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STATE OF INDIANA
OFFICE OF THE GOVERNOR
State House, Second Floor
Indianapolis, Indiana 46204

Mitchell E. Daniels, Jr.
Governor

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May 21, 2008

Ms. Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Surface Transportation Board

CN-EJ&E EIS - FD-35087

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

Dear Ms. Quinlan:

I write to express my opposition to the Canadian National Railway Company and Grand Trunk Corporation's (CN) Request for Establishment of Time Limits for NEPA Review and Final Decision filed in the above referenced docket (Filing 222352).

CN, for reasons pertaining to the terms of the Stock Purchase Agreement (SPA) signed by CN and EJ&E (a wholly owned subsidiary of United States Steel Corporation (USS)) and relying on 40 C.F.R. § 1501.8, requests that the Surface Transportation Board (STB) commit to issuing a final NEPA decision with respect to this transaction on December 1, 2008.

40 C.F.R. § 1501.8(a) provides "The agency shall set time limits if an applicant for the proposed action requests them: Provided, that the limits are consistent with the purposes of NEPA and other essential considerations of national policy." 40 C.F.R. § 1501.8(b) lists factors an agency may consider in exercising its discretion in setting time limits. Not only does section (b) not identify business exigencies of the applicant as a factor, the factors listed (for example "Potential environmental harm" and "Number of persons and agencies affected," (to identify only two) work against, rather than in favor of, setting time limits.

My concern is that setting an artificial deadline will deprive the people of Northwest Indiana of meaningful participation in the NEPA process. The very purposes of NEPA are to make sure that all relevant information is available to the public before a federal agency makes a decision and to be sure the STB takes a hard look at all environmental consequences. There is no way the STB (or the citizens of the State of Indiana for that matter) can know the details of the Draft Environmental Impact Statement (DEIS) at this date. Nor can any of us know or anticipate the extent of comments the STB will receive in the DEIS process. Finally, no one can know or anticipate what the STB's responses to those comments will be. Any assurances to the contrary notwithstanding, to set an arbitrary time limit with respect to this federal decision creates the impression, if not the

actual fact, that STB's analysis and response to DEIS comments may not be fully addressed to the merits, but will be made to conform to an arbitrary schedule.

As you will recall, the STB was petitioned to treat this as a "significant" rather a "minor," transaction. The STB declined. However, in issuing its decision denying requests to treat this transaction as "significant" rather than "minor" the STB committed to conduct a complete NEPA analysis and correctly observed that the "time the EIS (Environmental Impact Statement) will take to prepare cannot be determined ahead of time because there is no way to predict in advance all of the specific issues that may arise." I not only agree but believe the people of Northwest Indiana deserve to have all those issues thoroughly and carefully, not hurriedly, examined. To do otherwise could call into question the integrity of the NEPA decision making process and potentially subject the STB's decision to other challenges – a result not in the best interest of any party.

Finally, I request and encourage the STB to conduct at least one of its public hearings on the DEIS in Northwest Indiana. Hoosiers in Northwest Indiana potentially bear disproportionate environmental, safety, and congestion burdens from this transaction and (in addition to being the most centrally located) should not also bear the burden of traveling to present and hear public testimony.

I appreciate the care and attention the STB has given this matter.

Sincerely,

A handwritten signature in black ink, reading "M E Daniels, Jr." in a cursive style.

Mitchell E. Daniels, Jr.

cc: The Honorable Richard Lugar, United States Senator
cc: The Honorable Evan Bayh, United States Senator
cc: The Honorable Peter Visclosky, United States Representative