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September 24, 2008

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Aurora, IL 60503

Phillis Johnson-Ball
Surface Transportation Board
395 E Street, SW
Washington, DC 20423
Ref: STB Finance Docket No. 35087

Dear Ms. Ball:

In regard to the purchase of the EJ&E line by Canadian National (CN), it has become clear that the Canadian National will not make a reasonable effort to mitigating the risks and decline in quality in life that they want to impose on residents near the tracks and for those that need to cross over the tracks on a daily basis. The suggested \$40 million in funds in not nearly enough provide the number of suggested over/under passes and other necessary mitigation necessary for the number of trains and length of trains that will eventually be required on these tracks. Additionally, to think that a single over/under pass will be built in the next five years is ridiculous given the time to engineer and construct such facilities.

An obvious clue to the fact that the CN cannot be is trusted regarding their commitment is shown under their own "Frequently Asked Questions" section of their web site (attached). The last question (highlighted) clearly displays that lack of trust that should be given to their statements. Their statement suggests that an increase in the amount of train traffic will not decrease the safety of the crossings. Obviously this must be news worthy information to the Federal Railroad Administration (FRA) and the Surface Transportation Board (STB). The STB report predicts that accidents will increase due to the increased traffic (see attached Executive Summary – Draft Environmental Impact Statement). Additionally, the FRA uses the number of trains that cross over an intersection as an input in the Risk Assessment Factor for the qualifications for a quiet zone (see attached page from FRA document Rules and Regulations, section The Prediction Formulas). So either the CN is not giving accurate information in order to gain support for their purchase, or the STB and FRA are wrong in assuming that an increase or decrease in train traffic relates to increases or decreases in the number of accidents at corresponding crossings. Clearly this statement by CN shows their lack of seriousness of this purchase and disregard for the safety of the citizens that need to cross over these crossing during their daily lives.

Please do not approve this purchase given that the suggested safety and noise mitigation factors will never be achieved due to lack of funding and lack of commitment by CN.

Thank you,

Wendy Leick


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CN's proposed acquisition of EJ&E Railway

FAQs

Q: What is the EJ&E line and who is buying it?

A: The Elgin, Joliet & Eastern (EJ&E) is a short line railway owned by a U.S. Steel subsidiary that encompasses the Chicago region. In September 2007, CN, a North American rail operator, announced it would purchase a major portion of the EJ&E for \$300 million, for the purpose of improving service to customers in northern Illinois and northwestern Indiana.

Q: How much more rail traffic will result from this transaction? When will we see the increased rail traffic?

A: Over the next three to four years, some suburban communities will see more rail traffic, but others will see less. In addition to existing rail traffic, fourteen locations on the EJ&E line will see an increase between 15 and 26 trains per day. CN currently is meeting with elected officials and civic leaders in each community on the line to listen carefully and be responsive to specific concerns. If the transaction is approved, rail traffic is expected to increase incrementally after the Surface Transportation Board's (STB) Environmental Impact Statement (EIS) is completed and when the transaction closes reaching projected volumes after three construction seasons. This time frame tentatively is expected to be by the end of 2010.

Q: How dramatic of an impact do the proposed train counts pose?

A: While the EJ&E will see increased rail traffic, other rail lines throughout the Chicago region run in excess of a hundred trains per day.

Q: How long will the freight trains idle?

A: CN does not plan for its freight trains to idle on the EJ&E as that would take away from the efficiencies that the acquisition is intended to provide.

Q: How long will the freight trains be?

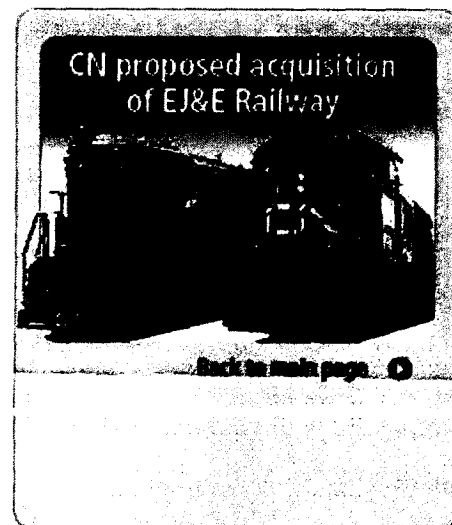
A: We anticipate trains of 8,000 feet or more. Even if the trains were 10,000 feet long, a train operating at 40 mph (approaching the maximum allowable track speed) would result in less than three minutes of elapsed time, including the advance warning time that gate arms provide when they go down, before the train reached the crossing.

Q: Will trains run at night? What does CN intend to do with the increased noise pollution?

A: Like all of the large freight railroads operating in North America, CN operates 24/7. Throughout this process CN has been and will listen closely to individual community concerns, including noise and vibration issues. CN's goal is to find practical solutions that balance community and transportation needs, which may include assisting in the establishment of "quiet zones" under the Federal Railroad Administration's (FRA) existing rules.

Q: How much money is CN committing to relieve road congestion and ensure safety in local communities?

A: CN has not made any decisions on mitigation options, in large part



because the STB currently is soliciting public comments in its scoping process. Also, CN is still completing its own process of identifying specific concerns to affected communities. This completion of the EIS will provide definition for all stakeholders regarding what CN must comply with in order to close the transaction.

Q: What is a "scoping process"? How long will it take?

A: "Scoping" is a process by which the STB solicits public input to determine which environmental issues will require greater emphasis and which should receive less. It will influence the development of the EIS which is designed to address the public's interests regarding this transaction's impact on the environment. Public comment for the scoping process is due by February 1 after which the STB will issue its final Scope of the Study.

Q: Will hazardous materials be transported on the EJ&E?

A: Yes. As on all rail lines operating in North America, freight trains on the EJ&E will carry raw materials for manufacturing, including hazardous materials. It should be noted that CN operates one of North America's safest railroads, and that CN's commitment to safety will extend to its operations on the EJ&E. Importantly, the U.S. government judges rail transportation to be the safest and most secure means of transporting hazardous materials.

Q: How fast will the trains travel on the EJ&E?

A: According to FRA standards, freight trains on the EJ&E can operate at speeds up to 45 miles per hour. By contrast, it currently can take a CN freight train 24 hours to travel 30 miles through the Chicago region, wasting fuel, increasing vehicle crossing delays, and producing excess emissions into the region's environment. As a result of this transaction, trains that have no need to stop in the region will flow quickly and smoothly to their destination. This acquisition also supports regional economic growth and is a significant step towards preserving the region's role as the transportation hub of North America.

Q: What does this transaction mean for Metra and the proposed STAR line?

A: Nothing in this proposed acquisition would prevent Metra from participating in negotiations to use EJ&E property for the STAR line or other commuter usage. CN has a long-standing relationship with Metra and will continue to work with the agency. Moreover, some communities along existing Metra lines have expressed support for the transaction because it could clear the way for improved Metra service.

Q: What impacts on the environment do freight trains have?

A: While the STB currently is studying the potential environmental impact of this increase in freight trains, the fact is railroads are three times more fuel efficient and emit only one-third of the carbon dioxide of trucks. Nearly every consumer good at one stage of its production moves by rail. A single intermodal train can haul the same freight as 280 semi-trailer trucks. Moreover, because fewer hours of locomotive time to move the freight through the region will be required, we expect fewer emissions will be released into the environment.

Q: What is the CREATE program and how will this transaction affect it?

A: CREATE is a public-private partnership designed to achieve better regional transportation efficiencies and reduce rail freight, passenger and commuter congestion. If the EJ&E transaction is approved, CN will have no need for its construction projects as envisioned in CREATE, but will use its EJ&E investments to reduce congestion, gaining the same results as intended by CREATE. With this transaction, the complexity of CREATE will be reduced. In the meantime, full funding and implementation of CREATE is years down the road, but the need to address congestion on the area's railroads and roadways is immediate.

Q: Is this transaction tied to Chicago's bid to win Olympics in

any way?

A: No. Negotiations date back several years, well before there was any idea of Chicago's bid for the Olympics.

Q: How will CN address safety concerns at EJ&E crossings due to the increased number of trains?

A: There is no direct correlation between an increase in the number of trains over any particular crossing and a decrease in safety. Motorists' continued safe behavior at railroad crossings is still crucial. For those mainline EJ&E crossings in Illinois at public streets not yet equipped with gates and lights, the Illinois Commerce Commission indicates that they will be added before the end of 2009.

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(f) The public authority next decides to use traffic channelization devices at W Street. Table 8 shows that the Quiet Zone Risk Index

is now reduced to 14,327.5. This risk reduction fully compensates for the loss of the train horn as it is less than the Risk Index

with Horns. The quiet zone is qualified under the rule.

TABLE 8

Street	Crossing risk index w/o horns	Crossing risk index w/horns	SSM EFF	Crossing risk index w/o horns plus SSM
W	35000	20983.21	0.75	8750
X	42000	25179.86	0.82	7560
Y	33500	20083.93	0	33500
Z	7500	8576.33	0	7500
	RIWH 18705.83			QZRI 14327.5

Appendix D to Part 222 "Determining Risk Levels"

Introduction

The Nationwide Significant Risk Threshold, the Crossing Corridor Risk Index, and the Quiet Zone Risk Index are all measures of collision risk at public highway-rail grade crossings that are weighted by the severity of the associated casualties. Each crossing can be assigned a risk index.

(a) The *Nationwide Significant Risk Threshold* represents the average severity weighted collision risk for all public highway-rail grade crossings equipped with lights and gates nationwide where train horns are routinely sounded. FRA developed this index to serve as a threshold of permissible risk for quiet zones established under this rule.

(b) The *Crossing Corridor Risk Index* represents the average severity weighted collision risk for all public highway-rail grade crossings along a defined rail corridor.

(c) The *Quiet Zone Risk Index* represents the average severity weighted collision risk for all public highway-rail grade crossings that are part of a quiet zone.

The Prediction Formulas

(a) The Prediction Formulas were developed by DOT as a guide for allocating scarce traffic safety budgets at the State level. They allow users to rank candidate crossings for safety improvements by collision probability. There are three formulas, one for each warning device category:

1. Automatic gates with flashing lights;
2. Flashing lights with no gates; and
3. Passive warning devices.

(b) The prediction formulas can be used to derive the following for each crossing:

1. The predicted collisions (PC)
2. The probability of a fatal collision given that a collision occurs ($P(FC|C)$)
3. The probability of a casualty collision given that a collision occurs ($P(C|C)$)

(c) The following factors are the determinants of the number of predicted collisions per year:

1. Average annual daily traffic
2. Total number of trains per day
3. Number of highway lanes
4. Number of main tracks
5. Maximum timetable train speed
6. Whether the highway is paved or not
7. Number of through trains per day during daylight hours

(d) The resulting basic prediction is improved in two ways. It is enriched by the particular crossing's collision history for the previous five years and it is calibrated by resetting normalizing constants. The normalizing constants are reset so that the sum of the predicted accidents in each warning device group (passive, flashing lights, gates) for the top twenty percent most hazardous crossings exactly equals the number of accidents which occurred in a recent period for the top twenty percent of that group. This adjustment factor allows the formulas to stay current with collision trends. The calibration also corrects for errors such as data entry errors. The final output is the predicted number of collisions (PC).

(e) The severity formulas answer the question, "What is the chance that a fatality (or casualty) will happen, given that a collision has occurred?" The fatality formula calculates the probability of a fatal collision given that a collision occurs (i.e., the probability of a collision in which a fatality occurs) $P(FC|C)$. Similarly, the casualty formula calculates the probability of a casualty collision given that a collision occurs $P(C|C)$. As casualties consist of both fatalities and injuries, the probability of a non-fatal injury collision is found by subtracting the probability of a fatal collision from the probability of a casualty collision. To convert the probability of a fatal or casualty collision to the number of expected fatal or casualty collisions, that probability is multiplied by the number of predicted collisions (PC).

(f) For the prediction and severity index formulas, please see the following DOT publications: *Summary of the DOT Rail-Highway Crossings Resource Allocation Procedure—Revised*, June 1987, and the *Rail-Highway Crossing Resource Allocation Procedure: User's Guide, Third Edition*, August 1987. Both documents are in the docket for this rulemaking and also available through the National Technical Information Service located in Springfield, Virginia 22161.

Risk Index

(a) The risk index is basically the predicted cost to society of the casualties that are expected to result from the predicted collisions at a crossing. It incorporates three outputs of the DOT prediction formulas. The two components of a risk index are:

1. Predicted Cost of Fatalities = $PC \times P(FC|C) \times (\text{Average Number of Fatalities Observed In Fatal Collisions}) \times \3 million .

2. Predicted Cost of Injuries = $PC \times (P(C|C) - P(FC|C)) \times (\text{Average Number of Injuries in Collisions Involving Injuries}) \times \$1,167,000$.

PC, $P(C|C)$, and $P(FC|C)$ are direct outputs of the DOT prediction formulas.

(b) The average number of fatalities observed in fatal collisions and the average number of injuries in collisions involving injuries were calculated by FRA as follows.

(c) The highway-rail incident files from 1999 through 2003 were matched against a data file containing the list of whistle ban crossings in existence from January 1, 1999 through December 31, 2003 to identify two types of collisions involving trains and motor vehicles: (1) those that occurred at crossings where a whistle ban was in place during the period, and (2) those that occurred at crossings equipped with automatic gates where a whistle ban was not in place. Certain records were excluded. These were incidents where the driver was not in the motor vehicle, or the motor vehicle struck the train beyond the 4th locomotive or rail car that entered the crossing. FRA believes that sounding the train horn would not be very effective at preventing such incidents.¹

(d) Collisions in the group containing the gated crossings nationwide where horns are routinely sounded were then identified as either fatal, injury only, or no casualty. Collisions were identified as fatal if one or more deaths occurred, regardless of whether or not injuries were also sustained. Collisions were identified as injury only when injuries, but no fatalities, resulted.

(e) The collisions (incidents) selected were summarized by year from 1999 through 2003. The total number of collisions for the period was 2,161. The fatality rate for each year was calculated by dividing the number of fatalities ("Deaths") by the number of fatal incidents ("Number"). The injury rates were calculated by dividing the number of injuries in injury only incidents ("Injured") by the number of injury only incidents ("Number").

¹ The data used to make these exclusions is contained in blocks 18—Position of Car Unit in Train; 19—Circumstance: Rail Equipment Struck/Struck By Highway User; 28—Number of Locomotive Units; and 29—Number of Cars of the current FRA Form 6180-57 Highway-Rail Grade Crossing Accident/Incident Report.

accidents on the EJ&E rail line would increase, although the predicted number of additional accidents would be small, less than one additional accident per year. In these circumstances, SEA recommends the following mitigation to address freight rail safety:

- 3) Applicants shall adhere to all applicable Federal Occupational Safety and Health Administration (OSHA), FRA, and state construction and operational safety regulations to minimize the potential for accidents and incidents on the EJ&E rail line.

Vehicle Safety

SEA's evaluation of vehicle safety is described in Section 4.2.2. Under the Proposed Action, SEA found that overall predicted highway/rail at-grade crossing accidents would decrease. However, SEA identified three highway/rail at-grade crossings on the EJ&E rail line that would see a substantial increase in predicted accidents, and three additional highway/rail at-grade crossings on the EJ&E rail line where the exposure of highway vehicles to trains would see a substantial increase under the Proposed Action, potentially warranting additional mitigation.

SEA recommends the following general mitigation for vehicle safety:

- 4) Applicants shall coordinate with the appropriate state departments of transportation, counties, and affected communities along the EJ&E rail line to develop a program for installing temporary notification signs or message boards, where warranted, in railroad ROW at highway/rail at-grade crossings, clearly advising motorists of the impending increase in train traffic on affected rail line segments. The format and lettering of these signs shall comply with the Federal Highway Administration's (FHWA) *Manual on Uniform Traffic Control Devices* (FHWA 2007b) and shall be in place no less than 30 days before and six months after the implementation of rail operations under the Proposed Action. In addition, Applicants shall conduct a media campaign throughout the counties and communities surrounding the EJ&E rail line advising the public of increased operations along the EJ&E rail line. The campaign shall include the use of different media (radio, television, newspaper, Internet, and public meetings) and may include public service announcements, advertisements, or legal notices. Applicants shall distribute all information in both English and Spanish, where appropriate. Applicants shall report to the Board that they have complied with this condition (see below).
- 5) Should Applicants choose to operate trains in lengths that might block one or more at-grade crossings, and if these trains are required to stop for any reason, Applicants shall not block a crossing for more than 10 minutes (U.S. Operating Rules No. 526 [Public Crossings]). If the blockage is likely to exceed this time frame, then the train shall then be promptly cut to clear the blocked crossing or crossings.

High Accident Frequencies

As discussed in Chapter 4, should the Proposed Action be approved and implemented, three highway/rail at-grade crossings would see an increase in predicted accidents that exceeds the threshold used by SEA in prior proceedings as a measure of high incidence of predicted accidents (greater than one every seven years). The three highway/rail at-grade crossings include:

- Woodruff Road, Joliet, Illinois, MP 0.82, Segment EJE-8, USDOT #260597M
- Lake Street, Griffith, Indiana, MP 36.77, Segment EJE-4, USDOT #260661J
- Miller Street, Griffith, Indiana, MP 36.89, Segment EJE-4, USDOT #260662R

Lake Street and Miller Street are located adjacent to each other in Griffith, Indiana, and therefore improvements at one crossing could affect the second crossing. For that reason SEA proposes