith Road and at Ann Street.

Proposed Mitigation Condition 25 at ES-47 is wholly inadequate because it does not place responsibility on CN to fund the measures necessary to achieve quiet-zone status despite the fact that CN's control of EJ&E would be the sole cause of the need for such status.

2. CN Should Be Required To Fully Fund The Cost Of Constructing Berms And/Or Installing Soundproofing Devices In Residential Areas Of West Chicago At Which Noise Levels From Increased Rail Traffic Exceed 70 dBA

Many homes in residential areas of West Chicago are located close to EJ&E's right-of-way. In view of increased rail traffic on EJ&E resulting from CN control and other rail-related physical conditions such as track curvature, many such residences will experience increased noise from rail activity that exceed acceptable noise levels.

Inasmuch as CN control of EJ&E would be the sole cause of the increased noise level, CN should be required to fully fund measures that are necessary to achieve acceptable noise levels.

3. CN Should Be Required To Install Curve Lubricators In West Chicago To Minimize Noise From Wheel Squeal

This condition is required to minimize noise from squealing train wheels in West Chicago. It is necessary because Applicants' VM-51 at ES-32 is unacceptably indefinite ("Applicants shall consider lubricating curves . . .").

C. Miscellaneous Conditions

1. CN Should Be Required To Agree To Annexation Of Its Unincorporated Right-of-Way Into The City Within The City's Planning Area

This condition would require CN to agree to, and cooperate with, annexation of the EJ&E right-of-way into the City at points within the City's planning area where the right-of-way has not been incorporated into the City at the current time. It is not effective government to have multiple jurisdictional control within the same planning area. Within six months of consummation of control, a petition and plats of annexation should be submitted by CN-controlled EJ&EW to the City.

2. CN Should Be Required To Fund Realignment Of South Aurora Street To Provide Reasonable Access To Homeowners In The Area Of The South Aurora Street Crossing

It is possible to realign South Aurora Street to provide reasonable access to homeowners in the area of the South Aurora Street crossing of EJ&E. That realigned access would permit the South Aurora Street crossing of EJ&E trackage to be closed.

Partial funding for realignment of the Street exists in the form of Illinois Commerce Commission funding for signals at South Aurora Street. CN should be required to provide the balance of the funding for the street realignment. CN should also pay all costs associated with

pavement removal on the portion of the vacated street and for street restoration. CN would benefit significantly from the resulting closure of the South Aurora Street crossing.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, for the reasons stated, the Final Environmental Impact Statement should include each of the foregoing conditions.

Respectfully submitted,

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