

Surface Transportation Board
 395 E Street, SW
 Washington, D.C. 20423
 Attention: Phillis Johnson-Ball
 Environmental Filing
 STB Finance Docket No. 35087

September 30, 2008

LAKE CO Forest Preserve

Re: STB Finance Docket No. 35087
 Canada National Railroad Acquisition of EJ&E

Dear Mrs. Johnson-Ball:

Thank you for the opportunity to comment on the draft Environmental Impact Statement (DEIS) for the proposed acquisition of the Elgin, Joliet, and Eastern Railway (EJ&E) by Canadian National Railroad (CN). Currently, the **Lake County Forest District (District)** owns and manages over 26,000 acres for the educational, recreational, and environmental benefit of Lake County residents. The proposed acquisition and modifications of the EJ&E by CN affect one District property, Cuba Marsh Forest Preserve but depending upon future potential uses could impact three other forest preserves. These include two dedicated state nature preserves, one of the District's most use preserve, existing recreational trails, one proposed trail, and other Lake County natural and cultural resources. The comments and recommendations included within the attached DEIS review support the reasoning behind the District's request for the SEA to complete a more comprehensive Environmental Impact Study that accurately assesses the impacts to ecological resources along the corridor.

The District provided comments about important factors that the DEIS should have covered in its letter dated February 14, 2008. These included concerns about noise and vibration impacts, air quality, water resources, constructions impacts, safety concerns, wildlife impacts, wetland resources, biological resources, and hazardous materials. Many of these concerns were reiterated during the September 2, 2008 Illinois Natural Resources/Water Resources Agencies Stakeholder meeting. After review of the July 25, 2008 EIS it is apparent that many of the District's concerns were not adequately addressed. With this response we detail our concerns.

The District in collaboration with members of the Illinois Natural Resources/Water Resources Agencies Stakeholder Group raised eight (8) major areas of concerns. All members of the stakeholder group have agreed to these areas of concerns and are presented here for consideration in the final EIS. Applicant refers to Canadian National Railroad.

1) Applicants shall establish a local liaison with expertise in environmental and natural resource management to work closely with Federal, state, and local natural and water resource agencies (to include Fermi Lab) for the purpose of improved adaptive natural resource management. Applicants shall name the liaison within one month of any approval of the proposed acquisition by the Surface Transportation Board. The liaison shall ensure that the adaptive management measures developed shall be incorporated into all relevant rail right-of-way maintenance contracts.

- 2) Applicants shall provide a mitigation condition requiring that CN shall develop management agreements with those agencies having impacted resources and that said agreements would address specific issues that would be impacted by proposed or potential impacts from increased train traffic or track additions (construction).
- 3) Applicants shall provide a mitigation condition of CN required monitoring or CN financial support for resource agency monitoring of potential impacts to localized (+/- 1500ft of rail) flora and fauna impacts from CN operation. If impacts are verified by monitoring, tiered mitigation would be required by CN for habitat improvements, restoration of habitat, and further monitoring. The stakeholder group recommends at least a five year period for monitoring at 7 – 10 preserves scattered across the Illinois region.
- 4) Applicants shall provide a mitigation condition that requires CN to utilize State of the Science Technologies and BMP's for all new connections and double tracks within the proposed action and to require same to all FUTURE upgrades, increased train traffic, modifications, etc.
- 5) Comment (supported by data from the Illinois Department of Natural Resources and other land management agencies) that the DEIS arguments used for assessment of NET change between rail impacts radiating inside the arch and new potential EJ&E rail operation impacts along the arch were a wash at ZERO - Does not hold for natural resources. Stakeholders believe assessment will show more natural resource impacts are found along the EJ&E arch than found within the arch. The stakeholder group requested a fast assessment by HDR of Element Occurrence Records, INAI sites, Nature Preserves and scarce habitat (i.e. large grassland habitat) to document this but was denied.
- 6) Comment on human receptor impacts to user public citing examples such as trail users, camp ground, recreational facilities, fishing facilities, and other passive recreational experiences diminished by the documented frequency and magnitude of noise disturbances anticipated. This was not investigated by the EIS and is a major concern for land management agencies with preserves along the railroad corridor that provide these resources for its constituents.
- 7) Comment on localized increase to documented emission pollutants and increased fuel utilization all within the Will, Cook, DuPage and Lake CMAQ attainment area as being directly counter-productive to all agency gains and continued efforts toward air quality improvement and sustainability. Applicants shall provide a mitigation condition that CN fund an amount proportional to emissions generated to go directly for agency sustainability measures and attainment goals.
- 8) Comment and underpin data concerning Hazmat Risk Assessment and Potential Hazmat releases into biological and water resources having underlying "at risk surficial geology" and shallow aquifers and/or surface waters. Again the District requests that the applicants be required to provide "State of the Science" technologies and BMP's as mitigation for impacts to these aquatic resources.

In addition to these eight (8) areas of major concern that Lake County Forest Preserve District has the following additional concerns about the DEIS.

Assessment of Biological Resources

As noted in Section 4.11.1 the SEA conducted their assessment during the months of February and April of 2008. This timeframe is not an appropriate period to assess biological resources as this does not coincide with the growing season of plants or the breeding season of many animals. The District requests that the SEA conduct an ecological assessment of the resources along the EJ&E corridor during the appropriate growing and breeding season to adequately assess the ecological conditions along the EJ&E rail line. Additionally, it is not clear that the SEA investigated all possible locations that would support habitat for listed species or high quality natural areas. Without a site by site visit the DEIS did not accurately assess the ecological resources along the corridor.

Illinois Natural Resources/Water Resources Agencies Stakeholder Group requested the EIS process contact the U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, Illinois Department of Natural Resources, and the Illinois Nature Preserves Commission for pre-application consultation to determine the concerns each agency would have in relationship to the proposed application. This process would have allowed the EIS process to be thorough in determining the impacts to the ecological resources within the EJ&E rail line corridor.

Future Impacts

The DEIS lacks information on future track doubling, increased traffic, new connections and future use of the CN lines. The STB should require the EIS to address the full right of way capacity instead of being based on the applicant's operating plan capacity. The District requests that the STB require CN to seek our review, comment and mitigate for any subsequent changes along the EJ&E rail line not outlined in the applicant's operating capacity plan. The District has significant resources north of the Leighton connection that would be impacted by any future expansion of the number of tracks or trains along this corridor.

Applicant's Safety Record

The STB only considered CN's safety record in the United States even though the majority of its operations are in Canada. The District requests that the STB uses both the United States and Canadian safety record of CN for the purpose of this EIS.

Table 2-9

We disagreed with several of the conclusions made by SEA in regards to impacts on biological resources. Specifically, we disagreed with SEA's conclusions that the proposed action would not have an adverse affect on plant communities, wildlife, conservation and natural areas, federally listed species (including the Hine's emerald dragonfly), state listed species, and water

resources. Additionally, we disagreed with the conclusion that the noise level increase of 65 dBA or greater would not result in adverse effects.

Table 2-10

We disagree with SEA's conclusion that there would be no effects to federally listed species. We note that this determination cannot be made for the eastern prairie fringed orchid without conducting a habitat assessment or surveys in suitable wetland habitat.

Chapter 3, Affected Environment Comments:

Section 3.1, Current Rail Operations

The DEIS does not present any discussion pertaining to current or planned locomotive, railcar, or other railroad vehicle maintenance or repair frequencies. The United States Fish and Wildlife Service have documented concerns related to habitat contamination resulting from the release of petrochemicals and lubricants from railroad vehicles. Inadequate information is provided to assess this potential and to develop appropriate mitigation activities.

- The DEIS should not be finalized until baseline conditions for the volumes and frequency of release of these types of products have been determined and inspection and repair schedules are provided.
- The potential environmental risk these products represent should be evaluated through an extensive assessment of the chemical composition, migration potential, and lethal dose concentrations have been completed for each product and against all vulnerable wildlife groups.

Section 3.2.5, Pedestrian and Bicyclists

- No bikeways or trails have been discussed in the draft EIS; only a list of "official" non-motorized crossings.
- A recreational trail crosses the railroad tracks at Old School Forest Preserve and runs along the rail line between Old School and MacArthur Woods Forest Preserves. While current proposed railroad operations do not call for increased traffic in this area the EIS statement should address any possible impacts from the proposed sale of the EJ&E Railroad. Due to the possibility of increased traffic in the future the site should be identified and evaluated for official pedestrian crossings. User safety would be threatened with any future expansion.

Table 3.2-2 Forest Preserves Adjacent to the EJ&E Rail Line

Cuba Marsh is listed under Cook County and it is a Lake County Forest Preserve District holding.

Table 3.5-4 Resource-Rich and Projected Areas Adjacent to the EJ&E Rail Line

Chain O' Lakes-Fox River Resource Rich Area is not adjacent to the rail line nor is it in Cook County. Additionally, Illinois Beach Resource Area is not in Cook County.

Section 3.5.5.12 Coastal Zone Management Areas

While the Coastal Zone Management Area in Illinois is not adopted yet a boundary does exist and should be mapped as part of the final EIS. Protection of this zone should also be a requirement that the applicant needs to demonstrate in the final EIS.

Section 3.9, Air Quality

It appears that the United States Environmental Protection Agency (USEPA) is in the process of modifying the National Ambient Air Quality Standards (NAAQS) for the six criteria pollutants: ozone; nitrogen dioxide; carbon monoxide; sulfur dioxide; respirable particulate matter; and lead.

The DEIS states that all ten counties in the study area, including Lake County, are, in whole or in part, classified "moderate" nonattainment for the 8-hour ozone standard, with a designation date of June 2004. This area is required to achieve attainment by June 2010. In March 2008, the EPA revised the 8-hour ozone NAAQS from 0.08ppm down to 0.075ppm and announced that attainment status for this revised standard will probably be designated based on data from 2006 to 2008 or later. No data from the 2006 to 2008 monitoring period is provided in the draft EIS. As the 2006 to 2008 monitoring period is about to close, the EIS should discuss attainment status based on these data.

The USEPA should also determine attainment status based on these data and not older monitoring results. Otherwise, current compliance with the NAAQS cannot be accurately determined.

The DEIS states that all ten counties in the study area, including Lake County, are, in whole or in part, classified nonattainment for the annual Respirable Particulate Matter (PM2.5) standard based on the State of Illinois recommendation to the US EPA in December 2007. This nonattainment area is identical to the existing 8-hour ozone nonattainment area. However, this status is based on 2004 to 2006 monitoring data. The final designation signature will occur no later than December 2008, with an effective date no later than 90 days after publication in the Federal Register (or March 2009). Following the effective date, the state implementation plan (SIP) to achieve attainment within no later than 5 years after the effective date of designation (or March 2014) is due within 3 years (or March 2012). There is the possibility of a 5-year extension to the attainment date to March 2019.

The Illinois Environmental Protection Agency (IEPA) Technical Support Document for Recommended Nonattainment Boundaries in Illinois for the 24-hour PM2.5 NAAQS (Dec. 2007) also states that Chicago region has a high level of precursor emissions.

No data from the 2006 to 2008 monitoring period is presented in the DEIS. It is not clear if the attainment designation in March 2009 will be based on data from the 2004 to 2006 monitoring period or more recent data. It is also not clear what monitoring period data will be used to determine if attainment has been achieved in 2014 or 2019 if an extension is granted.

- Insufficient data is provided to allow the District to determine the potential impacts this action could have on the Chicago region's ability to achieve compliance with NAAQS.
- The large increase in train traffic and associated emissions must be offset by reductions from other emission sources if attainment is to be possible.

Many of the environmental benefits in the DEIS are based on the belief that re-routing trains out of Chicago/Cook County through Lake County and other collar counties would reduce overall emissions. The DEIS does not discuss future plans or likely responses by other users of the tracks from which the CN trains would be diverted (BNSF, CPR, CSX, NS, UP) if the acquisition is approved. It seems likely that these other railroad companies will simply replace the CN traffic with trains of their own.

- CN should provide documentation that this will not be the case.
- If they cannot, many of the claims of environmental benefits should be considered invalidated.

Section 3.11.3.2, Invasive and Nonnative Plant Species

The DEIS does not list train traffic and railroad maintenance as potential means of invasive species transport. The movement of trains through areas dominated by invasive and nonnative species and through or near areas of high quality vegetation often largely void of invasive and nonnative species represents a primary mode of introduction to the Chicago region. Railroad ballast, maintenance equipment and vegetation management techniques are other sources for invasive species introduction.

The Applicant should be required to enter into management agreements with the adjacent public landowners to insure that natural areas are not impacted from the control of vegetation or maintenance of the rail line. Similar management agreements are in place with other rail lines in the region.

Section 3.11.4, Railroad Vegetation Management

Chemical and mechanical management of vegetation within the right of way is presented as the means through which transport of invasive and nonnative species will be avoided. Treatment of vegetation does not necessarily mean the right of way cannot serve as a source of invasive and nonnative species. In fact many railroad corridors with vegetation management controls only have invasive species populations along the corridor. Control must be targeted and completed at appropriate times of the year to be effective. Excessive control of vegetation through chemical treatments to prevent vegetation growth within the right of way represents a significant threat of drift impacts to adjacent vegetation. Other than a statement that all chemical applicators are qualified, no discussion is provided on the methods, materials, or precautions in place to ensure proper treatment of invasive and nonnative species. Even if effective control of invasive and nonnative species within the right of way is accomplished, it does not address the ability of trains to serve as a mode of transportation and introduction.

The Applicant should be required to enter into management agreements with the adjacent public landowners to insure that natural areas are not impacted from the control of vegetation or maintenance of the rail line. Similar management agreements are in place with other rail lines in the region.

Figure 3.11-1 Natural Areas

Request that all natural areas along the current EJ&E corridor be identified on this map. This would add MacArthur Woods Nature Preserve, Middlefork Savanna Nature Preserve and Old School Forest Preserve. This justification for this was discussed earlier.

The Applicant should be required to enter into management agreements with the adjacent public landowners to insure that natural areas are not impacted from the control of vegetation or maintenance of the rail line. Similar management agreements are in place with other rail lines in the region.

Section 3.11.5.1, Area Wildlife

There is a second Bird Conservation Region that is applicable to the Chicago Region. Prairie Hardwood Transition region is also considered applicable to the region.

Section 3.11.5.2, Fragmentation

The DEIS claims the following: “Based on the condition of the fragmented wildlife habitat in the study area, SEA presumes that wildlife in the study area experiences reduced species diversity, population densities, and distributions in response to the cumulative long-term effects of these land use changes and reduction of habitat.” This section seems to present the issue of fragmentation as if all the damage has already been done and that additional train traffic and track sections could not have a significant impact, which is inaccurate.

- Every train should be considered a fragmentation event as it could interrupt wildlife movements related to reproduction or foraging and have negative impacts on success.
- There is the potential for some of the habitat adjacent to the existing EJ&E tracks in the locations for which additional traffic and tracks are proposed for construction to support threatened and endangered species. Prairie remnants adjacent to railroad corridors have been suspected of providing critical habitat to the State Threatened Franklin’s ground squirrel. A thorough inventory of the plant and animal assemblages should be completed before the EIS is finalized so that the true fragmentation impacts can be known.

Section 3.11.5.3, Wildlife Mortality

The DEIS considers wildlife mortality related to train activity almost a non-issue, essentially summarizing the section by stating, “CN does not keep records of animal strikes/kills on its own lines or on EJ&E rail lines. Likewise, EJ&E does not record animal strikes/kills.” This means there is no baseline on current mortality rates caused by train traffic along the proposed route.

The final EIS must accurately identify the potential for additional train traffic to have a greater impact on wildlife mortality due to strikes, and insufficient data exists in the DEIS to assess this issue. Baseline conditions should be determined before the DEIS is finalized so that the true risks of mortality related to train impacts can be assessed. There is a great deal of research related to this topic indicating that wildlife mortality resulting from train impacts can be significant.

The DEIS fails to acknowledge impacts to reptiles and amphibians crossing tracks or provide any mitigation activities for such impacts. In cases where new construction is proposed and wildlife habitat is fragmented, mitigation should consider installation of wildlife passages through berms to facilitate movement of reptiles and small mammals. Construction or modifications at stream crossings should be evaluated and improved, if necessary, to accommodate larger mammal movement and maintain fish passage. Furthermore, to address future impacts, an ongoing dialog should occur with the railroad company regarding natural areas and wildlife management issues.

Table 3.11-4 Conservation and Natural Areas within the Illinois Study Area

This list is incomplete and should be corrected. MacArthur Woods and Middlefork Savanna are not included for Lake County.

Section 3.11.6.1 Lake County, Illinois

Again please include all preserves along the EJ&E corridor. MacArthur Woods, Middlefork Savanna and Old School Forest Preserves are missing.

3.11.8.2, State Listed Species

Numerous State Listed species are known from habitat areas immediately adjacent to or in close proximity to the EJ&E tracks in Lake County and other areas. The DEIS does not adequately explore the potential impacts to these species from increased train traffic through direct impacts and potential habitat contamination. No information is provided to indicate that searches were done to identify the presence of additional populations of these species within the right of way.

The applicant should be required to develop Incidental Take Permits with the Illinois department of Natural Resources. These permits would be used if proposed monitoring would indicate impacts to listed species and would outline the appropriate mitigation measures to be implemented.

Section 3.12.2, Groundwater

The DEIS acknowledges that the predominant water supply is shallow dolomite but provides only limited information on the number of wells present. The report also fails to adequately discuss the increased risk of potable water supply contamination by diverting trains onto the EJ&E tracks as compared to the current routes. Additional information should be provided to allow the following potential impacts to be considered adequately.

- The hydrologic connection between the EJ&E tracks and shallow dolomite aquifers serving as potable water supplies for both municipal and private users.
- The distance of the EJ&E tracks from the well head protection areas presented in the report. These are only described as “near” the EJ&E line.
- The population levels which would be affected if the wellhead protection areas are contaminated.

The report states that access to public water supply information is “limited for purposes of homeland security.”

- What does limited mean? What information is available and what information is being withheld?
- It would seem logical that the protection of public water supplies from contamination from domestic activities is in the best interest of homeland security.

The report states the IEPA controls for wellhead protection “do not appear to apply to rail lines...except where fixed sources of contamination exist.” Whether or not these controls do apply to rail lines should be determined and the DEIS modified as needed before it is finalized.

Section 3.12.5, Wetlands

The DEIS focuses a great deal on fens. However, it does not provide much discussion on how these important community types will be protected from degradation. It is curious that the draft EIS considers fens such a highly valued landscape but do not consider other landscapes or wetland types that are equally valued with the same level of concern.

- Remnant wet and wet-mesic dolomite prairie is globally imperiled and should be treated with equal attention.
- Wetlands that support threatened and endangered species should be treated as critical habitat areas and offered the fullest degree of protection.
- Calcareous ecosystem types are common in Chicago region and support numerous threatened and endangered species and rare plant assemblages.
- There are other types of groundwater dependent communities such as, springs and seeps that are found in the Chicago Wilderness Region that could be impacted.

Section 3.12.3 Floodplains and Streams

This section does not adequately address the resources in the study area. Table 3.12-7 only identifies those streams near construction limits. All streams within the watershed of the EJ&E rail line should be documented and discussed. This is necessary since impacts to these streams can occur from both construction activities and Hazardous Material spills. The final EIS should address this issue.

Table 3.12-8 Regulation of USACE Non-Jurisdictional Wetlands

Mitigation ratios for impacts to High Quality Aquatic Resources (HQARs) is 3:1 and not 1:3. Additionally, there are larger buffer requirements for areas that are HQARs or support habitat for federal or state listed species.

Chapter 4, Environmental Consequences Comments:

Section 4.11, Biological Resources

More detailed numbering of this section is requested to allow for proper review and comment.

This section of the DEIS states that only bird populations within 500 feet of the rail line may experience behavioral and/or physiological effects and/or masking of communication signals because of the increased noise. Birds and many other animal species may experience these effects, some to the point of disrupting reproduction. Depending on the species being affected, this could be a significant impact. The DEIS fails to acknowledge the potential significance of this issue. In addition, there are no monitoring plans to detect these impacts and no mitigation activities proposed to address them if observed.

We note that the DEIS highlights the importance of the natural areas as bird concentration areas and that the Final EIS should compare the predicted noises levels from the proposed action (including the increased number and frequency of trains) to noise levels and distances that have shown an adverse affect on migratory birds

The DEIS acknowledges that 18 forest preserves, nature preserves, state parks, or trails would be affected by the increased freight train traffic; however, no activities are proposed to monitor these impacts and no mitigation activities are proposed to offset them. This essentially equates to a taking of these public properties.

Regarding train/species collisions, the DEIS states that “animals in the area have adapted to existing train traffic and the increased potential for animal/train collisions would not affect any particular animal populations.” No literature is cited in support of this conclusion. There is a great deal of research which documents that trains can have a severe impact on animal species of all types. Again, this conclusion demonstrates how grossly inadequate the draft EIS is.

The DEIS states, “Because the probability of a wildfire igniting is remote, wildfires would not affect natural areas.” The District is aware of train ignited wildfires occurring in Lake County almost annually. Some of them have actually required significant response from local fire departments to suppress. They are likely more common than the District is directly aware. Wildfires ignited during growing season droughts can have a severe impact on wildlife such as ground nesting birds, remnant dependent insects, and reptiles and amphibians which have low mobility.

Section 4.11.3.1 Federal, State, and Local Conservation and Natural Areas

The District does not agree with the conclusions presented by the SEA. Studies have shown that noise and vibration do impact species. In addition the increase in the number of trains from 5 to 20 will greatly enhance the disturbance of wetland and grassland species by movements across the horizon. This has been documented as a major disturbance factor for bird species and other large wildlife.

With the increase of trains from 5 to 20 this greatly increases the risk of train/species collisions, hazardous material spills and the occurrence of wildfires. All of these are significant impacts to listed species and high quality natural areas. We disagreed with SEA's conclusion that the possibility of hazardous materials releases are remote because, as SEA highlights, the increase in hazardous materials releases would increase with the increased amount of train activity. We request that the Final EIS provide data that shows the proposed frequency of spills with the proposed number of carloads transporting hazardous materials per day (anticipated at up to 500 carloads per day) and that the Final EIS provide data that compares the frequency of spills (with the proposed number of carloads) with other rail lines transporting comparable numbers of cars per day over similar distances. This comparison of data could show whether the possibility of hazardous materials releases is remote.

As noted earlier impacts to biological resources adjacent to the EJ&E rail line are much greater than the perceived benefits from reducing trains along the CN rail line. In addition as noted in this section several species groups will be impacted by this proposal. Chicago Wilderness has identified several of these species groups including grassland birds, marsh birds, rookery birds, wetland reptile species, prairie remnant species and amphibian species. The conservation and natural areas adjacent to the EJ&E corridor represent a major component of the habitat available to these species groups in the region. Therefore the District cannot agree with the conclusions presented at the end of this section. The SEA seems to believe a 400% increase in traffic will not have a greater impact on wildlife and this is not accurate.

Section 4.12 Water Resources

The District finds this section does not properly address the concerns about hazardous waste spills. Impacts to streams, wetlands, surface water and ground water are not adequately assessed in this Section or Section 4.2.5. Flint Creek flows under the rail line at Cuba Marsh and would be severely impacted by a hazardous spill. Flint Creek connects to large wetlands that provides habitat for listed species and wetland birds, reptiles, amphibians and aquatic invertebrates. Increased traffic in this section will increase the amounts of pollutants entering the stream and the surrounding wetlands. The final EIS should address these issues

Other water resources are associated with preserves not considered in this DEIS would also be vulnerable to hazardous waste spills and increased pollution for increased train traffic. The final EIS should address these issues

Chapter 5, Indirect and Cumulative Effects Comments:

Sections 5.3, Potential Indirect Effects of the Proposed Action

This section of the DEIS does not address any potential indirect effects on biological resources and does not disclose indirect impacts from the proposed action (and does not address indirect impacts to biological resources in the study area). The District requests that the final EIS address indirect effects to all biological resources listed in Chapter 4 or document how the proposed action would not result in indirect effects on biological resources.

Chapter 6, Mitigation Comments:

Section 6.2.4.2, Community Outreach

CN needs to identify a liaison from federal, state, and local natural resource agencies to meet and work with on an ongoing basis to develop a long term protection and management plan for adjacent habitat, nature preserves, and INAI sites along the entire length of the existing EJ&E tracks. This plan may include recommendations for the use of signage to designate sensitive natural areas and habitat, identify specific approved herbicides to be used near sensitive natural areas, identify fish and wildlife crossing opportunities along the rail system, address vegetation and weed management control, address monitoring protocols, and identify where management agreements with natural resource agencies for specific segments of the track are possible.

Section 6.3.11.3, Federally Listed and State Listed Species

The District recommends conducting wetland delineations and habitat assessments in all proposed and potential increased traffic and construction areas to determine if suitable habitat is present for federally and state listed species. If suitable habitat is present, CN should conduct surveys for all probable species.

We disagree with SEA's conclusion that only minor effects are expected to Blandings and spotted turtles because habitat structure would not change and both species currently occur in the rail environment. We note the Final EIS should address turtles being trapped between railroad rails how increased train activity would result in longer periods of being trapped. We cite research that has shown that prolonged periods of being trapped between railroad rails can result in mortality and physiological stress (overheating) on turtles (Kornilev et al. 2006).

The District requests the use of turtle ramps, drop boxes, or other structures that reduce the possibility of turtles becoming trapped within railroad rails, in all locations where an EJ&E arch crosses through or is adjacent to wetland areas. These structures should be placed at regular intervals in identified wetland areas. CN should also construct turtle crossings in areas where turtles are concentrated.

Section 6.3.14.6, Biological Resources

The District believes that areas adjacent to the existing rail lines that currently support breeding grassland and wetland birds would be less suitable due to the increased number of trains and associated noise. We recommend that the Applicants consider conducting wetland and habitat restoration at one or more sites more remote from the rail lines to offset any reduced breeding bird productivity. There are a number of publicly owned sites near the EJ&E arch that are currently undergoing habitat restoration or may be suitable candidates for restoration where impacts could be fully offset. If this option is pursued, the District could provide technical assistance in identifying potential sites.

Section 6.3.14.7, Water Resources

CN should conduct wetland delineations and associated habitat assessments to determine the floristic quality of wetlands that would be impacted by increased traffic and construction activities. The habitat assessments would be useful in determining the wetland mitigation replacement ratios, which could be higher than the 3:1 ratio noted in Section 6.3.14.7.

The District believes that areas adjacent to the existing rail lines that currently support breeding grassland and wetland birds would be less suitable due to the increased number of trains and associated noise. The District recommends that CN consider conducting wetland and habitat restoration at one or more sites more remote from the rail lines to offset any reduced breeding bird productivity. There are a number of publicly owned sites near the EJ&E arch that are currently undergoing habitat restoration or may be suitable candidates for restoration where impacts could be fully offset.

Short-Term Use versus Long-Term Productivity of the Environment

We disagree with SEA's conclusion that there would be no long-term impacts to resources and that short-term or long-term impacts would only result from construction disturbance. We believe that noise impacts to birds would be a long-term impact on birds. In addition mortality of wildlife from train collisions and wildlife being trapped for longer periods between rails would also be long-term impacts. The Final EIS should address these impacts on resources.

Section 7.2, Potential hazardous Material Release:

We disagree with SEA's conclusion that there would be no short or long-term impacts resulting from hazardous materials releases in the proposed construction areas. Due to the increased number of trains the proposed action would create long-term impacts on resources. The Final EIS should address this issue.

Section 7.3.1, Wetlands:

We disagree with SEA's conclusions that long-term productivity would not be affected because the wetlands and wetland functions would be restored or replaced via mitigation and that wetlands and wetland functions would be protected by best management practices (BMPs).

Irreversible and Irretrievable Commitments of Resources

Section 8.1.3, Protected Species: We disagree with SEA's conclusion that the proposed action would not irreversibly or irretrievably affect any particular animal populations. As proposed, we suggest that there would be chronic impacts to wildlife that would not be fully mitigated and would exist for the foreseeable future.

In closing the District does not feel that the DEIS has adequately assess the ecological resources in the corridor and addressed the concerns listed above, therefore the DEIS is incomplete in its findings. If you have questions or need assistance from the District please contact the District's Natural Resource Manager, Jim Anderson at 847.968.3282 or at janderson@co.lake.il.us.

Sincerely,

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Stevenson Mountsier, Forest Preserve Commissioner
Pamela O. Newton, Forest Preserve Commissioner
Carol Calabresa, Forest Preserve Commissioner

Annotated Bibliography

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