

JUDY BIGGERT
13TH DISTRICT, ILLINOIS

COMMITTEES:
EDUCATION AND LABOR
FINANCIAL SERVICES
SCIENCE AND TECHNOLOGY

14923



Congress of the United States
House of Representatives

Washington, DC 20515-1313

WASHINGTON, DC OFFICE:
1034 LONGWORTH HOUSE OFFICE BUILDING
(202) 225-3516
FAX: (202) 225-9420

ILLINOIS OFFICE:
6262 SOUTH ROUTE 83
SUITE 305
WILLOWBROOK, IL 60527
(630) 655-2052
FAX: (630) 655-1061

<http://judybiggert.house.gov>

September 29, 2008

Ms. Phillis Johnson-Ball
STB Finance Docket No. 35087
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

Re: STB Finance Docket No. 35087, Canadian National Railway Company and Grand Truck Corporation - Control - EJ&E West Company; Issuance of Draft Environmental Impact Statement

Dear Ms. Johnson-Ball:

I write to you and the Surface Transportation Board (STB) today to express my serious concerns regarding the Canadian National Railway Company and Grand Truck Corporation's (CN) proposed acquisition of the Elgin, Joliet & Eastern Railway Company (EJ&E). While I appreciate the STB's hard work on the Draft Environmental Impact Statement (DEIS) on this merger, I do not believe the proposals it contains adequately protect the public interest, nor does it fully acknowledge the devastating impacts this merger would have on affected communities.

As the STB has been made aware through testimony offered by myself and other interested parties during recent hearings and public meetings, there are many areas where the DEIS falls short. However, there are several points in particular that should be made a top priority for further study or reconsideration before a final Environmental Impact Statement (EIS) is issued. These include:

- Traffic conditions in an already congested region.
- The ability of emergency personnel and equipment to respond to calls for assistance in a timely manner.
- Options for fair and adequate mitigation.
- The unaffordability of associated infrastructure-related costs.
- Commuter rail disruption.

The purpose of the STB's environmental review is to provide an accurate assessment of the impact that a proposed transaction would have on affected communities. In the case of traffic congestion estimates, the DEIS especially fails to meet that goal. The list of crossings listed

as “substantially” affected is shockingly short given the number of crossings involved and the rate of population growth in the suburban Chicago region. It is evident that the Section of Environmental Analysis (SEA) based its analysis on faulty data when it concluded that only 15 of the 112 highway/rail at-grade crossings along the EJ&E line would be “substantially” affected. Communities along the EJ&E line have conducted independent Average Daily Traffic (ADT) studies and found that the SEA’s analysis dramatically undercounts traffic at several crossings, the result of which could be considerable inaccuracy in the SEA’s projections of long-term traffic impact. For example, the DEIS states that the ADT at Keating Drive in DuPage County is 1,584, whereas the ADT study conducted by the City of Aurora places the count 356% higher, at 5,650. In a second case, the DEIS states that the ADT at 127th Street in Plainfield is 5,081, whereas the Village of Plainfield found that the ADT count was 9,955 -- a 196% disparity. Rather than rely on outdated data from the Illinois Department of Transportation (IDOT) and unreliable growth estimates, the SEA should consult with local authorities to gather the most accurate and current traffic data possible.

When addressing the issue of emergency services, the SEA did not adequately consider the severe life and death impacts associated with the acquisition. In the SEA’s analysis, the determination of whether an emergency service provider could be considered “potentially substantially impacted” failed to take into account several important challenges faced by emergency responders. For example, if a community has an emergency service facility on both sides of the track, then the SEA automatically waived further study of the emergency service impact in that area without considering other factors. Unfortunately, this method fails to account for communities with limited emergency personnel. In many cases, more than one incident will occur at the same time on one side of the track, or a single major incident will occur in one location. For communities with limited first responders, these situations require that personnel from one side of the track are able to cross over to support personnel from the other side. Yet in these cases, the DEIS fails to even identify the potential threat to public safety. The SEA must revisit this issue and work closely with all affected emergency response providers to properly assess the full impact this acquisition would have on the well-being of area residents.

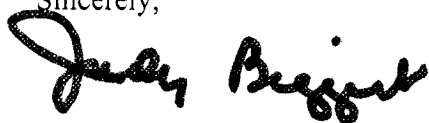
With respect to these concerns and others, the DEIS also fails to offer reasonable methods of mitigation. The STB must appreciate that suggestions such as “relocate emergency response facilities” are simply not workable solutions. In most cases, the SEA’s proposals fall somewhere between inadequate and prohibitively expensive. For example, both the SEA and CN have stated the expectation that taxpayers will be forced to front 90 to 95% of grade separation costs because the area has “pre-existing” traffic conditions – clear evidence that local communities cannot afford major infrastructure improvements. The DEIS simply assumes that funds will become available to mitigate serious public safety and congestion concerns, not taking into account the lives that could be lost as these projects face inevitable delays. Recently, the IDOT and the Illinois Commerce Commission (ICC) testified that they too do not have funding available to help defray the costs associated with CN’s use of the EJ&E lines. They further noted that the estimated cost of building just one grade separation would range between \$40 and \$60 million -- again, 90 to 95% being picked up by taxpayers. Were this merger to be approved, the STB must give far greater consideration to the financial realities faced by area residents and require that CN pay its fair share.

The SEA also should give greater consideration to the negative transportation costs this merger would have on Chicago-area commuters. Communities in my District have been working hard with federal, state, and local officials to bring commuter rail services to the suburbs using the current EJ&E lines. The current plan would connect local centers of commerce throughout the suburbs, reducing traffic congestion and promoting economic growth. The SEA attempts to address the issue of commuter rail service, but it vastly underestimates the "potential operational complexities" this merger would introduce to service associated with Metra's proposed STAR line. The SEA concludes that this transaction would not necessarily "preclude" realization of the STAR line, but its own analysis shows that the EJ&E lines would eventually reach capacity, and that freight would interfere with passenger rail service. For Metra to coexist on the EJ&E, it would almost certainly require tremendously expensive track improvements and a binding commitment from CN to cooperate with Metra in operating the line.

Should this merger be approved, the STB must impose the conditions necessary to preserve and expand passenger rail service in the growing Chicago region. To do otherwise would be to deprive millions of residents an important transportation option that has become especially vital in an era of record-high gas prices and increased congestion. Non-binding promises by CN to "explore all options" for commuter rail along the EJ&E do not adequately address these concerns. Residents who would suffer the most from this transaction deserve at least this minor consideration.

In addition to urging strong consideration of these concerns, I ask that the STB take all the time necessary to conduct a thorough and complete review of the impact this merger would have on all affected communities. The STB's work on this issue is far too important to be rushed or placed on an artificial schedule. Thank you very much for your consideration of my requests, and I look forward to your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Judy Biggert". The signature is fluid and cursive, with the first name "Judy" being more prominent than the last name "Biggert".

Judy Biggert
Member of Congress
13th Congressional District of Illinois