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February 8, 2008

Surface Transportation Board
CN-EJ&E EIS - FD-35087

Log and Distribution

Date Rcvd: _____

HDR File No: ☒ _____

Seemed (Initial): _____

STABCT# _____

Cc: Original - Job File

VIA FAX AND U.S. MAIL

Mr. Michael F. Deegan
Regional Manager
Business Development & Real Estate
CN
17641 S. Ashland Ave.
Homewood, IL 60430

Re: Proposed Track Connection/Chicago, Central & Pacific Railroad Company
Pratt's Wayne Woods Forest Preserve—Munger Road

Dear Mr. Deegan:

As General Counsel for the Forest Preserve District of DuPage County ("District"), I am writing in response to your letter of October 4, 2007, to Executive Director Brent Manning concerning the request by CN to acquire a portion of the Pratt's Wayne Woods Forest Preserve for the proposed track connection near Munger Road in DuPage County, Illinois. It is my understanding that an official of CN also met with representatives of the District, including Commissioner Roger Kotecki, to discuss the proposed acquisition.

Because the District is not a home-rule unit of government under Illinois law, it can exercise only those powers that have been specifically granted to it by the Illinois General Assembly. In this regard, the District's ability to convey property is extremely limited and generally only is authorized when the conveyance is to another governmental entity. As a result, I have advised the District that there is no statutory authority that would permit the District to voluntarily convey property to CN.

I was told by District staff that at the meeting referred to above, the CN official informed the District representatives that not only does CN possess the power of eminent domain, it also has quick-take authority. We have researched this issue and have failed to find any authority by which CN could condemn District property. Indeed, I direct your attention to section 5e of the Downstate Forest Preserve District Act, 70 ILCS 805/5e (West 2006), which specifically states that forest preserve district property "shall

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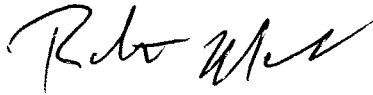
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Mr. Michael F. Deegan
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not be subject to eminent domain or condemnation proceedings.” If you believe that CN does, in fact, have the ability to condemn District property, I respectfully request that you provide me with that evidence at your earliest convenience.

Please free to contact me if you have any questions regarding this matter. My direct line is 630-753-8070.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert Mork", with a stylized, cursive script.

Robert Mork

cc: Brent Manning, Executive Director
Bob Vick, Deputy director of Natural resources
James Knippen, Esq.
Victoria Ruston, SEA Chief
Phillis Johnson-Ball, SEA Deputy Chief
Arthur L. Spiros