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From: "dan swartz" [innaperville@comcast.net]

Sent: 09/03/2008 10:05 AM EST

To: Vicki Rutson

Subject: Are we rushing the FEIS for CN Acquisition of EJ & E ?

Dear Ms. Rutson:

I have been reading a great deal of the correspondence for the CN acquisition of the EJ&E rail lines. (FD 35087) I'm trying to reach a level of confidence that the STB is not rushing the FEIS procedure. However, when considering the following, it's difficult for me to agree that a thorough outreach process has been followed and all relevant documents have been made available to your agency and to the public.

1 – As the STB has stated, an EIS of this nature typically takes 18 months to several years.

2 – There were considerable requests during the initial public outreach for meetings in the Naperville / Plainfield / Aurora areas. Your responses to several individuals and community organizations included the following statements: “we should have scheduled a meeting for the Aurora/Naperville area, but unfortunately, Phillis and I are booked up” or, to paraphrase, “I hope that 22 miles to the West Chicago site was not too far.” Please note that's 22 miles each way and approximately 90 minutes total – however, because it snowed that afternoon, my round trip was a little over 2 hours.

3 – The public outcry for meetings in Plainfield and Naperville, as well as closer to the actual alignment in Aurora, continues. The Aurora site selected is approximately seven miles from the alignment and farther still from high impact areas within Naperville and Plainfield. However, as of this date, there has not been a meeting scheduled within Naperville or Plainfield.

According to the Council on Environmental Quality's (CEQ) Environmental Justice Guidance under NEPA, “Agencies should develop effective public participation strategies. Agencies should, as appropriate, acknowledge and seek to overcome linguistic, cultural, institutional, geographic, and other barriers to meaningful participation, and should incorporate active outreach to affected groups.” CEQ's NEPA Environmental Justice Guidance also suggests several pieces of information that agencies ought to make available during the scoping process if the public is to have enough information to be well informed and to provide construction input. This includes examples of past public comments on similar agency actions. I do not recall seeing this information during the scoping process and apologize if it was available. If not for the initial round, are examples available at the DEIS stage of public meetings ?

In addition, it is also difficult to comment on the impacts of the transaction without all materials available and studied. Again, this makes me believe we are rushing this process. The Draft EIS states that there are no construction plans available from CN so there is very little discussion of construction impacts or mitigation. I live in the Ashwood Park area of Naperville and I understand that there will be a second track added in this location near an elementary school. I think it would be appropriate to understand the construction plans and schedules so that I may comment on the DEIS. If not now, **when will I have an opportunity to comment on construction impacts before the Final EIS** ? CN is asking that you expedite this process yet their plans are not available.

The DEIS includes what has been called “voluntary mitigation” proposed by CN. It appears to me that many of the items within this long list are actually required by the FRA or other agencies and they are not voluntary. Would it be possible for a more accurate list to be compiled of the mitigation that is truly voluntary? I believe it's misleading.

Thank you for your continued attention and efforts.

9/4/2008

Dan Swartz