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January 28, 2008

The Honorable Anne K. Quinlan, Esq

Acting Secretary

Surface Transportation Board

395 E Street, S.W.

Washington, D C. 20423-0001

Subject: STB Docket No, FD-35097-0

Canadian National Railway Co , et at - Control - EJ&E

West Company. STB Finance Docket No FD-35087-0

cc: Attention: Phillis Johnson-Ball Environmental Filing

Dear Acting Secretary Quinlan and Phillis Johnson-Ball

My firm has reviewed the transportation impacts of the proposal by Canadian

National Railway Company (CN) to acquire control over the EJ&E West Company,

and have concluded that this transaction will cause irreparable damage to the envi-

ronment, An initial change of routing of 26.2% of all the current Chicago hub rail

traffic to the EJ&E is far from being a minor event to the current environment. The

traffic projected is 10,000 trains per year on top of the current 2,555 operated by the EJ&E. This is a Class II system which was created to support US Steel during WWII and was never planned by the communities adjacent to become a Class I railroad owned by foreign interest. The past projection for traffic was about 80% increase by 2020 for about 20,000 trains per year. Based on CN own information their plans to redirect Asian intermodal from the US Port will clearly dramatically increase the past 80% projected increases over the next decade. Perhaps 2X increase over the current projections. Thus the EJ&EW traffic could actually be 18,555 per year if the current EJ&E had zero growth which does not match their current growth.

The EIS is not a minor event but rather a major event. The best and highest use of the EJ&E right of way is to not allow the CN transaction to occur. Please give your upmost consideration to reclassify STB Docket No, FD-35097-0 as a MAJOR EIS event.

The STB's clear objectives, as stated in your Final Report 2008, must be ensuring that mobility is enhanced for minority and lower income communities, and benefits of transportation policies are distributed equitably among all the Nation's citizens. (1994 Presidential Executive Order directed every environmental justice include the

minority populations and low income populations.) The University of Notre Dame has studied the Chicago Megaregion and has found that the immigration destination is in fact some of the same communities along the EJ&E 198 mile route. Waukegan, Elgin, West Chicago, Aurora, and Joliet from 1990 to 2008 all have seen 3 digit growth in minority and low income populations according to the Chicago Area Facts link (see below).

The University of Norte Dame Institute for Latino Studies has completed a study of the Changing Face of Chicagoland Communities. The finding is half of Chicagoland Latinos live outside of the City of Chicago.
http://www.nd.edu/%7Echifacts/chi_comm.html.

Due to the fact that all of the CN data is based on averages it clouds the fact that the retail sales merchandise for WalMart and other China and Asian importers tend to have a seasonality bent toward the last 4 months of the year late August thru early December.

<http://investor.walmartstores.com/phoenix.zhtml?c=112761&p=irol-irhome>

Based on the annual numbers of CN and other public reports greater than 60% flows with in those seasonally high months. This projects that during those 120 days 83 trains will operate on average on the EJ&EW lines on top of current 7 for a total of 90 trains per day if each of the days of week are equal which based on the arrival of the ships is not likely. The option will be to extend the length of the trains from 50 to 100 cars in length to keep the number of trains consistent with their projections.

(CN conveniently does not mention seasonality, double or triple stacking or length of

the planned trains). They are measured by their customer by the elapsed shipping time from Asia to the customer's door. WalMart, Home Depot, and other Big Box Retailers are constantly trying to improve the Supply Chain cost without any apparent concern for the environmental impact.

The unintended consequences of NAFTA which opened CN rights to the USA did not include in the legislation the environmental impact of changing the intermodal routing via Canada.

The second unintended consequence of CN's plan will negatively impact the United States Harbor Maintenance Trust Fund. This impacts Chicago since the Corp of Engineers maintain the St. Lawrence and Lake Michigan Ports, etc. By diverting import traffic via the CN routes the USA General Revenue Fund forever loses this source of taxation for our citizen's benefits. This will hurt the Mayor of Chicago and the citizens of the Great Lakes with higher taxes only to benefit WalMart and other influential importers.

As reported in the STB Final 2008 Report:

"The Federal Government participates in the cost of port feasibility studies, construction, and operating and maintenance (O&M) expenses. The maximum Federal share for harbor navigation projects varies depending on the size of the harbor, ranging from 80 percent for harbors less than 20 feet to 40 percent for harbors greater than

45 feet. These funds come from general revenues. The Federal Government pays 100 percent of O&M costs for harbors less than or equal to 45 feet in depth and 50 percent of the cost for deeper harbors. The O&M costs come from the Harbor Maintenance Trust Fund, which receives proceeds from a 0.125 percent ad valorem tax on commercial port users collected by U.S. Customs.”

What is the economic impact to the US Taxpayer as a result this CN transaction?

The Prince Rupert Port current has the capacity of 500,000 TEU's and has announced expansion to 2,000,000 TEU's and 1,000,000 TEU's;s Halifax The prime destination is CN's new Memphis, TN with a plan to handle 4,000,000 TEU's (annually) for overnight transport to 60% of the US Residents via 321 Trucking Companies. The new primary origin of is China and India for Rupert and Halifax according to CN. CN is promoting better, cheaper, faster than any USA alternatives to Mid America.

Homeland Security environmental issues.

“In a study of all types of incidents between 1990 and 2003, the U.S. Nuclear Regulatory Commission estimated that

a large-scale evacuation of at least 1,000 people occurred every three weeks.” STB 2008 Report.

“In 1975, rail-related fatalities totaled 1,492 nationally. That number had declined to 892 fatalities by 2005. About 97 percent of these deaths were at grade crossings or related to trespassing on railroad tracks. Trespassing is a major problem for the railroad industry and the Nation as a whole, accounting for two-thirds of all rail-related fatalities. Greater steps must be taken to limit access to railroad tracks and discourage trespassers from entering railroad facilities.” STB 2008 Report.

The facts are the Chicago Train Hub Safety Corridor is in place. With the CREATE plan to create the new “fly overs” the entire national rail network will see improved productivity based on the expert studies done over the years regarding the environmental impacts.

The fact is CN has made some claims that are not documented. The transit time they have stated is 12 hours via the EJ&EW. A total distance of 198 miles makes up the route. The claim that the average speed will be 45 mph for the train which will allow the train to clear the road intersections faster. The math works out to be about 5 hours at 45 miles if the entire distance were traveled. Since the end points are not part of the ARC it would be closer to 4 hours to travel 175 miles. The CN website shows that the average speed is much closer to 25 mph the transit time would be

about 7 hours. The average speed would be really 14.5 mph. The alternative distance from Rondout, IL to the St. Charles Airline is 60 miles.

The CN management at the STB meetings stated that the Chicago route takes 72 hours and the EJ&EW route would take 12 hours. The lack of real data is a key concern and the knowledge of what the alternative time via the CREATE alternative would be key to knowing the full environmental impact of the two routes. The data suggest that taking 72 hours to travel no more than 72 miles is equal to an average speed of 1 mph. The CREATE plan clearly identifies their computer projections indicate average freight train speed through the Chicago area would increase by about a third if all of the CREATE improvements are constructed. This would reduce freight train delays, along with the potential for interference with passenger schedules, and increase the throughput capacity of the network, thus opening additional slots that could be used by new high-speed train.

The environmental impact study of the cumulative effect of adding High Speed Intra City between MegaRegion is clearly beneficial to the U. S. Citizens.

The multiplier effects of these trade flows and services result in approximately 5 million jobs, \$782 billion in output, and \$217 billion in wages nationwide³. The traffic handled by the CREATE corridors accounts for about \$10 billion (29 percent) of the revenues earned by U.S.

Class I freight railroads. The enormous magnitude of the Chicago region's activity means that even very small percentage improvements in efficiency can produce very large public benefits. CREATE website.

The CREATE plan will open capacity for High Speed Trains which will reduce the fuel usage for SOV and aircraft moving those business travelers, tourist and military.

The environmental impact of focusing on two key programs is recommended to meet the common good of the U.S. Citizens and Residents.

The goal to separate passenger traffic from freight has proven by many countries with more advanced Surface Transportation to be the safest, cleanest, and more economical.

The Regional Airport of Milwaukee, Gary, Peotone and Chicago's O'Hare and Midway need public transportation according to the Metra STAR study. The fact that the EJ&E passes to the North of the new Abraham Lincoln National Airport should not be overlooked. The Mega-Region employment has been developing along the EJ&E ARC and if the STB's population growth projections of 125 M are solid then the Chi-

cago MegaRegion with the attraction of the immigrants to this area we would project significant increases in the area's population. The advantage of the access to Lake Michigan water is clearly going to be a factor as well to attract future residents.

By taking a short term view of the CN purchase of the EJ&EW the potential use for local residents is blocked for minimal congested usage of that trackage for the dedicated Star service and other high speed passenger service options that may be forthcoming. A safety corridor is necessary for either alternative.

A mitigation for the CN approval must be creation of an absolute Safety Corridor with the implementation of the state of the art safety and communication systems. The price tag for the change of grade is likely to be a minimum equal to the \$400M CN is planning on expending with a strong probability that it will be closer to \$ 1B for a true MegaRegion Safe Passage System.

While Chicago has included in the CREATE plan the Critical Crossing intersections the crossing along the EJ&EW must be a concern with any mitigation plan. Those Chicago Critical Crossing are enhancement to

the existing capital spending that has occurred over the years with state of the art improvements.

A change of grade plan for crossing of the UP and the EJ&EW for the 8 Barrington crossing include few options. Constructing an underpass for the CN would require a very long decline thru residential communities. The depth of the underpass with the planned double stacked TEU's would require a minimal depth of some 40+ feet or equal to a 4 story building. The fact that the UP intersect the EJ&EW is another factor that must be mitigated. The grandfather status of the EJ&EW would dictate that the UP freight trains will have to be granted permission from the CN to proceed. The option of a flyover is of course an option.

Does it make sense to give CN more of an advantage over UP in elapsed transit time benefits? The role of the United States STB is to consider the environmental impact to U.S. Corporations as well.

The noise and vibrations of the intermodal trains compared to the Metra Star light rail electric alternative also seems to be a key environmental issues. A shared trackage with peak season CN trains (at least 100 per day within 2 decades or less competing with a STAR commuter line to

the Lincoln National Airport appears to be what is being offered without any force of law that when a conflict occurs the Metra interest are not protected.

The public safety issues of Trespass Accidents based on the available statistics is another area that no mitigation appears to be available. The alternative Chicago CREATE option already has in place the trespass issues resolved with fences and CN police headquarter in Chicago. Policing the 198 mile of trackage is another cost to be borne by CN.

The probability of accident is elevated with the dramatic change of traffic on the existing trackage. Deer and Horses are highly probable of causes of a derailment in along this route compared to the Chicago CREATE alternative.

The UPS Distribution Center in Palatine, will have during the same higher seasonal period that CN will have extra truck on the road which even today have become problems for the local gridlock. At 9 AM a steady stream of Brown Delivery Cars depart many cross the EJ&EW tracks. The recent CN and UPS truck accident is an real life example of how a highly trained professional driver can be killed by a CN train. The

immigrant driver with less experience with driving near trains is of course a concern along with all drivers in the community.

The accidents that will occur will demand the services of the local communities that are near the EJ&EW. Many have volunteer fire companies and limited stations and equipment. The nature of a Car/Truck & CN train wreck required much more advanced training with Chemical and Hazardous material that is normally not in the community today.

Chicago has in place due the historical connection with the trains the skills, experience, staffing, location of firehouse and staffing to meet this environment.

The CN mitigation would involve replication of those assets along the EJ&EW.

The fact that CN has held back certain confidential information it is important to bring the issue of the planned transportation of the radioactive waste from the closed Zion Nuclear Plant to Nevada or other designated sites. Clearly CN does specify that one of the 3 main reason for approval is to support the local Electric Utility Company. Since no local coal

generating plants exist the only logical support would be to move this extremely controversial waste via the proposed EJ&EW route. Clearly the Chicago Mayor wishes to shunt this beyond his jurisdiction.

The fact that Mayor Daley lives just two blocks from the St. Charles Air Line make one wonder if he has other hidden reasons for supporting CN's position. The recent Sunday Evening April 1st bulldozing of Meigs Field is not a distant memory. The FAA was never advised and many laws were broken. Again, Mayor Daley home was mere blocks away. In his letter he acknowledges that CN must mitigate the community concerns along the EJ&EW.

He is one of many Mayors around the World that MAY win the bid for the 16 day 2016 Olympics. Nothing is guaranteed that Chicago will earned the bragging rights for the City of Chicago. There of course is the chance that Mr. Daley will no longer be the Mayor.

The environmental impact is clearly acknowledge by one and all. The impact to the environment with School Children not being able to reach their schools or reach their homes is one concern that does not appear to have any possible way of mitigation.

The full impact of the IDOT road work that is currently planned will compound the gridlock for the Barrington Area for one or more years. The construction of EJ&EW safety corridor mitigation will take multiple years and influence detours and local community disruptions and economic damage that can not be mitigated.

The Life Safety Impact to Good Shepard Hospital (Trauma Designation) impact will be felt by those involved with CN accidents and derailments. It would be a key indicator of the CN management skills and experience to have them have at a minimum 1 year without a derailment or major accident caused by not managing their currently owned trackage.

The Good Shepard Hospital must have 30 minutes or less access to retain their Trauma status. The quality of the care is therefore a factor that does not have a mitigation alternative. Many of the suburban hospital are in similar situations. The historic traffic pattern of a hub and spoke has been the environment which all traffic planning for decades have been predicated upon. A huge change would occur should CN approval go forward.

The CN CEO advertised that the local community could get their flat screen TV faster because of his purchase from U.S. Steel of the “J”. A purchase made 2 days latter is not a logical trade off for all the environmental damage and impacts. A purchase like this is typically done once a decade - it may be worth something to WalMart to demand speed from their vendors but it more likely the shareholders will benefit vs the customers or the people adversely impacted.

The impact to the Great Lake Port and the East and West Coast Ports are all important to our National Security. By enabling CN to divert tax dollars from our Ports will increase our Federal Taxes since the Ad Valorem tax is included in the General Treasury Funds. The Supreme Court validated that the importation of good is constitutional - CN is enabling the importer to AVOID this important tax. The impact is that the remaining importers going via our US Port will shoulder a greater tax rate due to the approximate 4M TEU worth of intermodal taxes going via CN to Memphis for example.

The size of the train is another mitigation requirement. A length of 25 unit train should be a grandfathered requirement to gain approval with a

single TEU limit which would permit a restricted change of grade impact for the Safety Corridor.

The use of Electric Switching Locomotives will mitigate the environmental impact of the diesel engines. Check www.ge.com for example of low impact locomotives alternatives.

The fact that so many commuter lines are bisected CN must agree to having the lowest priority for any intersection with current Railroads.

The economic cost of decreased home values due to this CN purchase is perhaps the most devastating to the children of the community. The fact that the Norte Dame has found that the Latino Immigrants value education and have chosen to move to locations with adequate schools for their children and their futures in the US.

Since the property values and local taxes support the CUSD 220 district for example the quality of the education will be adversely impact due to lower taxes being collected based on the EVA. This along with the increased cost for busing will directly impact the operating cost for many of the school districts. Teachers will be delayed for school and may

elect not to participate in optional coaching or leadership in many other after school functions due to the CN impact on their commute.

The fact that the Chicago CREATE can by their own study improve by one third the transit time with a \$1.5B capital investment it would appear that the economic reality for CN that the cost estimate for purchase of the EJ&EW is not a wise choice. It may be an superior alternative to use some of the One Billion Dollars plus that will necessary to mitigate that environmental impact of the proposed purchase.

The City of Chicago is going to spend some money to compensate CN for the exchange of the St. Charles Airline right of way. The local interest of Chicago are not any more important than the MegaRegion's interest. The fact that local developers have a desire to develop a new part of Chicago is what must be factored against the total population environmental impact.

The Olympics may easily be held in another country. The STB's EIS is the hope of the Mega Region's prayers for attainment of the full potential applied equally and fairly to one an all U.S. Residents. Giving CN this

advantage over U.S. Corporations and at the expense of taxes not being collected is truly the crux of this process.

The Department of Homeland Security must be part of this EIS since it is unclear how the CN police force in Prince Rupert will be able to thwart illegal immigrants, coming from Asia hiding in Intermodal TEU's onboard China flagged vessels. The movement of a dirty bomb into our Mega-Region and setting it off on the EJ&EW is clearly a threat to the entire population.

The recent U. S. Naval conflict in Hong Kong with the Kitty Hawk being refused to come in for planned holiday leave and the tracking of the KH back to Japan with the Chinese Sub is clearly a sign and warning that we must stay alert to our Home Land and to protect and defend it.

http://www.navytimes.com/news/2008/01/kyo_china_080115/

The CN Two Tier Intermodal Train cars will create a virtual ARC blocking the hundreds of major intersections, which very few are grade separated today. Approval of FD-35087-0 create one of the USA's Un-Safest train corridors (the current grade separations already in place in Chicago). The type of crossing and types of warning devices at public at grade crossings must be included in the actual costs. These capital expenses and the time it would take to fully duplicate the alternative path is judge to not be a sound economic choice. At \$10M average for the top priority grade separations would amount to \$800M. The CN plans call for improvement to the EJ&EW for operational improvement of \$100M. IDOT in their 2008 budget has a total of \$2M for Railroad Safety improvements. They are the responsible party for protecting trespass onto the CN right of way.

The Midwest High Speed Rail Association is advocating for fast, frequent and dependable trains linking the entire Midwest. <http://www.midwesthsr.org/promote.htm>

The cumulative impact of this proposal does create Grid Lock for our MegaRegion and the excellent planning done by IDOT, CREATE, FAA, Home Land Security and

the EPA all have to be evaluated as part of this EIS. The fact that Lake Michigan precludes a population evacuation via the current transportation spokes from the Chicago Hub is the most pressing issue.

The STB's clear objectives, as stated in your Final Report 2008, must be ensuring that mobility is enhanced for minority and lower income communities, and benefits of transportation policies are distributed equitably among all the Nation's citizens.

(1994 Presidential Executive Order directed every environmental justice include the minority populations and low income populations.) The University of Notre Dame has studied the Chicago Megaregion and has found that the immigration destination is in fact the communities along the EJ&E 198 mile route. Waukegan, Elgin, West Chicago, Aurora, and Joliet from 1990 to 2008 seen 3 digit growth in minority and low income populations.

The University of Norte Dame Institute for Latino Studies has completed a study of the Changing Face of Chicagoland Communities. The finding is half of Chicagoland Latinos live outside of the City of Chicago.

http://www.nd.edu/%7Echifacts/chi_comm.html.

The Mayor of Chicago correctly states that congested rail corridors exists. The St. Charles Air Line is a key railroad link that starts at approximately 1600 South and the Chicago River. It proceeds east for seven-tenths of a mile, terminating at Michigan Avenue, where it curves south under McCormick Place and joins another CN line.

The historical hub and spoke network for Chicago has 2,796 miles of existing rail network encompassing 16,000 acres. Currently 37,500 average rail cars travel thru the Chicago hub each year with this number expected to increase to 67,000 (80% increase).

The CREATE plan is most likely the optimum solution by keeping the freight and commuter traffic separated. The trade off by CN in spending \$400M to shift their traffic to the EJ&EW will be partially if fully funded by the income from selling the St. Charles Air Line to the City of Chicago or investors. The economic value of the property is not an equitable proposition for the entire MegaRegion of Northern Illinois, Southern Wisconsin, and Northwestern Indiana.

The continued priority for developing CREATE is not inconsistent with the Mayor's goal to potentially attract the 2016 Olympics.

The trade off of seven - tenths of mile for all the environmental damage does not meet the standard of meeting the MegaRegion's needs.

The STB 2008 Report states:

"The effects of congestion are worst in the Nation's largest communities. In the 14 largest urban areas, annual delay rose from 21 hours per peak-period traveler in 1982 to 54 hours in 2005. Gridlock, however, is no longer just a "big city problem." The average traveler in an urban community, regardless of size, wasted 38 hours stuck in traffic in 2005, compared to 14 hours in 1982. This means that motorists in metropolitan regions are wasting the equivalent of an entire workweek stuck in traffic. Americans in mid-sized communities are dealing with congestion that was once limited to the largest regions, and those in the largest communities are suffering through traffic jams that would have been unimaginable to many commuters a generation ago."

"The Regional Plan Association convened the National Committee for America 2050, which examined the growth of "megaregions" that will contain more than 70 percent of the Nation's growth by mid-century"

According to the 2007 Urban Mobility Report, drivers in metropolitan areas in 2005 experienced 4.2 billion hours of delay, enough for 105 million weeks of vacation. Americans in these areas wasted 2.9 billion gallons of fuel, enough to fill 58 super-tankers. The combined “congestion cost” was a staggering \$78 billion

- Make it possible for the City of Chicago to realize its goal of seeing CN trains vacate the St. Charles Air Line more quickly than under CREATE's Central Corridor scenario so that redevelopment plans for the area may progress, including the site's use in connection with the City's bid for the 2016 Olympic Games. The St. Charles Air Line is a key railroad link that starts at approximately 1600 South and the Chicago River. It proceeds east for seven-tenths of a mile, terminating at Michigan Avenue, where it curves south under McCormick Place and joins another CN line. This area has been targeted for significant redevelopment.

The Metra Star Project has been planned with the Council of Mayors and other Planning organization that have fully incorporated the cumulative impact of this new commuter service. The primary user of the EJ&E would be the Metra Star and the current US Steel traffic. The use of DMU's as pictured below is one of the choices presented by Metra.

Metra's STAR Line would utilize diesel multiple units (DMUs), a new fuel efficient technology that allows flexible operations similar to light rail systems.



Hopefully the EIS review will take these key factor into consideration. Our group has taken the effort to complete alert you to example of each of the factors you are charged with evaluating the impacts.

A SIXTEEN DAY event in 2016 and a seven tenth of mile RR line appear to be an example of a short sighted plan to do non compensable damage to the United State, The MegaRegion and to Chicago itself. The Harbor Trust Fund tax implications is perhaps one area all can agree is key.

CN is of course allowed to twist the legal system and benefit their shareholder and a select few influential shipping customers. A level playing field on our in America is NOT to much to expect and demand.

CN and the City of Chicago along with US Steel seem to have the view of entitlement to do whatever they choose and to ignore the rest of the World. US Steel has of course recently gained approval to dump toxic waste into Lake Michigan and our drinking water supply for the MegaRegion so it does not surprise anyone they have no concern for the Environmental Impact of the sale of the EJ&E.

The EIS will address potential impacts on the environment that will include the areas of safety, transportation systems, land use, energy, air quality, noise, biological resources, water resources, socioeconomic effects related to physical changes in the environment, environmental justice, and cultural and historic resources.

Thank you for holding the public meeting in the MegaRegion and thank you in advance for completing the EIS to meet the needs of all concerned.

The request to raise this to a Major Study from a Minor Study is of course very important and I hope we have given you and your team additional information to based this change of status upon.

Respectfully,

R. D. Burkhart

CEO and Founder
i-Fi Personal Broadband, LLC.