

AD HOC HEARING ON  
CANADIAN NATIONAL RAILROAD'S  
PROPOSED PURCHASE OF THE ELGIN, JOLIET & EASTERN RAIL LINE

August 5, 2008  
10:30 o'clock a.m.  
Chicago, Illinois

held at

The United States District Court  
For the Northern District of Illinois  
Eastern Division

James Benton Parsons Ceremonial Courtroom  
Room 2502

Transcript of Proceedings

by

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## 1 APPEARANCES:

2 Congressional Participants: Rep. Melissa Bean (IL-08)  
3 Rep. Judy Biggert (IL-13)  
4 Rep. Donald A. Manzullo (IL-16)  
5 Rep. Bill Foster (IL-14)

6 (via Mr. Joe DeVooght) Rep. Peter J. Visclosky (IN-01)  
7 (via Mr. David Mork) Rep. Peter J. Roskam (IL-06)

8 Community Impact Panel I: TRAC

9 Mayor Karen Darch, Barrington  
10 Mayor Tom Weisner, Aurora

11 Buffalo Grove

12 Mr. Jeffrey Braiman, Trustee

13 Schererville, IN

14 Mr. Tom Schmidt, Councilman

15 Transportation Impact Panels METRA  
16 II and III:

17 Mr. Philip Pagano, Exec. Director

18 ICC

19 Mr. Charles Box, Chairman, and  
20 Mr. Michael E. Stead, Rail Safety  
21 Program Administrator

22 IDOT

23 Ms. Diane O'Keefe, Regional  
24 Engineer for Divion of Highways

25 CMAP

Mr. Randy Blankenhorn, Executive  
Director

NIRPC

Mr. John Swanson, Executive  
Director

1 (Proceedings in open forum:)

2 HONORABLE BEAN: Good morning. We are going to begin  
3 today's hearing, and as we proceed through the day, we are  
4 going to start with our congressional participants, with their  
5 opening statements, and then we're going to move to testimony  
6 from those who are impacted at the community level. We're also  
7 going to have a question-and-answer period following that  
8 testimony.

9 Then we'll follow with METRA, IDOT, and ICC testimony  
10 and questions, again, following that testimony. And then CMAP  
11 and NIRPC will also be testifying, followed by questions; at  
12 such time, as we will have closing statements.

13 And we are intending to adjourn at 12:35, so we're  
14 going to try to stay on our time. And we'll have some reminder  
15 cards to keep our testimonies as short as possible so we can  
16 get through what is a good bit of testimony that we want to  
17 have included today.

18 HONORABLE BIGGERT: I think for all of the witnesses,  
19 the nameplates are here, and you should come up and sit at the  
20 table.

21 HONORABLE BEAN: Okay.

22 (Panel I approaches the tables.)

23 HONORABLE BEAN: Welcome to today's hearing on  
24 Canadian National Railroad's proposed acquisition of the EJ&E  
25 railroad.

1 I'd like to thank my colleagues for their assistance  
2 in bringing together today's hearing and thank our many  
3 witnesses who have agreed to testify today.

4 The panelists before us represent local communities  
5 in opposition and support of the proposed acquisition, key  
6 transportation stakeholders, and local regional planning  
7 organizations.

8 Please note that we did extend an invitation to  
9 Canadian National Railroad to testify at today's hearing.  
10 Unfortunately, they declined to participate, to hear our  
11 questions or to answer them.

12 In the fall of 2007, Canadian National Railroad  
13 submitted a proposal to acquire the EJ&E, which is a rail line  
14 that forms an approximately 200-mile arc around the City of  
15 Chicago, from Waukegan, Illinois to Gary, Indiana.

16 CN has proposed shifting freight traffic that  
17 currently travels through the City of Chicago to the EJ&E,  
18 resulting in an up to 400 percent increase in freight traffic.  
19 This increase would cause significant negative consequences on  
20 traffic congestion, public safety, quality of life,  
21 environmental quality, and local economies affecting over 40  
22 communities in suburban Illinois and Indiana.

23 The proposed acquisition is under consideration by  
24 the Surface Transportation Board, a regulatory body comprised  
25 of three board members appointed by the President.

1           In November 2007, the Board ordered that an  
2       Environmental Impact Statement would be prepared. At the end  
3       of July, the STB issued its Draft EIS.

4           Like many of my colleagues, I found the Draft EIS  
5       highly disappointing, as it seems to endorse allowing a private  
6       company destroy local communities' quality of life, safety, and  
7       economies, while expecting those same communities to pick up  
8       the tab.

9           The Draft EIS places an unwarranted burden on local  
10      communities by expecting them to fund mitigation for a project  
11      they don't want and certainly would not benefit from.

12          It disregards the threat the proposed acquisition  
13      would have on METRA's STAR line, and it does not require CN to  
14      provide enough information regarding future freight traffic,  
15      suggesting only a three-year enforcement period.

16          The EIS, most importantly, would not require  
17      mitigation to be completed before allowing such a drastic  
18      increase and the resulting consequences to occur.

19          As we've worked in accordance with the STB review  
20      process over the last several months, it's become increasingly  
21      clear that both historically and currently, while acknowledging  
22      and validating the concerns that this panel from the Illinois  
23      delegation has expressed about negative consequences in our  
24      communities, the STB will not give equal consideration to those  
25      factors, giving greater weight to the goals of CN and rail

1 competitiveness than those of our citizens and our communities.

2 Under current law, the STB is required to decide a  
3 case primarily based on commerce and competitiveness in the  
4 rail industry. The impact on a local shipper, while important,  
5 shouldn't outweigh the impact on dozens of our communities.

6 Over the last several months, we've been working with  
7 House Transportation Chairman Jim Oberstar to address our  
8 concerns about this STB review process, and he agreed that  
9 reform is necessary. So my colleagues and I join the Chairman  
10 in introducing the TRACS Act, or Taking Responsible Action for  
11 Community Safety Act, last week.

12 The TRACS Act would require that the STB consider the  
13 public impact, including grade-crossing safety, impact on local  
14 communities and commuter rail of a proposed transaction in  
15 addition to the impacts of the railroad industry. And after  
16 such consideration, if the communities' adverse impacts  
17 outweigh the proposed benefits to commerce, the STB would then  
18 be required to disapprove the transaction and/or mitigate  
19 accordingly.

20 While my colleagues and I will continue to advocate  
21 for reform at the STB, we must work with the current process  
22 available to us today.

23 Today's hearing is the first of several opportunities  
24 over the next few months for our communities to be heard.

25 We intend to share our findings of today's hearing

1 with the STB as they continue to review the impact the proposed  
2 acquisition would have on our communities.

3 I look forward to your testimony from our witnesses,  
4 about your thoughts on this proposed acquisition and on the  
5 process. Thank you.

6 I yield to my colleague, Congresswoman Judy Biggert.

7 HONORABLE BIGGERT: Thank you very much,  
8 Congresswoman Bean.

9 And I'd like to thank everyone for being here,  
10 attending today's hearing. I would especially like to thank  
11 our witnesses and my colleagues from the Illinois delegation  
12 for taking the time to participate in this important bipartisan  
13 event.

14 And I would especially like to thank Congresswoman  
15 Bean, who has really been so -- like a dog with a bone, should  
16 I say, in this saga that we are now in, as well as have some of  
17 the witnesses. So I really appreciate all that you have done  
18 and I appreciate all of the members of the Illinois delegation.

19 And I'd also like to take a minute to thank Chief  
20 Judge of the U.S. District Court for the Northern District of  
21 Illinois, Jim Holderman, and his administrative assistant,  
22 Larry Collins, for all their help and the use of this wonderful  
23 courtroom. We really appreciate having the opportunity to use  
24 this.

25 As you all know, the STB has recently released its

1 Draft Environmental Impact Statement, and this report makes it  
2 abundantly clear that this merger would cause severe  
3 consequences for local communities. It includes some  
4 staggering numbers that I am sure we will hear a great deal  
5 about today. Among other things, it highlights the 11  
6 emergency response providers who would be dramatically  
7 affected. Among the STB's proposed solutions, moving the  
8 firehouses across the tracks to accommodate CN.

9 The report goes on to outline total automobile wait  
10 times up to 165 hours per day at a given crossing, and points  
11 out that the accidents would jump from less than two per year  
12 to six along the EJ&E.

13 These trains would run near schools, parks, and other  
14 areas not accustomed to high-volume rail traffic.

15 I have toured the "J" line in my district to see  
16 these areas firsthand, and at one point, I was literally  
17 standing in the backyard of a home in Aurora, just steps away  
18 from the tracks. This is an area where kids play and families  
19 have summer picnics.

20 You might say, well, you know, there's train traffic  
21 there now, but not of any of the magnitude that we will see if  
22 this goes through.

23 The report goes on to say that the proposed merger  
24 would lead to increased fuel consumption and threaten METRA's  
25 proposed STAR line. But some of the proponents say that this

1 is just something like expansion. It's no different from the  
2 expansion of O'Hare Airport where commercial benefits outweigh  
3 the influence to homeowners. But this isn't just a matter of  
4 airport noise or railroad noise. This is, foremost, about  
5 public safety.

6 So our task today is to find any impacts that the STB  
7 officials have overlooked, underestimated, or miscalculated,  
8 and inform them about the true cost of this transaction before  
9 a final decision is made.

10 I look forward to hearing all of your thoughts and  
11 expert opinions on this merger.

12 The time has come for us to weigh the positives  
13 against the negatives and to find out if there is any real  
14 benefit for all of us.

15 And, again, I thank you all for being here, and I  
16 look forward to your testimony.

17 HONORABLE BEAN: Who do we have next? I am sorry. I  
18 should have been looking.

19 HONORABLE BIGGERT: Manzullo.

20 HONORABLE BEAN: Congressman Foster. I think we're  
21 doing it alphabetically.

22 HONORABLE MANZULLO: Okay. Go ahead.

23 HONORABLE FOSTER: All right. Thank you.

24 Well, before I begin, I'd like to thank all of our  
25 panelists this morning for being here, and I'd like to

1 especially thank those that actually showed up. And I'd like  
2 to thank my fellow Representatives for all their hard work in  
3 making this gathering possible. This is bipartisanship at its  
4 best when we all come together to help work out the problems of  
5 our constituents.

6 And I'd especially like to recognize Representative  
7 Bean for her stewardship of this group, her leadership on this  
8 issue and all the extra work that she's put in to finding an  
9 equitable solution to this problem.

10 As many of you know, I represent some of the western  
11 communities affected by this proposed merger, and I am  
12 continually stopped by my constituents who are very direct in  
13 their rightful opposition to the merger. They are angry  
14 because this is another example of the concerns of our families  
15 and small businesses being pushed aside.

16 We will not sit still for this, and that's why we're  
17 here today.

18 I am disappointed, however, that representatives from  
19 the Canadian National felt that they did not need to be here  
20 today, for they are some of the best equipped to answer these  
21 questions.

22 But their actions are not surprising because they  
23 have had months to provide us with real answers and have never  
24 been truly responsive to the questions we've raised. Their  
25 lack of action and presence here today and throughout this

1 process raises serious questions as to how committed they are  
2 to resolving the problems we face.

3 The hmm'ing and huh'ing of the Canadian National is a  
4 sign that they are not serious about dealing fairly and  
5 honestly with the true costs associated with making this  
6 merger, if it goes through, work to the benefit of everyone.

7 Canadian National seems to be going out of its way to  
8 ensure that no one knows the true costs until it's too late in  
9 an effort to pass them on to taxpayers. This, to me, is  
10 unacceptable.

11 CN is abusing its privilege with the Surface  
12 Transportation Board based on a hundred-year-old mission  
13 statement of the Surface Transportation Board to protect the  
14 railroads from a time when the -- and this dates from a time  
15 when the railroad industry was vulnerable and needed federal  
16 planning and assistance.

17 It worked back then, but now we are in a different  
18 situation. Railways are making billions of dollars in profits.  
19 They are the low-cost way of moving freight in a situation  
20 where the fuel costs have risen dramatically. But we are  
21 trapped now with a broken process that only feeds the need of  
22 one group at the expense of all others.

23 And I am glad that we're able to gather here to  
24 discuss these issues out in the open and at least identify  
25 everyone's expectations and concerns about how to go forward.

1           My hope is that the testimony from participants who  
2 are courteous enough to accept our invitation will lead us all  
3 to a greater understanding of the consequences of the proposed  
4 merger.

5           HONORABLE BEAN: Okay. Congressman Manzullo?

6           HONORABLE MANZULLO: Thank you.

7           I am Don Manzullo. I represent the 16th District of  
8 Illinois.

9           And what is amazing about this entire process is that  
10 the whole purpose is to aid in the expediting of railroad  
11 traffic, railroad freight, and alleviate congestion, and, yet,  
12 if you look at the Draft Environmental Impact Statement, just  
13 in the abstract, this is how they alleviate congestion.

14           It says: "Rail traffic on CN rail lines inside the  
15 EJ&E arc would generally decrease, and the number of trains  
16 operating on the EJ&E main line outside Chicago would increase  
17 by approximately 15 to 24 trains per day."

18           That's how you solve the congestion problem, the  
19 safety problem. You shift the problem from one area of the  
20 community to another area. And that's what's been outrageous  
21 about this entire process of why we are extremely distressed.

22           This is one half of the Draft Environmental Impact  
23 Statement. If you take a look at this, you will find  
24 situations, for example, where traffic/train accidents will  
25 increase by 28 percent in the rail-routed area, where, as Mrs.

1 Bean, I believe, said, fire department and emergency services  
2 are going to have to get in consultation on how to get to the  
3 other side of the tracks during an emergency. That's the time  
4 when we need the James Bond automobile with the retrofit  
5 rockets that jumps right over the trains.

6 But you wonder: How much did this cost the  
7 taxpayers? And why is it that in this entire consideration,  
8 people don't count? It's property. That's all they look at is  
9 property and the expedition of commerce.

10 And one of the reasons we're having this hearing  
11 today is that we wanted to ask Mr. Harrison lots of questions.  
12 He promised to Senator Durbin that anywhere, anytime that he  
13 would appear. And what you have here is the safety of the  
14 people versus the arrogance of one man. That is not  
15 acceptable. It's outrageous.

16 If he has a defensible position, and he's certainly  
17 entitled to present it, and we know that there is a problem  
18 with traffic congestion in the railroad, then he should, in all  
19 decency and with respect to the people that are impacted, show  
20 up and sit down and take a seat with the rest of the common  
21 people. But, apparently, he believes that he's above that, and  
22 that goes to show you exactly what we're battling here.

23 Every day, 20 to 30 thousand of my constituents will  
24 travel the areas that are impacted by this train.

25 I asked one representative of CN: Well, what do you

1 do when you have a 10,000-foot train going through the town,  
2 the Village of Barrington, and blocking all three crossings at  
3 one time? And his answer was: Make the train go faster.

4 Now, that's absolutely outrageous, how they can come  
5 before the Surface Transportation Board, not have to be  
6 responsible for any of the issues that we raise, and the  
7 Surface Transportation Board can actually ignore its own  
8 findings and say that: Well, we have to do this Draft  
9 Environmental Impact Statement, but it really doesn't mean  
10 anything.

11 We were at an extraordinary hearing at the Barrington  
12 Village Hall, and I think about 1500 people showed up. I was  
13 there in the morning, and Mrs. Bean came in the afternoon. The  
14 Surface Transportation Board told me they'd never seen such an  
15 outpouring of public, of people interested in an issue of this  
16 great concern.

17 And I reminded him, one of the commissioners, that we  
18 had the horrible accident that took place in McHenry County  
19 several years ago, where several school children were killed  
20 when the METRA hit the school bus. We take traffic and the  
21 safety, especially of our children, very, very seriously here  
22 in northern Illinois, and that's why the people showed up.

23 And I said: Does it make any difference the impact  
24 that the community has with regard to your decisions? And that  
25 one person said: Yes, it does. We take it into consideration

1 very much.

2 Well, apparently, no one listened. But we're here  
3 today because this is the forum that we've been granted.

4 Again, Mr. Harrison, we look forward to your reasoned  
5 and intelligible answers.

6 Thank you.

7 HONORABLE BEAN: Thank you.

8 Next, we're going to be hearing from staff for  
9 Congressman Visclosky, who represents Indiana's First District,  
10 but was unable to be here today.

11 MR. DeVOOGHT: Hello. My name is Joe DeVooght, and  
12 I'm a legislative director for Congressman Pete Visclosky.

13 Unfortunately, Congressman Visclosky was unable to  
14 attend today's hearing due to previously arranged travel to  
15 U.S. Department of Energy facilities. He has asked that I read  
16 a statement on his behalf.

17 "I would like to thank Congresswomen Bean and Biggert  
18 and Congressmen Foster, Manzullo, and Roskam for holding  
19 today's hearing and for their tireless work on behalf of their  
20 constituents. Further, I would like to thank all the panelists  
21 for their participation, in particular, two residents of  
22 northwest Indiana, Councilman Tom Schmidt of Schererville and  
23 NIRPC Executive Director John Swanson.

24 "Since CN first announced the potential acquisition  
25 of the EJ&E and the threefold increase in train traffic in the

1 fall of 2007, I have sincerely tried to find a silver lining in  
2 the transaction for the people of northwest Indiana.

3 "After months of fruitless searching and after  
4 reading the recently released Draft Environmental Impact  
5 Statement, I have to concede that there is none to be found.

6 "There is no economic benefit to the region. The  
7 DEIS states that the transaction will result in a loss of  
8 nearly 300 jobs in the region.

9 "There is no energy or environmental benefit. The  
10 DEIS states that the transaction will not take trucks off the  
11 road and will result in the burning of hundreds of thousands of  
12 more gallons of diesel and gasoline.

13 "There is no public safety benefit. The DEIS states  
14 the transaction will increase the likelihood of a train  
15 accident on the EJ&E line by 28 percent.

16 "There is no benefit to public transportation. The  
17 DEIS does not even address the potential expansion of the South  
18 Shore line in Indiana, which is a project that would truly  
19 transform the economy and the environment.

20 "Further, the DEIS contains a short section that was  
21 mistakenly titled 'Mitigation' by the STB Section of  
22 Environmental Analysis. I think that section would have been  
23 more appropriately titled 'Weak-Kneed Suggestions for CN to  
24 Consider, if They Want to.' This 32-page section is sorely  
25 lacking in detail and real relief for the citizens on the EJ&E

1 line.

2 "So, as it currently stands, this transaction will  
3 have absolutely no positive impacts on the quality of life for  
4 the communities on the EJ&E, and, according to CN and the STB,  
5 we are expected to merely accept that our lives will be  
6 dramatically altered for CN's bottom line.

7 "I, for one, am outraged by the contemptuous  
8 disregard for the public in this process.

9 "Surprisingly, a member of the STB shares my outrage.  
10 In a June 25th decision on this transaction, STB Commissioner  
11 W. Douglas Buttrey stated: 'Based on what I see now on the  
12 record and what I saw when I recently visited the affected  
13 communities, it is hard for me to imagine how even the most  
14 far-reaching mitigation measures would be enough to offset or  
15 balance the environmental detriments that would flow from this  
16 transaction.'

17 "However, in the same decision, Congressman Buttrey  
18 agreed with the other two members of the Board that this  
19 transaction only warrants a 60-day public comment period. The  
20 contradiction between the Commissioner's empathetic statement  
21 and his decision to allow the transaction to hastily proceed  
22 only serves to highlight the grossly inadequate process the STB  
23 has used to evaluate this transaction.

24 "To compel the STB to give equal consideration to the  
25 impacts of railroad transactions on local communities, I am a

1 strong supporter of the TRACS Act. The bill would require the  
2 STB to consider a transaction's effect on local communities  
3 pertaining to public safety, grade-crossing safety, hazardous  
4 materials transportation, emergency response systems, commuter  
5 rail, and Amtrak. The bill would level the playing field at  
6 the STB between public's interest and the business interests of  
7 the railroad.

8 "Finally, I am very disappointed that Canadian  
9 National declined to participate in today's hearing.  
10 Unfortunately, this is merely another example of their  
11 callousness towards those who will suffer if this transaction  
12 is approved.

13 "It is my sincere hope that CN will bear in mind the  
14 common good as the acquisition proposal proceeds and enter into  
15 fruitful negotiations with community leaders rather than hide  
16 behind misleading press releases from Montreal.

17 "I look forward to continuing to work with my  
18 like-minded colleagues from Illinois and community leaders in  
19 Indiana to hopefully prevent this transaction from occurring  
20 and, at the very least, alleviate the burden the affected  
21 communities bear.

22 "Thank you again for the opportunity to share my  
23 remarks with you today in this very important matter."

24 HONORABLE BEAN: And, now, we are going to hear from  
25 staff from Peter Roskam's office, who was also unable to

1 attend, and he represents the Sixth District of Illinois.

2 MR. MORK: My name is David Mork. I'm the senior  
3 legislative assistant for Congressman Roskam, who unfortunately  
4 could not be here today, but he has asked me to read a  
5 statement on his behalf.

6 "Our local communities were minding their own  
7 business when this great opportunity came along, and among the  
8 many other stresses they are now facing, they are now forced to  
9 address problems and challenges they did not ask for.

10 "Congressman Roskam is encouraged that Chairman  
11 Oberstar has joined our legislative effort with a  
12 well-thought-out, reasonable approach to reforming the STB's  
13 process.

14 "A railroad can generally point to advantages it  
15 brings to a community to outweigh the impacts of increased  
16 traffic. Here, instead, the STB has predicted a 28 percent  
17 increase in accidents along the line, hundreds of jobs lost in  
18 the region, and an increase in emissions and fuel consumption.  
19 Freight traffic is supposed to bring jobs and conserve fuel,  
20 but we get neither of these benefits. In Canadian National's  
21 eyes, we are nothing more than speedbumps on the way to an  
22 enhanced bottom line.

23 "Further, the Surface Transportation Board has  
24 acknowledged that substantial obstacles will face completion of  
25 the STAR line, but has not offered any recommendations for

1 pursuing the completion of this revolutionary mass transit  
2 system.

3 "Why should the interests of a private company trump  
4 the careful work and planning that the public has invested in  
5 the STAR line thus far?

6 "Gas prices are squeezing families today and  
7 congestion is clogging our roads, and we need new and  
8 alternative forms of transportation. The STAR line will  
9 provide that, and Congressman Roskam remains committed to  
10 seeing it come online.

11 "We can and should do better than this heavy-handed  
12 push. Congressman Roskam's reaching for the TRACS Act and  
13 Chairman Oberstar's Surface Transportation Board reform  
14 legislation will provide our communities with the protection  
15 they need in this process and preserve the STAR line as a  
16 viable, continuing project to enhance the quality of life of  
17 the families of the Sixth District and the entire region."

18 Congressman Roskam looks forward to continuing the  
19 bipartisan work with the other members from the region and  
20 looks forward to hearing about the testimony.

21 Thank you.

22 HONORABLE BEAN: Thank you.

23 And, now, we're going to proceed to our first panel  
24 which is here to testify about community impact, and we are  
25 going to begin with Karen Darch, who is the Mayor of Barrington

1 in my district.

2 Welcome.

3 MS. DARCH: Hello.

4 HONORABLE BEAN: And who's also here today speaking  
5 on behalf of TRAC which -- and before I ask you to start, I am  
6 going to ask you all to kind of state your names, your titles,  
7 who you're representing so that those that are taking this down  
8 can accurately capture that. Thank you.

9 MS. DARCH: All right. Karen Darch, President of the  
10 Village of Barrington and Co-Chair of TRAC.

11 Good morning, and thank you. My name is Karen Darch.  
12 I am President of the Village of Barrington and Co-Chair of the  
13 regional coalition called The Regional Answer to Canadian  
14 National, better known as TRAC.

15 I appreciate this chance to speak to you today on  
16 behalf of the million-and-a-half people who live and work in  
17 the numerous communities that will be harmed if the Canadian  
18 National Railway, CN, is allowed to purchase the EJ&E line.

19 For TRAC, we thank you for your leadership in working  
20 with House Transportation Committee Chairman Oberstar as  
21 co-sponsors of a bill that would do much to ensure that reviews  
22 of transactions of this type do not automatically favor the  
23 railroad.

24 The bill would make it crystal clear that equal  
25 weight will be given to ensuring that the safety and well-being

1 of community residents are protected.

2 We will work with you in the weeks ahead to do  
3 everything that we can to help get the bill passed before  
4 Congress adjourns for the year.

5 We hope that the Surface Transportation Board will  
6 refrain from making a decision on this docket until the full  
7 Congress has had a chance to act.

8 Since CN first announced its purchase plan for the  
9 EJ&E, Barrington has been engaged in this process. Over the  
10 ensuing months, the voice of opposition has grown as community  
11 after community up and down the line has joined TRAC. The  
12 unprecedented opposition is evident from the thousands who have  
13 turned out for the meetings and rallies in our communities and  
14 in the thousands of comments received by the STB on this topic.

15 We expect thousands more will come out to the  
16 upcoming STB public meetings, and even more will submit  
17 comments on the Draft Environmental Impact Statement, all  
18 recognizing that approval of this rail sale will be  
19 life-changing for individuals, for communities, for our region  
20 and beyond.

21 As we work almost around the clock in review of the  
22 lengthy DEIS, we are shocked by the exorbitant costs in this  
23 transaction which American taxpayers are expected to bear.

24 We notice a failure to review helpful alternatives,  
25 like the CREATE program. We seek confirmation that regional

1       detriments outweigh regional benefits, and we recognize that  
2       the issues, like the negative economic effect of this sale on  
3       our nation's ports, have not even been considered.

4               There is one very clear beneficiary in this proposed  
5       transaction, a private interest, CN. But the growing voices of  
6       TRAC are shouting that the public interest is not served by  
7       this. There is too much harm.

8               We think STB Commissioner Buttrey had it absolutely  
9       correct in summarizing our objections and his own concerns in  
10      his concurrence in the July 25th STB decision on the  
11      transaction timetable.

12              He said, and I quote: "For this proposed  
13      transaction, the scope in terms of track mileage and  
14      transaction costs is relatively low. However, the issues  
15      related to environmental impacts, mitigation costs, and impacts  
16      on the affected communities, both now and in the future, appear  
17      to be incredibly high. It is hard to imagine how even the most  
18      far-reaching mitigation measures would be enough to offset the  
19      balance of environmental detriments that would flow from this  
20      proposal," end of his quote.

21              And, now, I will turn it over to Mayor Weisner to  
22      outline the TRAC perspective in greater detail.

23              And, again, I thank you for the opportunity and for  
24      your legislation. I would be happy to join in answering any  
25      questions that you may have for us once he has concluded.

1 Thank you.

2 MR. WEISNER: Tom Weisner, Mayor of the City of  
3 Aurora and also Co-Chair of TRAC.

4 Good morning. I'm Tom Weisner, mayor of the state's  
5 second-largest city, Aurora, Illinois. I also serve as  
6 co-chair of TRAC, a growing bipartisan coalition of suburban  
7 municipalities and counties who are opposed to the proposed  
8 acquisition of the EJ&E line by Canadian National Railway. The  
9 more people learn how this will impact their lives, the more  
10 our coalition grows.

11 The member communities of TRAC thank you for holding  
12 this hearing. We believe it will shine the spotlight on the  
13 true ramifications of this proposed acquisition and the adverse  
14 impacts this will have on the residents who live in this  
15 region.

16 Further, we applaud your leadership in introducing  
17 thoughtful legislation that would make sure the public interest  
18 is not only considered, but becomes a litmus test for approving  
19 any acquisition that comes before the STB.

20 Let me be clear, the negative economic,  
21 environmental, public safety, and traffic congestion impacts on  
22 the region should be reason enough to reject this proposal.  
23 This deal would result in at least Chicago-area folks losing  
24 their jobs.

25 Further, in talking about the funding of mitigation,

1 the president of CN told the Chicago Tribune, and I quote:  
2 "The bulk of the costs would have to come from the federal and  
3 state governments."

4 Finally, the DEIS suggests that CN may be asked to  
5 pay as little as 5 percent of grade separation costs on as few  
6 as 15 crossings, even though there are 133 crossings at play  
7 here.

8 So let's get our arms around this. A foreign  
9 corporation is proposing that we support a deal that costs U.S.  
10 jobs and requires taxpayers to subsidize an unfunded private  
11 sector mandate that would cost well over \$1 billion.

12 The increase in train traffic will lead to more  
13 traffic delays and congestion, which equals more air pollution  
14 in our region. The increase in noise and vibration will reek  
15 havoc on natural habitats and lower property values for  
16 thousands along the line.

17 It is estimated that we will see a 28 percent  
18 increase in train accidents overall. Potential accidents  
19 involving pedestrians and bicycles will increase as well.

20 And it could be worse considering CN's safety record.  
21 According to a 2005 Canadian government audit, 54 percent of  
22 its locomotives had safety defects and 50 percent of its brakes  
23 had safety problems.

24 DEIS identified 11 emergency service providers,  
25 including Aurora, that will be substantially affected.

1 According to emergency room hospital officials, every extra  
2 minute of delay for a heart-attack patient reduces their chance  
3 of survival by 10 percent.

4 As John Adams said, facts are stubborn things. I  
5 think the facts warrant Congress passing legislation that  
6 compels the STB to truly consider the public interest. If this  
7 occurs, I believe the STB will be forced to reject the CN deal.

8 Thank you again for your leadership and for providing  
9 me this opportunity to speak. President Darch and I look  
10 forward to answering your questions.

11 HONORABLE BEAN: Thank you.

12 Now we're going to go to Buffalo Grove Trustee Jeff  
13 Braiman.

14 And I want to thank you. I know you are here in  
15 support of the deal, and you are a little lonely in that CN  
16 didn't come to join you today. But we do want to have a very  
17 balanced testimony, and we appreciate your involvement today.

18 MR. BRAIMAN: Thank you, Congresswoman.

19 Yes, as you said, my name's Jeff Braiman. I am a  
20 village trustee for the Village of Buffalo Grove, and I serve  
21 as our village board's liaison for transportation issues.

22 You folks invited me to speak here today ostensibly  
23 as a voice for the perspective of more than three-score  
24 communities who stand to benefit from the acquisition of EJ&E  
25 by CN.

1           In that regard, I should point out that I am not here  
2 to represent or advocate on behalf of CN. I am not here to  
3 provide testimony on the Draft EIS, which will be addressed in  
4 the proper official forum in the next couple of months. Nor am  
5 I here to deprive the other municipal officials who are sitting  
6 at this table or who are in this room. I understand and  
7 appreciate their perspectives, and I respect their efforts.

8           Finally, looking around, I must also add I harbor no  
9 illusions about the nature of these proceedings from the  
10 members of the panel. Each of you declared your opposition to  
11 the transaction long before you staged this hearing. Like the  
12 Queen of Hearts in Alice in Wonderland, it seems the order of  
13 business was sentence first, trial afterward.

14           Indeed, it was a difficult decision to accept your  
15 invitation to participate, and, realistically, I don't expect  
16 to persuade anyone here to change their positions or to impact  
17 the report you will generate to advance your collective goal of  
18 blocking the transaction.

19           I do believe that an open dialogue between those of  
20 differing perspectives is beneficial. That is especially true  
21 because while politics is local or, as they say, all politics  
22 is local, as members of Congress, you have a higher calling to  
23 view the big picture and focus on where we need to go as a  
24 nation for the greater good.

25           I hope that by appearing here today, I can at least

1 help to add depth to your understanding of the broader  
2 interests involved.

3 So why does the Village of Buffalo Grove and other  
4 like-situated communities support the transaction? There are  
5 actually a great many reasons.

6 On a macro level, the acquisition and related  
7 improvements can yield substantial transportation,  
8 environmental, and economic benefits. It can be a major step  
9 toward unclogging our rail system which will reduce shipping  
10 costs per investment and ultimately add jobs.

11 Efficiency in transportation is essential to keeping  
12 the U.S. productive and to allowing our industries to compete.

13 And, finally, CN's private investment would confer  
14 these benefits without the delay and the public funding  
15 challenges associated with the CREATE plan.

16 More locally, CN's proposed shifting of trains to a  
17 more efficient route on the EJ&E will result in fewer trains  
18 each day for more than 60 communities compared with fewer than  
19 30 that would see an increase.

20 At present, CN runs the same 20 freight trains down  
21 the existing CN line through my community that would be  
22 diverted to the EJ&E.

23 The purported increase in freight traffic on the EJ&E  
24 does nothing more than moving existing trains from one track to  
25 another and the impacts from one group to another.

1           Thousands of people in towns that abut the existing  
2 CN line stand to benefit from reductions in congestion and  
3 delay, a decrease in noise, and relative improvements to safety  
4 if the transaction proceeds.

5           It would also set the stage for possible enhancements  
6 to METRA service that would take cars off area roads, overdue  
7 improvements to deficient service on the North Central line, in  
8 particular, which are stalled due to conflicts with freight  
9 traffic.

10           To provide some perspective, it's important to note  
11 that the CN acquired the Wisconsin Central in 2001, October of  
12 2001. At that time, freight traffic was relatively light, not  
13 terribly unlike the volumes presently seen on the EJ&E.

14           Since then, CN has increased traffic on that line  
15 substantially. The rapid buildup of freight traffic was  
16 unprecedented and unexpected for our town and others along the  
17 line.

18           Would we prefer to have less traffic? You bet,  
19 absolutely. The additional freight traffic has contributed to  
20 increased roadway congestion and has been the source of  
21 significant annoyance and frustration for many.

22           I should add, however, that the CN freight traffic  
23 has not caused a cataclysm, civilization as we knew it has not  
24 come to an end, and our community continues to adapt to move  
25 forward in spite of those changes.

1           In that regard, there are a couple of specific  
2 points, ones that were mentioned in the opening statements,  
3 that I want to touch upon very briefly in the limited time we  
4 have for the opening statements.

5           One of the issues raised repeatedly is concern over  
6 potential impairment of emergency responses, and I can  
7 understand the concern. I want to offer some real-life insight  
8 into that issue.

9           Despite the quick and unexpected expansion of traffic  
10 on the CN line, we have not experienced those kind of problems.

11           I have asked this question more than once and have  
12 repeatedly been told by our emergency response professionals  
13 that we cannot identify even a single instance of an emergency  
14 response being materially impaired by the presence of freight  
15 traffic. That is in spite of the fact that all of our  
16 emergency response facilities are located on the west side of  
17 the tracks and a not insignificant portion of our community is  
18 located to the east.

19           Aside from the lack of experiential impacts, we also  
20 have in place mutual aid agreements with our neighboring  
21 communities which will allow us to call upon them in the event  
22 the need ever arises due to freight interference.

23           We have contingency plans to build an additional fire  
24 station on the east side of the tracks, something similar to  
25 what we heard as a possible mitigation, but our emergency

1 response professionals to date have told us it's not necessary,  
2 that the concern has not been realized.

3 Another big ticket concern is the claimed need for  
4 construction of dozens, maybe hundreds of grade separations  
5 along the EJ&E as the only source of mitigation. The point of  
6 contention is the need for such a large number of grade  
7 separations.

8 Along the existing CN line, there are only a total of  
9 three grade separations in all of Lake County, and none of  
10 those are located south of Mundelein. Over more than 40 miles  
11 of track from the Wisconsin state line to O'Hare Airport, there  
12 are a grand total of 6 grade separations. That's one for every  
13 eight, maybe nine miles.

14 It's hard to imagine that this very large and  
15 well-developed area has adapted to the CN freight traffic with  
16 so few separations while such an enormous amount of  
17 infrastructure is essential to mitigate the move to the EJ&E.  
18 In fact, the CREATE program would have provided funding for  
19 only a total of 25 separations.

20 I understand that the members of this panel are  
21 opposed to the transaction because you're concerned about the  
22 potential local impacts along the EJ&E. I must ask you,  
23 however, are the cities and towns along the existing CN lines  
24 not also entitled to the same considerations? Is our  
25 residents' quality of life inconsequential? Are our interests

1 somehow less significant to this process than those of the  
2 towns along the EJ&E? I respectfully submit to you they are  
3 not.

4 And so it's my personal challenge to each of you as  
5 you move forward is to keep your eye on the big picture,  
6 represent your constituents' interests, but avoid the traps of  
7 politics and resist the siren's call of my epic pandering.  
8 Take the time to cut through the rhetoric to understand the  
9 benefits to regional transportation efficiency, the economy,  
10 and the environment, and please recognize the interests of the  
11 vast number of communities and thousands upon thousands of  
12 residents who do stand to benefit from the changes resulting  
13 from the acquisition. Only in doing so will you truly fulfill  
14 your role as federal legislators.

15 Thank you very much.

16 HONORABLE BEAN: Thank you.

17 And we are now going to go to Tom Schmidt from  
18 Griffith, Indiana.

19 MR. SCHMIDT: Good morning. Actually, I'm from  
20 Schererville, Indiana, which is the next town next to Griffith.

21 HONORABLE BEAN: I am sorry about that.

22 MR. SCHMIDT: Good morning.

23 Yeah, I'm here to represent the three or four towns  
24 that lie in Indiana that face the same problems as our neighbor  
25 towns and cities in Illinois, and we have the same concerns as

1 they do with the increase of train traffic, the concern about  
2 our emergency response, and the quality of the life that it  
3 brings our residents that live near those trains.

4 HONORABLE BEAN: Could you bring your mike a little  
5 closer to you?

6 MR. SCHMIDT: I'm sorry.

7 HONORABLE BEAN: Thank you.

8 MR. SCHMIDT: Is that better?

9 HONORABLE BEAN: Yes.

10 MR. SCHMIDT: I'll start over.

11 My name's Tom Schmidt. I'm a Schererville councilman  
12 from Ward 4 in the town of Schererville, Indiana. I lie next  
13 to Dyer, Griffith, the neighboring towns that are affected in  
14 this, and the swing of the track goes on to Gary, so there's  
15 four towns that are greatly affected by this transaction.

16 I have the same concerns as our neighboring cities  
17 and towns in Illinois with the increase of traffic, of train  
18 traffic, the concern about emergency response, and the fact  
19 that the crossings in Indiana are on all major thoroughfares in  
20 each one of these towns.

21 So we feel that with the problem with the traffic,  
22 increased traffic, we could possibly gridlock our towns at  
23 different times of the day due to the traffic concerns.

24 We have collected thousands of signatures from each  
25 town that are opposing this, which we'll be forwarding to the

1 STB. We're very concerned about the emergency issues.

2 But the three quick points I want to make is the  
3 American taxpayers should not be forced to pay for a private  
4 business interest for any corporation, especially an \$8 billion  
5 foreign corporation.

6 We feel this transaction is not in our broad public  
7 interests. American ports, longshoresmen jobs, port security  
8 are all unknown at this time. The only certain impact that we  
9 know negating the impact on the taxpayers is a very profitable  
10 impact on one company.

11 We feel that CN has miscommunicated to my communities  
12 in this process. They have led many communities to believe  
13 that they will see far fewer trains. Yet, when pressed, any  
14 benefits to those communities will likely be just temporarily.  
15 So even if the communities that they're saying is going to be  
16 cut back, we feel that's on a short-term basis.

17 This whole process needs so much more analysis that  
18 we need Congress to step in with the proper oversight  
19 immediately.

20 Thank you.

21 HONORABLE BEAN: Thank you very much.

22 And I'd like to ask our court reporter, do you need a  
23 break at this juncture or can we go on to questions?

24 (Court reporter nodded.)

25 HONORABLE BEAN: All right. Thank you.

1           So we are now going to ask questions of the entire  
2 panel. Maybe we will just start on your end and we'll come on  
3 through.

4           Don, would you like to start?

5           HONORABLE MANZULLO: I guess my question goes to the  
6 opening statement that the way to resolve the problem in  
7 Buffalo Grove is not to shift it to other areas. If you are  
8 going to resolve something, you resolve it for everybody that's  
9 impacted.

10           And I can appreciate, Trustee Braiman, your coming  
11 here. And you represent people, and that's what a trustee is  
12 for, but we also represent people; and in that representation,  
13 we do not think that it serves the best interests to shift your  
14 problems to us.

15           And, apparently, you don't think that there is a  
16 problem with the capacity that's presently going through your  
17 area, so the question would be: Why not just leave it there?

18           MR. BRAIMAN: Well, my --

19           HONORABLE MANZULLO: That's a fair question, isn't  
20 it?

21           MR. BRAIMAN: It's an interesting question.

22           The fact is the Village of Buffalo Grove isn't behind  
23 the proposed transaction. We didn't propound the transaction.  
24 We're not an advocate for the transaction.

25           So if the question is how does this impact us, is it

1       beneficial to us, and how does it impact the region -- because  
2       the question put to you is CN has proposed a transaction by  
3       which they would take trains off of that line and move it to  
4       the other line, that it serves a broader and greater purpose.

5               And, again, I'm not here to speak for CN on why they  
6       believe that it serves a greater transportation purpose, but  
7       certainly the Draft EIS seems to accept at some level that  
8       proposition.

9               If it does, Congressman, and if it has a beneficial  
10      impact on my community, is that beneficial impact not deserving  
11      of the same consideration that the adverse impact, perhaps, on  
12      another community is entitled to?

13              HONORABLE MANZULLO: Well, I would disagree, I would  
14      disagree with you, because what you're doing is, you say,  
15      "Here's my problem. We're going to give it to you."

16              The way to resolve an issue is to not make it a  
17      problem for anybody. I mean, shifting a problem is shifting a  
18      problem. It helps out your people, and it impacts our people.

19              But you're telling us that you have no problems with  
20      emergency equipment crossing, crossing the grade. I mean, even  
21      the fact that -- I mean, if there's a fire going on, excuse me,  
22      there's a train in front of it, so we're going to call mutual  
23      aid to go over to the fire, I mean, you know, I'm thinking  
24      about that and saying, well, that's good to have mutual aid,  
25      but that's not the purpose of it.

1           I respect the fact that you're here, and I think you  
2           are doing an excellent job on behalf of your constituents. And  
3           I only wish that Mr. Harrison had your integrity to be able to  
4           come here to state his position. And I accept freely the fact  
5           that you as an elected representative believe and have an  
6           obligation to represent your people, and you are doing an  
7           excellent job of it. I just want to commend you for that.

8           The problem is that as elected officials, we do have  
9           people that we represent. My hope, and I think yours in the  
10          broader sense also, would be that the issue of rail congestion  
11          be alleviated without the imposition on any community, and I  
12          want to thank you for that.

13          HONORABLE BIGGERT: I have a question for the mayors  
14          and presidents of the villages.

15          President Darch, have you estimated the total cost to  
16          your -- is it a village or a city?

17          MS. DARCH: Village.

18          HONORABLE BIGGERT: Village. Of the mitigation that  
19          would be necessary should this merger go through?

20          MS. DARCH: Just to grade-separate the roads, if we  
21          did, the three main highways, when we've talked about  
22          mitigation costs, would be each project could be a  
23          hundred-million-dollar project.

24          And we -- you know, so there are three, Northwest  
25          Highway, Lake-Cook Road, and Route 59, and the Union Pacific

1 Northwest commuter line passes right through, within  
2 eight-tenths of a mile of each other, the -- or the EJ&E  
3 crosses them. So the fourth one we always throw in there is a  
4 grade separation if you were doing the UP as well.

5 So several hundred million dollars could be spent in  
6 Barrington alone to alleviate very real problems if we were  
7 taking a mitigation route. And that's just the grade  
8 separation. It doesn't deal with noise, air quality, any of  
9 the other problems that would exist.

10 And on the emergency responder issue, if you don't do  
11 grade separation, for us and for many of the TRAC communities,  
12 it's not just a matter of where the fire and police are  
13 located. It's really where the hospital is located. Because  
14 picking up the person, the ambulance may be able to get there  
15 when you locate on various sides of the track, but if you  
16 cannot get the person to the cardiac unit at Good Shepherd  
17 Hospital, they will die. And so that is another sort of  
18 response.

19 HONORABLE BIGGERT: How long are these trains  
20 expected to be?

21 MS. DARCH: You know, the DEIS talks about an average  
22 of 6,200 feet. They refer to some others. But they  
23 acknowledge that several of them a day will be 10,000 feet. I  
24 have also heard 12,000 feet long. And I know that trains go to  
25 20,000 feet. But I would say 10 was a number that I heard from

1 CN early on and is recognized, which, you know, in the case of  
2 my community and many others would block every at-grade  
3 crossing at one time if one were to stop.

4 HONORABLE BIGGERT: We also hear about the projected  
5 number of trains per day, and I keep hearing different numbers.  
6 What's the number that you've heard?

7 MS. DARCH: You know, there are -- for our segment,  
8 it's 20 a day. There are 24 in other parts of the TRAC  
9 communities.

10 However, we have taken issue with that number because  
11 of future growth. And one of the issues we have with the DEIS  
12 is that it has not really looked at the growth of intermodal  
13 transport from the Asian markets, which seems to be one of the  
14 fundamental issues for CN in proposing this deal, is to connect  
15 their Canadian line to a Memphis distribution center, a large  
16 new intermodal distribution center they're building down there,  
17 with the Port of Prince Rupert in western Canada, which about  
18 the very same day that this deal was announced, was announced  
19 to be opening a new terminal there to accept shipments on the  
20 shortest route from Asia to the North American continent.

21 That growth and we read article after article about  
22 the expected growth in freight shipments there, from 500,000  
23 units now to 2 million, to 4 million by 2015, that means long  
24 intermodal trains on Canadian National, which exclusively  
25 serves the Port of Prince Rupert, running through Canada,

1 coming down to this Memphis market.

2 And so we expect that the 20 number will not remain  
3 20 for very long. But the DEIS is stopping at that point.

4 HONORABLE BIGGERT: Mayor Weisner, thank you for  
5 being here.

6 MR. WEISNER: Sure. Thank you.

7 HONORABLE BIGGERT: And could you share with us any  
8 safety concerns that you believe that were overlooked or  
9 understated by the STB report.

10 MR. WEISNER: Well, I certainly think, number one,  
11 for us is actually the health and safety of the community  
12 relative to Ogden Avenue, which is, I think, the  
13 heaviest-traveled grade-level operation on the EJ&E with about  
14 50,000 cars per day.

15 And on the east side of that, we have about a third  
16 of our population; and on the west side of that track, we have  
17 Rush-Copley Hospital. And, as I indicated before, the  
18 indications are that every minute that is wasted in getting a  
19 heart patient to the hospital reduces their likelihood to  
20 survive by 10 percent. So that's certainly a major concern for  
21 us.

22 I think the other safety concern that is maybe  
23 unstated but certainly applied, even within the STB DEIS, when  
24 we alluded to trains being 6200 feet long or up to 10,000, the  
25 suggestion, I think, of the Canadian National so far is -- how

1 to deal with that is to speed up the trains, and that's a  
2 rather scary thought considering their safety record in Canada,  
3 where they found that 54 percent of their locomotives had  
4 safety defects and 50 percent had brake problems.

5 Those are the kinds of safety elements and issues  
6 that certainly should not be underestimated at all, and I think  
7 they're given a short trip in the EIS.

8 HONORABLE BIGGERT: How about the effects on your  
9 local schools?

10 MR. WEISNER: Well, there's certainly -- you know, as  
11 you noticed on your visit, the ability of our school children  
12 to get from one side of the tracks to the other, the transport  
13 of children by their parents, all those things are impacted by  
14 this greatly, and we are, you know, also very, very concerned  
15 about that.

16 Yet, the other thing is that there are a number of  
17 schools relatively close to those tracks. In fact, there's a  
18 new high school being built, as we speak, very near the EJ&E  
19 tracks. And the noise and vibration factors alone will impact,  
20 I think, the ability of those schools to function the way they  
21 were intended to.

22 HONORABLE BIGGERT: Has CN approached you to discuss  
23 how they could help mitigate your costs?

24 MR. WEISNER: They paid a courtesy visit, I guess I  
25 would call it, some months ago and listened very nicely and

1 said, "Thank you. We'll take all those things into  
2 consideration," but I think their public positions throughout  
3 their appearances over the last several months have not been  
4 indicative of a company that is really willing to make any  
5 moves.

6 In fact, I think their suggestion a couple months ago  
7 that there were no grade crossings that needed mitigation --  
8 and they've kind of over the months moved all the way up to  
9 three now, and, depending on how long this goes on, you know,  
10 we may get up to ten -- we think there's probably, out of 133,  
11 a very high percentage of those that will need immediate or  
12 ultimate grade separation.

13 HONORABLE BIGGERT: And do you have a total cost, an  
14 estimated cost of that?

15 MR. WEISNER: The grade separation costs, as we see  
16 it, based on what the STB indicated in their EIS in terms of  
17 serious grade-crossing issues and then those that are somewhat  
18 less serious, the cost of that mitigation would be over a  
19 billion dollars.

20 And, as Mr. Harrison has been quoted as saying, our  
21 local -- or our government would pay the greatest share of  
22 that, and I am not aware of either the Federal Government or  
23 the State Government being in a position to suddenly pay the  
24 costs of mitigation.

25 It's really -- I think the biggest issue here is

1 we've been -- it's been suggested that this is a  
2 not-in-our-backyard issue. I think it's a  
3 not-in-our-back-pocket issue. We do not care to subsidize  
4 Canadian National, a foreign corporation who wants to gain  
5 competitive advantage, that we don't want to subsidize that.  
6 If they want to operate on that line, I think they have the  
7 responsibility to pay for the mitigation.

8 HONORABLE BIGGERT: Thank you. And I'll yield.

9 HONORABLE BEAN: Thank you.

10 I think you make a very valid point about how CN  
11 certainly stands to benefit for themselves and their  
12 shareholders, and it's in their interests to talk about  
13 potential benefits to the broader regional community, some of  
14 which that I know Mr. Braiman spoke about, and he mentioned  
15 that it can yield benefits, that there is the potential  
16 enhancements to METRA, possible benefits.

17 So I guess my first question to Mr. Braiman is what  
18 commitments do you have in writing from CN for any decreased  
19 freight train traffic beyond a three-year window in your  
20 community?

21 MR. BRAIMAN: Thank you, Congresswoman. I had  
22 actually anticipated that question.

23 The answer is I am not aware of any specific written  
24 commitments that are any different than you know of or anyone  
25 else publicly knows of.

1           We've heard the same comments from CN in terms of the  
2       general projections. On more than one occasion, Mr. Kaderis,  
3       who is one of their representatives, has made statements along  
4       the lines of they have no plans to increase freight traffic  
5       beyond the forecast volumes and that traffic --

6           HONORABLE BEAN: All right. I am going to cut you  
7       off because that's all I needed, and we are on a time schedule.  
8       I want to ask some other questions.

9           But that's the expectation that I had from your  
10      answer. Because in talking to other communities, there have  
11      been lots of potential commitments from CN that have never been  
12      committed to in writing, and they've had plenty of time to do  
13      it.

14          MR. BRAIMAN: And I don't want to --

15          HONORABLE BEAN: Moving forward --

16          MR. BRAIMAN: -- quarrel with you --

17          HONORABLE BEAN: -- I'd like to move on to --

18          MR. BRAIMAN: -- Congressman, but I just --  
19      Congresswoman, but let me just say there are other reasons, and  
20      I'd be happy to share them with you. I understand there are --

21          HONORABLE BEAN: You have had your opportunity to --

22          MR. BRAIMAN: -- time constraints now.

23          HONORABLE BEAN: That's fine. I want to move on now.

24          I'd like to then move to our folks from TRAC to talk  
25      about some of the very real measurable impacts of this

1 transaction as outlined in the EIS; not as potential problems,  
2 but very likely problems in your communities.

3 Are there any additional things that you wanted to  
4 weigh in? I know there have been deaths on those tracks, about  
5 your concerns about the increase and likelihood of deaths with  
6 the increased traffic; on safety issues; on not only noise, but  
7 the other thing I haven't heard from you is economic impact. I  
8 know some of the communities that TRAC represents have already  
9 seen business deals go away from their communities just at the  
10 mention of this potential transaction.

11 MS. DARCH: That's right. Lake Zurich, our community  
12 just -- in TRAC and to the north of Barrington, lost a deal, a  
13 \$22 million assisted living project, which meant many dollars  
14 in real estate taxes to there, and this was a project that was  
15 going through their planning commission, which really was  
16 underway.

17 We expect and there is some -- there's some evidence  
18 in the DEIS, but I think more will be developed to really try  
19 to quantify the economic impact on communities, particularly  
20 ones where the EJ&E line is passing, like our area, right  
21 through the center of the community. So there is a very real  
22 impact.

23 Another measurable one, and this is following up on  
24 Mayor Weisner's, there are 880 school bus crossings of the EJ&E  
25 tracks in the Barrington area each day, because it's a huge

1 school district and schools are on each side. There are 3,000  
2 students in a high school located several hundred feet from  
3 that track, a high school we know well, that cross, and the  
4 issue there is for the safety in pedestrian crossings.

5 And the community cohesion question that the DEIS  
6 talks about very briefly, about separating segments of a  
7 community, not only in my area, but up and down the track line.  
8 There are going to be people who cannot get from one side of  
9 town to another. There are parks that are adjacent to the  
10 tracks. Several are outlined in the DEIS. And the use of  
11 those really will be affected now for senior citizens, for  
12 everybody in the community.

13 Further, on the economics, property values --

14 MR. WEISNER: Yes.

15 MS. DARCH: -- many homes are located along these  
16 tracks. It is not an industrial area. The land use is park  
17 district/residential. So we will see a substantial increase.

18 We will try to quantify the overall EAV loss to  
19 communities which then, again, has impact on our ability to  
20 bond, borrow money; very far-reaching economic impacts that  
21 will flow and that we will keep assessing in the next 50 days  
22 that we have.

23 HONORABLE BEAN: Mr. Weisner, did you have anything  
24 you wanted to add?

25 MR. WEISNER: I would only add that Aurora has really

1 developed strongly as a help for distribution centers, with  
2 trucking, et cetera, and the more congestion that we end up  
3 with, the harder it is for those trucks to get from point A to  
4 B creates problems for our economy right there.

5 I think the other thing is we're always competing  
6 with suburbs to the west of us for commerce, et cetera. And so  
7 where we have more congestion and those communities have direct  
8 access to the interstate, we tend to have problems with that  
9 over time. So we are very concerned about that.

10 HONORABLE BEAN: Okay. Mr. Schmidt, did you have  
11 anything you wanted to add?

12 MR. SCHMIDT: We just have the same situation. We  
13 have -- one of our main thoroughfares in the town of  
14 Schererville, we are actually in the process of diverting  
15 traffic off Indianapolis Boulevard, Route 41, to Kennedy  
16 Avenue, which Kennedy Avenue is where one of these crossings  
17 are at, and we have a huge project going on right now to divert  
18 traffic on the Kennedy.

19 Naturally, now with the Kennedy Avenue situation,  
20 that it affects now everyone's -- everyone's looking up trying  
21 to figure out what we're going to do about it.

22 HONORABLE BEAN: So a situation, again, where a  
23 private transaction is undermining what public officials and  
24 local communities have decided to do --

25 MR. SCHMIDT: Absolutely.

1 HONORABLE BEAN: -- and want you to pick up the  
2 tab --

3 MR. SCHMIDT: Absolutely.

4 HONORABLE BEAN: -- at the same time. Okay. Thank  
5 you.

6 Now, Congressman Foster.

7 HONORABLE FOSTER: Yeah, I'll try to save a little  
8 time here.

9 I'd just like to highlight one phrase that appears on  
10 Page 10 of the Executive Summary, which says that: "The EJ&E  
11 rail line would be at or near its practical train-volume  
12 capacity if the applicants chose to operate on it the number of  
13 trains proposed by the applicants in their operating plan."

14 That seems to me to indicate that if rail traffic  
15 continues to increase, as I think most people in the country  
16 believe, that very rapidly, since the EJ&E loop was maxed out,  
17 that traffic would be re-diverted down in the Buffalo Grove  
18 area and back where it's currently flowing.

19 And so in light of those kind of considerations --  
20 and I think, honestly, we have to anticipate that freight  
21 traffic will increase -- would any of you here view favorably  
22 the idea of seriously studying a higher radius bypass, where  
23 the through traffic that is simply flowing through the Chicago  
24 area is bypassed around it at a higher radius? Does that have  
25 any downside from your points of view? Any of you from --

1 Trustee Braiman, do you want to have a whack at that?

2 MR. BRAIMAN: I'll take a shot.

3 I guess I would throw the question back at you,  
4 Congressman, since I have been told that I'm simply moving my  
5 problem to a neighbor, wouldn't that be just the very same  
6 thing?

7 HONORABLE FOSTER: No. Well, you know, the idea --

8 MR. BRAIMAN: Because --

9 HONORABLE FOSTER: -- here is that you'd be diverting  
10 the traffic into a rural area out of the suburban area, where  
11 you wouldn't have a high density of population, and out into an  
12 area, frankly, where railways are viewed as an economic plus to  
13 a community. And so that, you know, beefing up a route that  
14 bypassed at a high radius seems to me to be a win-win  
15 proposition for everyone.

16 And I suspect that if you looked at the true cost of  
17 mitigation and bundled that, you know, the very high cost of  
18 mitigating in a suburban or urban area, that a more rural loop  
19 around Chicago would start to look economically attractive as  
20 well; that we're only looking at these low-radius solutions  
21 because we're only looking at half the problem, the direct  
22 costs to the railroads, rather than the entire costs of  
23 mitigation.

24 Anyway, do any of you have --

25 MS. DARCH: I would respond.

1           That thought, yes, was -- I agree with it very much.  
2       It was thrown out as an alternative in our -- the scoping  
3       comments that Barrington filed without specifically very much  
4       with that criteria.

5           If there were a place where the cost of  
6       infrastructure to do it, and it would be an area that would  
7       welcome it, and we didn't specify where, but on that same idea  
8       that looking outside of built-up urban and suburban areas where  
9       you would have an impact, it also would allow for saving a STAR  
10      line on an EJ&E track for passenger rail, for folks who are  
11      living in this area and for all of the commuter lines that are  
12      crossed by the EJ&E as it arcs around.

13          And that's another implication in the DEIS that they  
14      deal with to some degree, what that does to existing commuter  
15      rail in our area.

16          Your solution and suggestion would certainly, you  
17      know, in my estimation, help all passengers, all rail users.

18          HONORABLE FOSTER: Mayor Weisner?

19          MR. WEISNER: I agree a hundred percent.

20          I think just relative to the STAR line -- the  
21      Canadian National, I think you referenced the fact that they  
22      would be at capacity on the EJ&E very quickly. And while the  
23      STAR line subject has come up and the importance of having a  
24      north-south access on METRA, the commuter rail, is very  
25      important to Aurora and Naperville and I think many communities

1 along the line, that the likelihood of that is not very high.

2 And the Canadian National has done nothing but given  
3 a little bit of lip service here and there and saying they  
4 would consider it. My thought is if they're not considering it  
5 right now, then when will they?

6 HONORABLE FOSTER: Councilman?

7 MR. SCHMIDT: Northwest Indiana has -- our, you know,  
8 biggest concern is we have 80 at-grade crossings, so anything  
9 that comes through there is -- all it's going to do is just  
10 hurt us with more traffic, train traffic. So any diversion to  
11 the suburbs or to a non-congested area, where northwest Indiana  
12 is just tremendously too congested to handle any more.

13 HONORABLE BEAN: All right. Well, I want to thank  
14 our -- did you have a question?

15 HONORABLE MANZULLO: Congresswoman, one very quick  
16 question that was not studied in the EIS.

17 The mayors here, what happens if, say, for example,  
18 in your area if it takes a train coming through an additional  
19 five minutes? Because we're just given composites of time and  
20 not segments. In other words, if they had done the study  
21 right, it would have said it's going to take a train X amount  
22 more time to come through or more trains would block it for an  
23 X amount of area.

24 Say it takes another five minutes or ten minutes.  
25 How far would your traffic back up? And what impact would this

1 have?

2 MS. DARCH: The queueing back will be tremendous. We  
3 will actually do a little more work on how many feet long.  
4 There is some data in there I don't think is accurate.

5 And we had a little -- an example of that with just  
6 one crossing closed on Route 14 over a few weeks ago when there  
7 was some repair work being done, and it absolutely gridlocks  
8 our entire area. Because as those roads back up, they do back  
9 up and block Lake-Cook Road and Northwest Highway because of  
10 the routing.

11 And an extra five minutes will be during the course  
12 of a day several times totally life-changing.

13 HONORABLE MANZULLO: And the report never went in to  
14 that, did it?

15 MS. DARCH: It did not.

16 HONORABLE MANZULLO: It never examined that?

17 MS. DARCH: No, I don't believe I've seen a good  
18 examination of that.

19 HONORABLE MANZULLO: Thank you.

20 HONORABLE BEAN: Thank you. It's a good question.

21 I want to thank our first panel for testifying today,  
22 and we'll be continuing to work with you as we move forward in  
23 this process. Thank you so much.

24 I am going to actually -- Congressman Biggert made a  
25 good suggestion. Since there is enough seats at the table, we

1 are going to actually bring the second and third panels up  
2 together in the interest of time.

3 So we are going to now bring forward Illinois  
4 Commerce Commission Chairman Charles Box; from METRA, Phil  
5 Pagano, who is the Executive Director; Diane O'Keefe from IDOT;  
6 as well as Randy Blankenhorn from CMAP and John Swanson from  
7 NIRPC.

8 You know, we are going to take a five-minute break  
9 before we go to the next panels.

10 (Recess from 11:35 a.m. until 11:45 a.m.)

11 HONORABLE BEAN: Okay. We are going to resume the  
12 hearing. Back in order.

13 (Panels II and III approach tables.)

14 HONORABLE BEAN: All right. We are going to start  
15 with testimony from our transportation panel, Chairman Charles  
16 Box of the Illinois Commerce Commission.

17 MR. BOX: Good morning.

18 HONORABLE BEAN: Good morning.

19 MR. BOX: First of all, Congresswomen Bean and  
20 Biggert and Congressmen Foster and Manzullo, my name is Charles  
21 Box, Chairman of the Illinois Commerce Commission, and I'm  
22 pleased to have the opportunity to speak with you today.

23 I am here to provide this panel with the Illinois  
24 Commerce Commission's initial observations on the Surface  
25 Transportation Board's Draft Environmental Impact Study, or

1 DEIS, which has been prepared as part of the Surface  
2 Transportation Board's analysis of the Canadian National  
3 Railway Corporation's, or CN's, proposed acquisition of the  
4 Elgin, Joliet & Eastern Railway Company, or EJ&E, property in  
5 Illinois.

6 On October 30th, 2007, the CN filed an application  
7 with the U.S. Surface Transportation Board to purchase a major  
8 portion of the EJ&E from United States Steel Corporation.

9 Since the acquisition is subject to regulatory review  
10 by the STB, the Illinois Commerce Commission has no  
11 jurisdiction in the proposed purchase. However, in December of  
12 2007, the Commission staff filed a notice of intent to  
13 participate with the STB.

14 The ICC has jurisdiction over rail safety matters in  
15 Illinois, including safety improvements at public highway/rail  
16 crossings.

17 As part of our responsibilities, the staff is in the  
18 process of conducting an analysis of the DEIS document prepared  
19 by the STB, Section of Environmental Analysis, or SEA.

20 The areas of the DEIS the Illinois Commerce  
21 Commission staff is focusing on will include the railway --  
22 railroad operations, especially the freight rail operations,  
23 safety in the areas of freight rail safety, vehicular safety,  
24 quiet zones, hazardous materials transportation safety, and  
25 pedestrian and bicycle safety, and also regional and highway

1 transportation systems.

2 Our staff is most interested in the applicants'  
3 voluntary mitigation efforts as well as the mandatory  
4 mitigation requirements that the STB may place on the  
5 applicants to address employee safety and public safety issues.

6 As a state agency responsible for rail safety, the  
7 Illinois Commerce Commission is committed to working with the  
8 railroads, local communities, and other state and federal  
9 agencies to address the public safety impacts of the CN's  
10 proposed acquisition of the EJ&E.

11 Foremost will be the review of the applicant's  
12 proposed efforts to safely improve at public highway/rail grade  
13 crossings, decrease train/vehicle and train/pedestrian  
14 collisions, reduce emergency vehicle delay and general  
15 vehicular delay at the grade crossings, and review public  
16 education with respect to grade crossings and the dangers of  
17 trespassing on railway property.

18 The ICC is also committed to see that the applicants  
19 operate trains in a safe and efficient manner and in accordance  
20 with all state and federal operating rules and regulations.

21 Our staff is aware that the proposed acquisition of  
22 the EJ&E by the CN will result in a large increase of rail  
23 traffic through many communities in the counties of Lake,  
24 DuPage, and Will.

25 The proposed train and vehicle increases will have a

1 significant public safety impact on existing highway/rail and  
2 pedestrian/rail grade crossings, as well as create additional  
3 emergency vehicle and general vehicular delays.

4 The staff's review of the DEIS and the Commission's  
5 subsequent comments will focus on these issues.

6 The DEIS was published on July 25th, and the Illinois  
7 Commerce Commission's staff has been reviewing the document  
8 since its release, but we are not yet prepared to offer any  
9 comments at this time.

10 Following a thorough review of the entire DEIS,  
11 including the safety integration plan, the Illinois Commerce  
12 Commission staff will submit its analysis to the Commission for  
13 its review and approval.

14 Following the Commission approval of the staff  
15 analysis, comments will be submitted to the STB by the  
16 submission deadline of September 30th, 2008.

17 Thank you again for the opportunity to participate  
18 this morning, and I look forward to any questions you might  
19 have for me.

20 HONORABLE BEAN: Thank you. And we look forward to  
21 being able to ask you some questions about that as well.

22 Next is Mr. Philip Pagano. He's Executive Director  
23 of METRA.

24 MR. PAGANO: Thank you. My name is Phil Pagano,  
25 Executive Director of METRA, and I want to thank the

1 Congressmen for inviting us here today.

2 For the record, I think it should be stated that  
3 METRA is the largest, most complex commuter railroad in the  
4 United States.

5 As you well know, Representatives, we run a system in  
6 which we operate over track that has a significant amount of  
7 freight service, and we work with the freight railroads on a  
8 daily basis.

9 We are proud of the fact, and I think it comes into  
10 play, clearly, on a project like this, that we have, as I've  
11 stated publicly, the best relationships with the freight  
12 railroads of any transit agency in the United States.

13 We own and operate approximately 50 percent of our  
14 system in which we have freight on our system and have  
15 contracts with other freight railroads. We have purchase  
16 service agreements with the two largest freight carriers in the  
17 United States, the Burlington Northern/Sante Fe and the Union  
18 Pacific. And then, naturally, we have trackage agreements on  
19 other segments of our system, which also includes the Canadian  
20 National.

21 A lot has been talked about relative to the impact  
22 upon this project on the STAR line and other services that  
23 METRA currently runs and would like to run, so I thought very  
24 quickly I'd give a snapshot as to how we perceive the impact of  
25 this project on those areas.

1           First -- and maybe I'll go north to south -- let's  
2 talk about the North Central line.

3           First of all, I want to thank everyone here today,  
4 particularly Congresswoman Bean and someone that's not here,  
5 Congressman Kirk, for the tremendous support that they provided  
6 us for getting the funds necessary to expand the service on our  
7 North Central line.

8           Again, for those that do not know, this is a line  
9 that runs from Antioch to the City of Chicago. It was  
10 originally constructed when the Wisconsin Central owned the  
11 rail line and there was very little freight.

12           We have put a significant amount of investment in  
13 that railroad to increase, actual double the amount of service  
14 that was provided about a year and a half ago.

15           With the -- what is being proposed with the  
16 acquisition of the EJ&E -- and we have had meetings with the  
17 Canadian National and, to date, have not come to any  
18 agreement -- we are of the understanding that a significant  
19 amount -- and I say in quotations "significant amount" -- of  
20 freight traffic would no longer occur from, I would say, Vernon  
21 Hills south of the rail line.

22           We are concerned, however, that now what appears in  
23 the Surface Transportation Board's report is this language of  
24 three years and what happens after this three-year period.

25           We have been working and trying to get an agreement

1 with Canadian National that basically would have -- that we  
2 could add ten more trains during weekdays, we can provide  
3 weekend service, Saturday and Sunday service, on this rail line  
4 once this transaction would go through. To date, we have not  
5 reached that agreement.

6 One of the things that is clearly going to be  
7 necessary is what additional capital dollars are we going to  
8 have to bring to the table to provide this extra service north  
9 of Vernon Hills into Antioch.

10 The second item is clearly how this railroad impacts  
11 those railroads that intersect.

12 We have had two concerns. In this case, we have our  
13 UP Northwest Service, which has what I'll call an intersection  
14 at Barrington, and then we have another location at West  
15 Chicago.

16 We have raised this issue with the Canadian National  
17 and, for that matter, with the Union Pacific.

18 I will say that we are satisfied that as it comes to  
19 existing service, in railroad terminology, the Union Pacific is  
20 the controlling railroad; that even though today the EJ&E  
21 operates those intersections, and that would fall to the  
22 Canadian National, that, in railroad terminology, since the  
23 Union Pacific is the controlling railroad, they would have the  
24 first rights to do anything at those intersections to protect  
25 the commuter as well as their freight operations first.

1           Our concern, frankly, is what happens when we want to  
2 expand service in those locations.

3           We believe that we will reach agreement with the UP.  
4 We would expect, then, the UP to do what is necessary with the  
5 Canadian National, but clearly being friendly neighbors to our  
6 local communities.

7           If we put more commuter service on those rail lines,  
8 that will impact freight service on the EJ&E, and I think that  
9 has to be addressed when we start talking about the whole  
10 impact of the Canadian National that will be put on the EJ&E.

11           Last, but not least, is the discussion about the STAR  
12 line. This is a project that we have been working on for many  
13 years. In fact, it was originally called the  
14 outer-circumferential from Waukegan, actually, into Indiana.  
15 And for the last three-and-a-half years, we've been working on  
16 the STAR line.

17           Clearly, this is the first rail line that would be  
18 entirely within the suburban area. It would impact on over 50  
19 communities. It's in a corridor where there's three-and-a-half  
20 million automobile trips made a day, and we believe that it  
21 will be tremendously successful.

22           Our issue has been and continues to be one of joint  
23 use of the trackage. We have, again, been very familiar in  
24 working with the railroads in our region in which in every  
25 case, there is joint use of track. We run commuter service,

1 the freight railroads run the freights, and we have put in the  
2 necessary capital investment to move both commuter and freight.

3 In this corridor, it has been initially stated that  
4 they wanted a separate and distinct right-of-way. That would  
5 be tremendously costly.

6 We are still trying to work through the issue of  
7 joint use, being what needs to be analyzed first, how much of  
8 the freight traffic are we going to project out. Are we going  
9 to project it out from the perspective of these 20 to 23 trains  
10 or are we going to talk about projecting out to 20 to 50 where  
11 it could be more than 20 to 23 trains? And, as you can  
12 imagine, the capital costs would increase.

13 I need to make this statement. Clearly, our job in  
14 running the STAR line would be far easier without the Canadian  
15 National running on the EJ&E. However, we understand that  
16 there is life with freight. And our issue is clearly one of  
17 co-existing on a rail line in which there can be both freight  
18 and commuter. We believe it can be done, we believe that it  
19 can be done at a reasonable price, and, with working with you  
20 and others, we hope that that can be accomplished.

21 Thank you.

22 HONORABLE BEAN: Thank you.

23 Next, we have Diane O'Keefe from IDOT.

24 MS. O'KEEFE: Thank you very much for the opportunity  
25 to be here.

1 I'm Diane O'Keefe. I'm the Regional Engineer for  
2 Region I, Division of Highways with IDOT, and I'd like to talk  
3 a little bit about transportation funding in Illinois and the  
4 state of transportation in Illinois which has a very real  
5 correlation with the needs that will come about as part of this  
6 acquisition.

7 Funding for the Illinois Department of Transportation  
8 Highway Program comes from two primary sources, federal and  
9 states funds. The state-funding source is comprised of motor  
10 fuel tax, vehicle registrations. And the funding sources from  
11 both the federal and the state side have remained stagnate over  
12 the last ten years while the work associated with highway  
13 construction has risen at a rate of over 42 percent just  
14 since 2002.

15 Our six-year program, FY 2008 to 2014, is a \$10.875  
16 billion program with an FY '09 element of 1.95 billion. About  
17 two-thirds of this program is federally funded with the  
18 remainder from state and local funds.

19 And this funding is going to improve over 5200 miles  
20 of highways and replace or rehabilitate 905 bridges, but  
21 because spending is outpacing revenue projections, the  
22 department's ability to add new projects to the program is  
23 severely constrained.

24 The current goal of the department is to maintain the  
25 existing roadways and bridges in an acceptable condition.

1           The four vital elements that we look at are system  
2 maintenance, bridge maintenance, congestion mitigation, and  
3 system expansion. And, unfortunately, the vast majority of our  
4 funding has to go to the first two elements, bridge and roadway  
5 repairs and maintenance.

6           Approximately 75 percent of our program is going to  
7 these two elements, and there's very few projects of any other  
8 nature that have been added to the multi-year program in the  
9 last several years.

10           Specifically, District 1, which covers a six-county  
11 area immediately surrounding Chicago, we have \$2.7 billion to  
12 spend over the next six years. There is no indication that  
13 that dollar increase will go up unless we have a capital  
14 program or something such like that.

15           These improvements include 1100 miles of system  
16 maintenance, basically resurfacings, 300 bridge rehabilitations  
17 or reconstructions, and only 36 miles of congestion mitigation.  
18 That's all that's programmed in this six-county area over the  
19 next six years.

20           As indicated, right now, we do not have the ability  
21 to add projects into the program. When we are physically able  
22 to do so, we add them based on priority needs and various  
23 categories that look at safety improvements, capacity  
24 improvements, reconstruction needs, widening, and we prioritize  
25 them based on a number of categories, including highway crash

1 data, roadway conditions, average daily traffic, traffic  
2 surveys, and bridge ratings.

3 And every year, the department readjusts its  
4 priorities based on the latest information available in all  
5 these categories. But projects that are needed but for which  
6 funding is unavailable we add to an ever-growing list of needs,  
7 which includes the elements for all the projects, the  
8 engineering, the right-of-way, and the construction.

9 And to give an idea of the needs within the area, the  
10 Illinois First Program, which came about in 1999, was touted as  
11 the largest public works program in Illinois history, and it  
12 only took care of about 13 percent of the capacity needs up in  
13 this area. The remaining 87 percent from 1999 are still out  
14 there, as well as all the needs that have increased in the last  
15 ten years since that program came about.

16 Currently, within the six-county area, there are  
17 easily over \$2 billion in interstate congestion needs, another  
18 3 billion in non-interstate congestion needs, another 2 billion  
19 in SRA add lanes, several hundred million of additional needs  
20 in resurfacings and bridges. These are all unfunded needs.

21 If you look at the annual element of funding  
22 available in this district, approximately \$450 million, I  
23 figure that we have those needs just in resurfacing and  
24 bridges. It does not give you the ability to bring in any of  
25 those congestion relief needs.

1           And looking specifically at the existing EJ&E  
2 railroad crossings with state routes, many of the state routes  
3 that these crossings are at are already at or over capacity.

4           Of the 21 crossings that we looked at, only 2 have  
5 any type of engineering ongoing for add lanes right now, the  
6 Illinois 60 up near Diamond Lake Road in Mundelein and the U.S.  
7 34 west of 59, but neither of these are currently being  
8 considered for grade crossings. No further engineering, land  
9 acquisition, or construction is funded for any grade  
10 separations along this route.

11           And aside from the CREATE Program, District 1 only  
12 has three grade separations currently being looked at, and none  
13 of these has construction currently funded.

14           The bottom line is that any new needs will join an  
15 ever-growing list of unfunded needs within the six-county area  
16 as well as across the state.

17           There's been some discussion here today about  
18 estimated costs. We would put the estimated costs of any grade  
19 separation in the range of about 40 to 60 million dollars, but  
20 that is very general. I would not dispute -- in Barrington,  
21 those crossings could easily cost a hundred million dollars  
22 each because they are very constrained areas.

23           When we look at adding these projects or, you know,  
24 any type of projects such as this, when the ability is there,  
25 they're looked at on the basis of safety considerations, the

1 number of crashes, and also the benefit cost ratio, which would  
2 be looking at the user cost delays for the vehicles along  
3 there.

4 But, again, the bottom line is that we are currently  
5 in a maintenance mode and we are looking just to preserve our  
6 existing system.

7 As you can see, it's been a very hard winter. We've  
8 had a lot of patching out there, a lot of resurfacings, and  
9 that's the mode that we will be remaining in for the  
10 foreseeable future.

11 Thank you.

12 HONORABLE BEAN: Thank you.

13 We're now going to move to Randy Blankenhorn from  
14 CMAP.

15 MR. BLANKENHORN: Thank you, Congresswomen Bean and  
16 Biggert and Congressmen Foster and Manzullo.

17 My name is Randy Blankenhorn. I'm the Executive  
18 Director of the Chicago Metropolitan Agency for Planning, an  
19 agency that was created by the General Assembly three years ago  
20 this week to address transportation, land use, and other  
21 comprehensive planning issues from a regional perspective.

22 We are reviewing the acquisition of the EJ&E by the  
23 Canadian National from that regional viewpoint.

24 The movement of goods through the Chicago region is a  
25 major economic, transportation, and quality-of-life issue. As

1 the nation's rail hub, we must find ways to move goods into and  
2 through our region more efficiently.

3 While there are significant economic impacts, both  
4 positive and negative, to our transportation role, there are  
5 many negative impacts on our communities, and that balances  
6 what is at play here, what the transportation and economic  
7 benefits of the acquisition are relative to the impacts in our  
8 communities.

9 We were supportive of the STB's decision to require a  
10 full Environmental Impact Statement regarding the impacts of  
11 the CN proposed physical and operational changes. And although  
12 we have not had time to conduct a thorough review of the entire  
13 document, we feel it falls short in addressing many of the  
14 concerns that we outlined in our comments on the EIS scope.  
15 Notably, these include the time horizon of the study, the range  
16 of alternatives, the capacity constraint analysis, and the lack  
17 of required mitigation measures.

18 Our main purpose is to ensure that the STB's EIS  
19 process meets the needs of our region, which includes the seven  
20 counties of Cook, DuPage, Kane, Kendall, Lake, McHenry, and  
21 Will, five of which are intersected by the EJ&E line and all of  
22 which are affected by the proposed acquisition.

23 Unfortunately, I am left to reiterate what CMAP  
24 stated prior to when the Draft EIS was issued: We simply don't  
25 have enough information to determine whether this acquisition

1 is in the region's best interest.

2 While CMAP fully understands the scope and  
3 constraints of the EIS process, this document brings us only  
4 marginally closer to determining whether the proposed  
5 acquisition is in the region's interest.

6 The EIS lacks a thorough cost-benefit analysis that  
7 is necessary to reach such a conclusion, and, yet, the STB's  
8 EIS is the only mechanism available for conducting this kind of  
9 detailed review.

10 The STB will ultimately decide whether to approve the  
11 acquisition, but based on the EIS, it seems unlikely that the  
12 STB's decision will be based on the region's interest, since  
13 that criterion is missing from the analysis.

14 The regional benefits should not just be incidental.  
15 In CMAP's view, they should be paramount. If the overall costs  
16 and benefits are beyond the STB EIS scope, then at what point  
17 will the region truly have enough information to determine how  
18 the regional transportation benefits weigh against regional and  
19 local community impacts? Only when these factors are fully  
20 understood can there be a serious discussion about mitigation.

21 Careful, long-term planning -- exactly what CMAP is  
22 charged to do for northeastern Illinois -- is the way to  
23 achieve these results. Collectively, we need to provide local  
24 officials and concerned parties with the best available  
25 information so that they can make informed decisions in

1 responding to this acquisition.

2 This is especially critical due to the lack of  
3 specified mitigation measures in the Draft EIS and the Board's  
4 statement encouraging negotiation between the CN and  
5 potentially affected communities to reach mutually acceptable  
6 solutions. That type of deal-brokering can easily pit one  
7 community against its neighbor and yield results that are  
8 contrary to effective regional planning. Therefore, it's a bit  
9 disconcerting that the STB did not use our regional existing  
10 information-sharing mechanism to ensure an outcome that is in  
11 the overall public interest.

12 It is commonly believed that the nation and  
13 metropolitan Chicago will see significant increases in freight  
14 traffic over the next 20 years. However, there is no analysis  
15 that takes into account in any significant way those projected  
16 increases in rail freight in this region.

17 CMAP's review must carefully balance anticipated  
18 transportation benefits along with impacts at the community  
19 level. Impacts between the region's freight, passenger rail,  
20 and highway systems are a major concern that impacts our  
21 quality of life and our economic prosperity.

22 In our opinion, it is impossible to properly analyze  
23 the impacts of this acquisition if we are only looking at three  
24 to five years beyond STB approval.

25 We requested that the time horizon be extended to at

1 least ten years after Board action. However, the STB's Section  
2 of Environmental Analysis concluded that the CN's operating  
3 plan reasonably predicted that likely future growth through the  
4 year 2015 under the assumption that the number of trains using  
5 the EJ&E line would not, thus, exceed CN's estimated operating  
6 plan.

7 This assumption seems to contradict nearly every  
8 industry forecast of rail activity for the next decade. The  
9 EIS analysis is not nearly robust enough for us to accept this  
10 as credible in its assertions about EJ&E traffic. There is no  
11 analysis of how service levels might be expanded on existing CN  
12 subdivisions that may see train decreases, given pressures to  
13 move freight through this region.

14 The Draft EIS concluded that the acquisition would  
15 not have an adverse impact on existing Amtrak service. It also  
16 concluded that it would not preclude implementation of the STAR  
17 line or Southeast service nor existing METRA passenger rail.

18 Again, this conclusion seems to run counter to an  
19 earlier conclusion that the operating plan will reach capacity  
20 on that line, and, therefore, we would like to see further  
21 analysis and evidence that there will be no impacts.

22 CMAP has been among the most vocal partners and  
23 advocates of CREATE, the public-private partnership to reduce  
24 freight congestion in northeastern Illinois.

25 Our region's status as a major international freight

1 hub is threatened by rail freight congestion. While the  
2 proposed EJ&E acquisition appears to be consistent with  
3 CREATE's goals, this EIS process has, again, been a missed  
4 opportunity to involve stakeholders in a real spirit of  
5 public-private partnership, which should include a careful  
6 analysis of how the public and not just the private sector  
7 stands to benefit.

8 Our agency is eager to see CN's detailed commitments  
9 on mitigation, and we believe that the STB's ruling should  
10 stipulate that those commitments are binding across at least  
11 the ten-year horizon that CMAP proposes. This is not evident  
12 in the Draft EIS.

13 CN's mitigation commitment should address real  
14 concerns about safety, noise, vibration, and traffic  
15 congestion, along with quality-of-life issues.

16 Out of the 112 total at-grade crossings, the Draft  
17 EIS lists 15 rail/highway crossings that require mitigation,  
18 but it does not specify any specific mitigation measures.

19 Included in the draft is a statement requesting  
20 assistance from agencies with a regional perspective to work  
21 with CN and the affected communities to develop those measures.

22 Although discussions regarding mitigation between  
23 communities and the CN will, no doubt, move forward, a fully  
24 enforceable mitigation plan must take a regional approach to  
25 best utilize public and private funds to resolve our most

1 critical issues.

2 If I may be even more emphatic by saying this is  
3 exactly what CMAP was created to do, and our offer still stands  
4 to offer our assistance wherever possible.

5 Regarding freight, metropolitan Chicago traditionally  
6 has not had a champion to look out for the public interest.  
7 National discussions and decisions about the movement of goods  
8 are dominated by port cities and states, partly because our  
9 region has not had a strong voice despite being the nation's  
10 hub of truck and rail freight.

11 The Chicago region has a tremendous amount at stake,  
12 and, like the proposed EJ&E acquisition, the movement of  
13 freight can have a wide range of potentially positive or  
14 negative impacts, including economic ones.

15 Freight bottlenecks make it harder for commuters and  
16 cars and trains to reach their destinations and harder for  
17 companies to get their goods in and out of our region. But if  
18 we get it right, freight traffic can serve as a major engine of  
19 economic prosperity.

20 In summary, we know that there will be economic and  
21 transportation benefits as a result of this action, along with  
22 local consequences, both positive and negative, to our  
23 communities.

24 CMAP is prepared to fulfill its responsibility and  
25 provide our decision-makers, both here and in Washington, with

1 the best available data and analysis.

2 At this point, the Draft EIS falls short of our  
3 expectations, and we still do not have sufficient information  
4 to determine whether this acquisition is in the region's best  
5 interest.

6 Thank you.

7 HONORABLE BEAN: Thank you very much.

8 And our last panelist is John Swanson, Executive  
9 Director of the Northern Indiana Regional Planning Commission.

10 MR. SWANSON: Thank you, Congresswoman Bean, members  
11 of the Illinois delegation, staff of Congressmen Visclosky's  
12 and Roskam's offices.

13 My name is John Swanson. I'm the Executive Director  
14 of the Northwestern Indiana Regional Planning Commission,  
15 commonly known as NIRPC.

16 I thank you and our Indiana representative,  
17 Congressman Pete Visclosky, for taking the time to hold this  
18 important hearing and for the opportunity to testify.

19 I especially thank Congressman Visclosky for his  
20 leadership on transportation issues and for his support of  
21 transportation and other infrastructure projects throughout our  
22 region.

23 NIRPC is a council of governments representing 52  
24 elected local government officials, plus one state legislator  
25 appointed by the Governor of Indiana. It's the designated

1 metropolitan planning organization for Lake, Porter, and  
2 LaPorte counties in northwest Indiana, and we are the agency  
3 that must ensure that our transportation plans, programs, and  
4 projects comply with federal regulations.

5 NIRPC believes that the proposed CN acquisition of  
6 the EJ&E would have a negative impact on four major concerns in  
7 our region: One, our region's air quality; two, the efforts to  
8 expand our regional commuter rail; three, the efforts to expand  
9 our airport services; and, four, the quality of life in our  
10 affected communities.

11 The first major issue of concern in northwest Indiana  
12 is improving our air quality, which has been a longstanding  
13 goal of the Federal Government, the State of Indiana, NIRPC,  
14 local governments, and other organizations for over 30 years.

15 While we have made great strides to meeting Federal  
16 Clean Air standards, we have not yet reached attainment for  
17 ozone and particular matter.

18 The proposed action would significantly increase  
19 train traffic and emissions from idling cars while waiting at  
20 at-grade crossings, which would make it more difficult to meet  
21 the Federal Clean Air standards in northwest Indiana.

22 The Draft EIS makes the assessment that overall air  
23 quality will not be negatively impacted within the bistate  
24 region. However, it does not make it clear the northwest  
25 Indiana region must by federal and state mandates conform to a

1 separate compliance plan.

2 It's our overall assessment that the proposed action  
3 would undermine our efforts to meet Federal Clean Air  
4 standards.

5 We request that the comment period be extended so  
6 that the Environmental Protection Agency and the Federal  
7 Highway Administration can adequately confirm the method and  
8 factors used in the Draft EIS air quality analysis, and so that  
9 NIRPC, EPA, and FHWA can adequately review the actual data and  
10 calculations at our rail crossings in Lake County, Indiana.

11 Specifically, we'd also ask that the following air  
12 quality issues be recognized and addressed.

13 We question the method for determining emissions  
14 factors for idling vehicles. The Draft EIS uses an emission  
15 factor of 2.5 miles per hour to represent idling vehicles. We  
16 request that the EPA and Federal Highway Administration confirm  
17 the validity of this method and this emission factor.

18 We request time to review the actual data and  
19 calculations the EIS produced for idling vehicle emissions at  
20 each impacted grade crossing in Lake County, Indiana, and we  
21 also request that the EIS recognize and address the fact that  
22 our emissions budgets are likely to be significantly tightened  
23 when the Indiana Department of Environmental Management  
24 prepares and adopts the required stated limitation plans for  
25 the eight-hour ozone and PM 2.5 standards.

1           The second major issue of concern for northwest  
2 Indiana is the expansion of commuter rail service.

3           The Draft EIS states that expanded NICDE service was  
4 not reasonably foreseeable. That's our South Shore commuter  
5 rail line.

6           NIRPC strongly objects to this assessment. State  
7 legislation to help finance the expanded rail service passed  
8 one house at the Indiana legislature this past spring, and a  
9 bill to secure a financing mechanism is expected to be  
10 re-introduced during the next session.

11           The expanded commuter rail service is also supported  
12 by a series of NIRPC studies, and the NIRPC board has taken a  
13 policy position to support it. That strong support at the  
14 federal, state, and local levels and the Phase I alternatives  
15 analysis is underway, and the results should become available  
16 shortly.

17           It's wrong and unreasonable to dismiss and undercut  
18 the ongoing federally funded feasibility study before it's  
19 completed.

20           The third major regional issue is the expansion of  
21 the Gary-Chicago Regional Airport.

22           A preliminary memorandum of understanding was reached  
23 and was signed by the Gary-Chicago Airport, the EJ&E, CSX,  
24 Norfolk Southern railroads that must adjust the location of  
25 their tracks or their operations to make the airport expansion

1 a reality. However, a final memorandum has yet to be signed.  
2 It's too early to conclude that the airport expansion issue is  
3 resolved to the satisfaction of all parties.

4 The final major issue that will be impacted by the  
5 proposed action is the quality of life in northwest Indiana  
6 communities that are located along the current EJ&E tracks.  
7 These communities will experience three to four times the  
8 amount of train traffic in the next few years. We foresee that  
9 the long-term traffic through our communities will increase  
10 even more after the CN completes the construction necessary to  
11 improve its connections and operations.

12 We assume that there will be a significant increase  
13 in freight traffic due to the estimated increase in  
14 intercontinental container traffic between the ports of Halifax  
15 and Prince Rupert in Canada, as well as from the Tarsans in  
16 Canada to the expanded BP refinery in Whiting, Indiana.

17 The towns of Dyer, Schererville, and Griffith and the  
18 cities of Gary, Hammond, East Chicago, and Whiting will  
19 experience significantly more train traffic.

20 The long line of cars increase congestion and energy  
21 consumption from cars waiting at grade crossings, an increase  
22 in risk of vehicle/train collisions, a decrease in emergency  
23 vehicle access to cross tracks, increased noise and violations  
24 as the trains pass through residential neighborhoods and  
25 business districts, and a change in travel patterns throughout

1     our region.

2             A brief look at the map of CN and EJ&E tracks shows  
3     that the town of Griffith is the only community in either  
4     Indiana or Illinois that will experience more train traffic on  
5     both the east-west and the north-south directions, effectively  
6     splitting the town.

7             The EIS fails to note the excessive burden the  
8     proposed action may have on the town of Griffith. It  
9     recommends mitigation measures for Miller and Lake Street  
10    crossings, but ignores needed mitigation measures at 45th  
11    Street, Main Street, and Broad Street crossings.

12            The Draft EIS also does not adequately address the  
13    negative impacts on grade crossings in the towns of Dyer or  
14    Schererville and the city of Gary.

15            The Draft EIS repeatedly states that mitigation  
16    measures must be addressed solely to agreements between the CN  
17    and local communities.

18            NIRPC has four decades of experience with the  
19    federally mandated processes necessary to identify and  
20    implement transportation projects. By federal mandates, NIRPC  
21    must gather all relevant transportation, environmental, and  
22    economic development data, use sophisticated computer modeling  
23    techniques to forecast future conditions, such as travel  
24    patterns and traffic volumes, air quality, and the  
25    environmental and economic development impacts in the entire

1 transportation system. The proposed action will force NIRPC to  
2 compensate for the adverse impacts that would be caused by this  
3 pending acquisition.

4 It's unreasonable to oversimplify the task of  
5 identifying mitigating projects in each of our communities  
6 without considering the effects on the entire region and  
7 without input from all residents and businesses likely to be  
8 affected by changes in the travel patterns that the proposed  
9 action would impose.

10 The Draft EIS recommendation for CN and individual  
11 communities to reach agreements within a short time frame is  
12 not a reasonable solution to the problems facing affected towns  
13 and cities.

14 On behalf of the member local governments of  
15 northwest Indiana, request that Surface Transportation Board  
16 hold at least one additional hearing in northwest Indiana,  
17 preferably in or near the towns of Griffith, Dyer, or  
18 Schererville.

19 Additionally, I request that the time period for  
20 commenting on the study be extended to 180 days, which is more  
21 reasonable.

22 I appreciate this opportunity to discuss the impact  
23 of the pending acquisition on northwest Indiana, and I'd be  
24 pleased to respond to any questions you might have.

25 Thank you.

1 HONORABLE BEAN: Thank you so much.

2 We are going to start questions, and this time we'll  
3 start on this side with Congressman Foster.

4 HONORABLE FOSTER: Okay. Well, let's see.

5 Well, first, I guess I'd like to thank Mr.  
6 Blankenhorn for the nature of his analysis, because the way he  
7 described the problem and trying to optimize both the public  
8 and the private aspects of this are exactly the sort of  
9 comprehensive analysis, on both the private and public good,  
10 that is absolutely missing from the federal deliberations on  
11 the Surface Transportation Board, and that -- you know, if we  
12 just were able to replicate that kind of thinking in the  
13 Surface Transportation Board, I think we wouldn't have this  
14 sort of situation developing.

15 Let's see. You mentioned briefly, Mr. Blankenhorn, a  
16 range of alternatives that you thought were inadequately  
17 considered.

18 Could you elaborate just briefly on that?

19 MR. BLANKENHORN: Yes. As we looked at the range of  
20 alternatives that were discarded from consideration, I think  
21 that the reason is very simple, that the scope of the study was  
22 very narrow. It had to look at very specific items of existing  
23 trackage and existing yards.

24 I think your question earlier is a legitimate one of  
25 what is the best way to move freight through this region, and

1 that was not on the table. Maybe it shouldn't have been, but I  
2 think it has to be a part of the discussion. And I think  
3 that's where we're having a problem with the whole EIS process  
4 and what it's allowed to do and what it's not supposed to do  
5 and how we get those questions answered.

6 We also don't think that we looked seriously enough  
7 about what CREATE can and cannot do to solve some of these  
8 issues.

9 It is not the entire answer, we understand that, but  
10 we think that there are opportunities for CREATE to help assist  
11 in moving freight through this region, and that there should  
12 have been more of an opportunity to look at this as a part of  
13 the EIS process itself.

14 HONORABLE FOSTER: Okay. Thank you.

15 Do you have any rough estimate of how long such an  
16 analysis of an alternative would take? If you'd just step back  
17 and tried to say where's the best way to flow freight through  
18 the Chicago area?

19 MR. BLANKENHORN: I don't, but it wouldn't be three  
20 months.

21 You know, I think this is exactly what we need to do  
22 as a region, that we need to take a step back and look at how  
23 we want to move freight. We're going to see an incredible  
24 amount of freight come through this region more than we have  
25 today. We've got to figure out how to deal with it.

1 I think that this is a kind of study that over a  
2 somewhere between six- and twelve-month period, we could have  
3 some legitimate discussion and legitimate answers.

4 Would we have solutions in that point in time? I  
5 don't know, because it's a very serious concern, and how we  
6 move freight impacts all of our communities.

7 HONORABLE FOSTER: Do you have a rough feeling for  
8 the total profits of all the railways that ship through the  
9 Chicago area?

10 MR. BLANKENHORN: I do not.

11 HONORABLE FOSTER: Okay. Let's see. I have a  
12 question for Ms. O'Keefe.

13 Could you briefly elaborate on how you decide that a  
14 grade crossing is or isn't necessary somewhere or some other  
15 mitigation, you know, how you weigh in all the factors of the  
16 probability of pedestrians, you know, being killed or car  
17 accidents or traffic delays and so on, how you weigh the  
18 different variables and then finally decide that here's where  
19 we put some mitigation and here's where we won't.

20 MS. O'KEEFE: There's two different ways to analyze  
21 the crossing. One would be on a safety consideration, and the  
22 other would be on a cost-benefit analysis.

23 The safety consideration would look at the accidents  
24 that are occurring at that crossing. So you have to have a  
25 history of accidents there. And it weighs those according to

1 the severity of the accidents. And there is actually a cost  
2 assigned to every type of accident depending on, you know,  
3 injuries, fatalities. And so it's a weighted figure. And once  
4 it's over a certain percentage, then it's considered for  
5 funding on the basis of safety.

6 The other way to look at it is on the basis of  
7 benefit cost, which then you look at a number of different  
8 factors, the number of vehicles, how long they're being  
9 delayed, the number of trains, the number of accidents, again,  
10 and the severity of those accidents are factored in at a  
11 monetary amount, the number of motorists, you know, and the  
12 hours of delay that they sit for a day. And then once you get  
13 to a certain benefit-cost ratio, then it can proceed on that  
14 basis.

15 The issue there is that even if it reaches either a  
16 safety perspective or a benefit-cost ratio, the issue still is  
17 that it needs funding.

18 And from our perspective, you know, in this  
19 six-county area, again, we have over 50 traffic signal  
20 locations that we know new traffic signals are needed at,  
21 whether for safety reasons or for traffic reasons, but we do  
22 not have the ability to fund those.

23 So those are 50 traffic signals, a small dollar  
24 amount in comparison to a number of grade separations, and we  
25 don't have the ability to fund those right now.

1 HONORABLE FOSTER: So it's fair to say if this deal  
2 went ahead, as is being talked about, the result would be that  
3 there would be a large number of new mitigations at  
4 intersections that would add on to your "to do" list with no  
5 new funding and no actual action on these? Is that --

6 MS. O'KEEFE: We have not done the analysis to  
7 determine whether grade separations would be needed at these,  
8 but depending on what the traffic volumes and what the train  
9 volumes are, yes, you could end up with a scenario like that.

10 HONORABLE FOSTER: Are you in a position in  
11 relatively short order to go and turn the crank on this  
12 methodology all the way around the EJ&E loop and come up with,  
13 you know, a total, a list of everything that would meet your  
14 criteria for what you think are needed, at least?

15 MS. O'KEEFE: Not in the short term, either from a  
16 staffing level or from an analysis level, because you need to  
17 have the traffic projections.

18 And one of the things that we look at is we don't  
19 look short term. We don't say what's going to happen in the  
20 next two or three years. We look a little further out.  
21 Because anything that you build or you are going to invest the  
22 money in is going to be out there for 40, 50 years, and it  
23 would be very narrow to say, okay, as long as it isn't needed  
24 in the next two to three years.

25 Right now, we look at our projects and we look at

1     what the volumes of traffic are going to be in 2030, so we  
2     would want to know, you know, what are the traffic volumes  
3     going to be in 2030, which takes an analysis, and also what is  
4     the train traffic going to be then. And that's the only way to  
5     realistically look at whether you're going to need grade  
6     separations here.

7             HONORABLE FOSTER: Okay. Well, let's have -- we  
8     probably used up -- what are the rules on time on this?

9             HONORABLE BEAN: Well, you're about there, but --

10            HONORABLE FOSTER: I'm about there.

11            Let's see. I guess just one more question in regards  
12     to METRA.

13            You'd mentioned the problem of the train-train  
14     crossings, and is there -- you know, if this turns into a  
15     fundamental problem, is there a cost of a train-train grade  
16     separation that I presume is much different than the sort of  
17     \$50 million cost for a road-versus-train grade separation?

18            What is the solution if you find that there's just  
19     too much traffic going around the loop, train traffic, and  
20     there's too much METRA traffic that you'd like to be going  
21     radially in and out?

22            MR. PAGANO: It would be the same that you would deal  
23     with relative to a highway or a road, that you would have to go  
24     under or over.

25            HONORABLE FOSTER: Right. But is the cost a similar

1 number or --

2 MR. PAGANO: Well, I mean, it depends on the  
3 circumstances. It would probably be pretty close to similar  
4 numbers that we're talking about.

5 HONORABLE FOSTER: Okay. Thank you.

6 HONORABLE BEAN: Thank you.

7 I am going to start with Mr. Pagano.

8 You talked about the STAR line. In the Draft EIS, I  
9 felt that the STB essentially just disregarded concerns about  
10 the STAR line in saying, "Oh, it'll just be fine," without any  
11 firm commitment, as you alluded to, from CN to ensure that  
12 there would be the availability of jointly using the line or  
13 even making other tracks available.

14 And so I just wanted to confirm with you, has there  
15 been any commitment in writing from CN in any measurable way  
16 that suggests that that's true?

17 MR. PAGANO: No.

18 HONORABLE BEAN: Okay. Thank you.

19 The next question I had for you is about --  
20 obviously, METRA's desire is to increase and improve commuter  
21 services available, and so there is some potential benefits to  
22 this transaction, should that be allowed.

23 Again, have there been any firm, measurable  
24 commitments in writing from CN over any long period of time  
25 suggesting that that is a benefit that we could count on?

1 MR. PAGANO: No.

2 HONORABLE BEAN: Thank you.

3 The next question I had was for Chairman Box from the  
4 ICC.

5 There's also talk about potential benefit to commerce  
6 and competitiveness and certainly things that you care about,  
7 but I think we also have to consider, as CMAP testified to,  
8 that obviously as a hub, a regional hub and even an  
9 international transportation hub, there's benefits that could  
10 be local, could be regional, could be national.

11 Are there any specific local benefits, any company  
12 industry that you can point to that would definitely benefit  
13 from this deal?

14 MR. BOX: From this particular deal, we've not done  
15 that analysis. And, in any case, most of our exploration is  
16 concerning safety issues.

17 HONORABLE BEAN: Uh-huh.

18 MR. BOX: We don't really usually -- that might be  
19 part of an analysis, but we focus most of our time and  
20 attention on the safety issues.

21 HONORABLE BEAN: Okay, okay. Thank you.

22 My next question, and I'm trying to go quickly here,  
23 is I'd like to ask Ms. O'Keefe about -- you talked about the  
24 cost of mitigation, and typically a grade crossing could be 40  
25 to 60 million. In some cases, it could even be a hundred

1 million dollars.

2 Were you able to get some cost projection overall of  
3 really what this would cost, essentially, taxpayers to come up  
4 with to support this private transaction?

5 MS. O'KEEFE: No, because, again, we don't know the  
6 number of crossings, where it would be needed at, and our 40 to  
7 60 million dollars is, again, a rough estimate.

8 We have a couple crossings going on right now,  
9 Belmont at the METRA, which is about a \$55 million project;  
10 159th Street under the CN, which the railroad portion of that  
11 is probably about a \$60 million project. We have done some  
12 studies in Elmwood Park where the crossings range from about 45  
13 million to about 99 million.

14 So there's a lot of different considerations. A lot  
15 of it is based on, you know, what the impacts are going to be.  
16 Because on many projects, the right-of-way costs are a good  
17 portion of the overall project costs. And in many of these  
18 locations, if you have constrained areas, you are going to see  
19 significant impacts, you know, not just to the roadway, but  
20 also to the adjacent businesses. And so that could be a very  
21 real factor not only in costs, but in --

22 HONORABLE BEAN: Economic impact.

23 MS. O'KEEFE: Right, exactly.

24 HONORABLE BEAN: Okay. The other question I had is  
25 it also sounds like the additional traffic stoppage that's

1 projected, should this transaction move forward, along with the  
2 STAR line is undermined, and it appears that it would be  
3 putting what would move traffic from the roads off of the roads  
4 back on those roads, also brings additional costs to your  
5 organization and what you're going to need to do to support,  
6 you know, all of the cars that are backed up in the local  
7 communities, the higher utilization rates on those local roads,  
8 and on, you know, 53 and 355 and 90, because you can't move  
9 those folks to the STAR line.

10 And what you're saying is there is no funding that  
11 you can tap into to support that, so, again, just additional  
12 taxpayer costs?

13 MS. O'KEEFE: Right. And, as I indicated, many of  
14 these roadways are already at or over capacity. With the  
15 additional stoppages, we would see some additional congestion  
16 in these areas.

17 HONORABLE BEAN: And I guess my last question to both  
18 CMAP and NIRPC, you're both planning organizations and you both  
19 testified that this is a really backwards process, the way this  
20 is working, and I think you essentially made the case for our  
21 delegation of why our legislation that we recently introduced  
22 with Chairman Oberstar is so necessary, because it's backwards.  
23 It's allowing a private entity to swoop in and propose a  
24 transaction that has long-lasting consequences across all of  
25 our communities, essentially undermining some of the planning

1 that's already been done on CREATE, on STAR line, and where  
2 elected officials and constituents on a local, state, and  
3 federal level have worked together to be undermined for this  
4 private transaction.

5 So I guess do either of you have any final comment or  
6 would you agree with how I am interpreting your remarks in this  
7 regard?

8 MR. BLANKENHORN: I think I would tend to agree with  
9 your interpretation.

10 The EIS process is relatively narrow, and it's  
11 designed to do specific things. It's not, apparently in this  
12 case, designed to answer the questions that we need to have  
13 answered. And if they're not going to be answered here, where  
14 are they going to be? That's the question that we're trying to  
15 wrestle with.

16 HONORABLE BEAN: Okay.

17 MR. SWANSON: I will tend to agree with Randy  
18 Blankenhorn, except I would also say that in this case, even  
19 the EIS was inadequate from our standpoint. It did not address  
20 some significant environmental issues on the northwest Indiana  
21 side.

22 And I have not yet seen the draft of the TRACS  
23 legislation. I have read a summary that's been issued by  
24 Congressman Visclosky's office. And it does seem to me it is  
25 very responsive to some of the needs that we've identified that

1 haven't been addressed in this proposal.

2 HONORABLE BEAN: What I heard from both of you, and  
3 then I am going to defer to my colleagues, is that the EIS  
4 fails us in that it's narrow in scope and it doesn't address  
5 all of the potential challenges we would be facing. It doesn't  
6 look at alternatives, because that wasn't their purpose,  
7 because that's your purpose as planning commissions and that's  
8 our job. It's not CN's job to do your job, and it's certainly  
9 not the STB's job to think about long-term consequences and  
10 alternatives. But also, even when in the EIS it validates the  
11 concerns that we've raised, it doesn't provide any real  
12 solutions.

13 MR. BLANKENHORN: I agree.

14 MR. SWANSON: I would agree with that assessment.

15 HONORABLE BEAN: All right. Thank you. And I'll  
16 defer.

17 HONORABLE BIGGERT: Thank you.

18 First, a comment or a question of Ms. O'Keefe, is  
19 that you stated that there are projects and there's money and  
20 there has been no new federal money or whatever coming into the  
21 projects.

22 I would just -- I don't know if I didn't hear  
23 correctly what you said, but the Federal Highway or the  
24 transportation bill, we have put \$6.2 billion on the table.  
25 Some of it has been used by local governments who have matched

1 some of the federal funds, but most of that money remains.

2 This past five-year transportation bill included a 33  
3 percent increase in funds for Illinois, and none of that has  
4 been used. So there's 80 percent of this, which is the \$6.2  
5 billion, and then for Illinois, a 20 percent match so that we  
6 can deal with a lot of the transportation issues.

7 And this really worries me, because next year if that  
8 money is not used, it will be lost to Illinois and go back to  
9 be used by other states. And if we don't have a capital fund  
10 or anything, then we're going to lose that money.

11 And here we are facing some, you know, a real crisis  
12 here with needing money, if this goes through, for mitigation,  
13 and the taxpayers are going to foot the bill and how are they  
14 going to do that? We have to have the capital fund.

15 So, you know, I just can't believe that, you know,  
16 that we're facing this issue and letting that money go to  
17 waste, so to speak, and go to build roads and public  
18 transportation in other states when we need it so desperately  
19 here.

20 Then I'd like to ask Mr. Blankenhorn, have you read  
21 the bill that we have proposed?

22 MR. BLANKENHORN: I have.

23 HONORABLE BIGGERT: Would you think that that is  
24 workable? What would --

25 MR. BLANKENHORN: I do think that it's a workable

1 start to a discussion of how we really look at impacts beyond  
2 those that are included in the EIS, that there has to be a look  
3 at what is best for a region when we make these decisions. And  
4 I believe this piece of legislation is a very good way to start  
5 that discussion and see if we can move something along.

6 HONORABLE BIGGERT: The problem is that the train has  
7 already left the station.

8 MR. BLANKENHORN: Absolutely.

9 HONORABLE BIGGERT: Pardon the pun. But that is so  
10 true. And we are -- you know, we've introduced this bill.  
11 It's going to have hearings as soon as we return to Washington  
12 in September.

13 But we have very little time to act on that, because  
14 September 30th is the deadline for public comment and then the  
15 Surface Transportation Board will take whatever action. And so  
16 we have got to move this forward.

17 I think we need your help to have the plan, you know,  
18 how you perceive this in dealing with that and have some  
19 answers.

20 MR. BLANKENHORN: Congresswoman, we would be happy to  
21 be of assistance in any way we can to move this thought  
22 forward.

23 HONORABLE BIGGERT: I thank you.

24 Then I'd like to turn to the ICC, Mr. Box, and do you  
25 know when you will have a report? You're working on a report

1 for the safety issues?

2 MR. BOX: No. Like I said, the deadline is the 30th,  
3 as you just indicated.

4 HONORABLE BIGGERT: Right.

5 MR. BOX: The staff is working on a report now. They  
6 will submit it to the entire Commission --

7 HONORABLE BIGGERT: Well, that's what I meant. But  
8 you will have that before --

9 MR. BOX: Oh, it will be done by the 30th. But the  
10 staff was preparing it. They'll send it to the Commission and  
11 then we as a body will review it and adopt it.

12 One thing I should point out, when we're talking  
13 about IDOT and the funding, and I think -- I don't know what  
14 question Mr. Manzullo was going to ask, but when it comes to  
15 grade-separated crossings, I think it's clear -- and our report  
16 will clearly show -- that we have about \$28 million per year  
17 for grade separation crossings and grade crossings in Illinois.

18 We have a five-year plan now, and we still have  
19 projects waiting to get in that queue.

20 So I think that all these things will be part of our  
21 report, just to make sure that everyone fully understands our  
22 capabilities and what we can and can't do if some of these  
23 improvements have to be made.

24 HONORABLE BIGGERT: Well, that was going to be my  
25 next question.

1 MR. BOX: I'm sorry.

2 HONORABLE BIGGERT: About how you would -- what can  
3 you do as far as dollars to provide --

4 MR. BOX: As far as dollars?

5 HONORABLE BIGGERT: Uh-huh.

6 MR. BOX: We are -- our budget's like, I think, \$28  
7 million per year for the entire State of Illinois, and, as I  
8 indicated, we have a five-year rotating plan, and we still have  
9 projects that did not make it into the five-year plan. So if  
10 these were added on, it would be quite some time.

11 And, obviously, we don't have the resources to do all  
12 the things that I think would need to be done in a timely  
13 manner.

14 HONORABLE BIGGERT: Has the ICC worked with the CN on  
15 other rail issues?

16 MR. BOX: I could ask our safety manager. In the  
17 past five years, I don't know.

18 Yes, we have.

19 HONORABLE BIGGERT: And have they had problems with  
20 safety on their current lines? Has this been -- what kind of  
21 issues were they?

22 MR. STEAD: Our experience with CN is no different  
23 than any other major Class 1 railroads that operate in the  
24 state. They have all had problems from time to time. But, in  
25 general, they operate safely.

1           The instances where we've built a project or helped  
2 pay for projects, CN is involved with primarily the communities  
3 or coming up with most of the funds. Railroads are typically  
4 limiting their contributions to 5 percent of the total cost.

5           HONORABLE BIGGERT: 5 to 10 percent. So that could  
6 mean -- right now, there is a grade separation project in my  
7 district, on Belmont, that was talked about here, and I think  
8 that the cost is \$53 million for that project.

9           And they're just beginning to do it. And I know that  
10 it's been worked on for years. It's taken so long just to get  
11 to that. I know that when it started, it was, you know,  
12 projected to be 20 or 30 million dollars, and now it's up to  
13 that.

14           So with all of these projects, you know, even the  
15 time is going to increase the amount of money so much.

16           I am most concerned to hear about, you know, the  
17 three to five years of what the CN is going to work on.

18           And then, Mr. Blankenhorn, could you tell me a little  
19 bit more about this ten years of --

20           MR. BLANKENHORN: I can.

21           HONORABLE BIGGERT: -- approval.

22           MR. BLANKENHORN: We understand that rail operations  
23 are fluid, as any business operation is in these days, but it's  
24 impossible for us to plan when we talk about what is going to  
25 happen only three to five years out.

1           Three to five years out doesn't even finish  
2 construction of a grade separation. We need to be looking at  
3 really what is the traffic going to be both from the train side  
4 and from the highway side from a period that is much more like  
5 ten to fifteen years.

6           Diane said, "We look at traffic projections out to  
7 2030 today. That's what we do."

8           So while we understand the railroad's reluctance to  
9 say, "Here's what's going to happen," we have to make certain  
10 assumptions about rail traffic and about highway traffic in  
11 order to make real decisions and talk realistically about  
12 mitigation.

13           Three to five years simply is not enough time to do  
14 that. We think it needs to be more. We said ten in an effort  
15 to be reasonable on what we could look out over a period of  
16 time. Even that is much less than what we plan for usually.  
17 But at least it would give us some interim steps to see where  
18 we thought rail operations were going to be, where we thought  
19 highway traffic was going to be, and where we needed to look in  
20 mitigation.

21           HONORABLE BIGGERT: Thank you.

22           HONORABLE MANZULLO: I think it's apparent that the  
23 people who prepared this EIS deserve an F. I am going to ask  
24 the Surface Transportation Board as to how much this document  
25 cost, because this is an embarrassment.

1 I mean, I just look at the testimony of Randy  
2 Blankenhorn, "Lacks thorough economic benefit analysis." John  
3 Swanson, "Doesn't even address all the intersections." Ms.  
4 O'Keefe, "We have no way of knowing what we need for grade  
5 separations because the analysis is not complete."

6 Let me tell you what they analyzed, the yellow-belly  
7 sapsucker, and the impact on that, and on the horned  
8 bladderwort.

9 And listen to the scholarship that goes into this  
10 document. "Wildlife Mortality: In addition to natural causes  
11 of death, such as predation" -- that's when an animal is eating  
12 another one -- "and disease, railcars and vehicles in the  
13 studied area strike and kill wildlife." Wow.

14 "Wildlife mortality from railcars and vehicles is  
15 most apparent when it involves big-game animals and the  
16 predators and scavengers that feed on the carcuses.

17 "CN does not keep records of animal strikes or kills  
18 on its own lines or on EJ&E rail lines."

19 I mean, this is -- come on. The issue here is what  
20 is the impact of this massive purchase on the people and safety  
21 of Illinois and Indiana. That's a very simple question.

22 And CN, I understand, didn't want to come here today.  
23 They probably wrote the report themselves. This is horrible  
24 scholarship, to see this type take place.

25 You folks have sat here and analyzed areas that are

1 so critical to the safety of people, and you understand the  
2 situation.

3 Are we going to have an opportunity to examine the  
4 Surface Transportation Board's --

5 HONORABLE BEAN: The safety issues?

6 HONORABLE MANZULLO: When they issue the final or  
7 before the final?

8 HONORABLE BEAN: Well, we're going to be still  
9 submitting additional comments, yes.

10 HONORABLE MANZULLO: But I am going to ask that they  
11 do their job.

12 I mean, look at this. There are two volumes of this,  
13 and they didn't even examine all of the intersections that are  
14 involved.

15 I mean, what are these people doing with our  
16 taxpayers' money? It's just an absolute total outrage.

17 Maybe we ought to do a bill to come up with an  
18 alternative to the STB or something else, but I just -- I mean,  
19 I cannot believe this.

20 I mean, I think, Randy, you could have sat down with  
21 a half a dozen people with the simple task of what is the  
22 impact of this going to have on the people of Indiana and  
23 Illinois, and you could have spent probably a fraction of the  
24 cost of this fancy document.

25 And I want to tell you it's got color pictures in it,

1 it's got graphs in there. They don't have any pictures of dead  
2 carcuses or these sapsuckers that they're trying to save. They  
3 don't have any of that stuff in there. But I think that  
4 somebody took some queued material and put it in this document  
5 and charged the taxpayers a fortune for it, and they're going  
6 to shove through this purchase on the people of Indiana and  
7 Illinois without even a cursory impact.

8 In fact, we don't even know the number of trains that  
9 CN eventually wants to run on those tracks. They refuse to  
10 tell us that.

11 I mean, you talk about going into something  
12 blindfolded. This is a disgrace.

13 And I am going to send -- would you guys join me in a  
14 letter as to what this thing cost? Would it --

15 HONORABLE BEAN: Yes.

16 HONORABLE MANZULLO: It's so lacking.

17 And if I could ask -- I mean, I know that you are  
18 working very diligently, but if you could go back through the  
19 testimony as to their specific problems, if you'd just sort of  
20 encapsulate it, and if you could get that to us as soon as  
21 possible. And it doesn't have to be very long, but I think you  
22 know what I am looking for.

23 So we could send that to them and say, "Do your job.  
24 Extend the date beyond September 30th." Because it is not just  
25 members of Congress and it is not just planners, but it is the

1 people that we represent and the kids out there that are going  
2 to be crossing those tracks, especially Barrington with 880  
3 crossings taking place in one day. We are entitled to know the  
4 basis of, number one: How many trains are you going to run,  
5 CN? And, number two, what's the impact going to be?

6 I have nothing further. Thank you.

7 HONORABLE BEAN: Thank you.

8 We're actually at closing statements, if you wanted  
9 to add anything further.

10 HONORABLE MANZULLO: That's my closing statement.

11 HONORABLE BEAN: That's your closing statement?  
12 Okay.

13 (Laughter.)

14 HONORABLE BEAN: All right. Judy?

15 HONORABLE BIGGERT: Okay. Well, again, I'd like to  
16 thank everyone, especially the witnesses, who took time to come  
17 to the hearing today, and I think the information that you have  
18 provided has been very helpful in understanding the full  
19 effects of the proposed acquisition.

20 I still have serious concerns about the impact of  
21 CN's plan to almost triple the number and increase the speed of  
22 freight trains that run through our communities. I think it is  
23 bad news for safety, pollution, noise, traffic, home values,  
24 everything that makes our communities so welcoming.

25 I think that this STB study showed that 11 emergency

1 response providers would be more substantially affected. So  
2 what's the STB's solution? Move the firehouses to accommodate  
3 Canadian National.

4 Even more impractical, CN and the STB expect the  
5 taxpayers should foot the bill, 90 to 95 percent of mitigation  
6 costs.

7 Building just one grade crossing can cost about \$53  
8 million, which is more than the total cost of what CN said it  
9 would be willing to contribute, despite the fact that 112  
10 crossings are needed.

11 So that's why, you know, we join Chairman of the  
12 Transportation Committee Oberstar in introducing a measure that  
13 would inject some fairness into the STB approval process.

14 So our plan will protect public safety, prevent  
15 congestion, and would even ensure that our STAR line could move  
16 forward. It would inject sanity and fairness to a process that  
17 heretofore has only addressed commercial concerns.

18 Again, thank you for coming to the hearing.

19 HONORABLE BEAN: I'd like to thank our current  
20 panelists as well as our earlier panelists who are bringing  
21 their perspective as transportation experts in this case and  
22 the earlier testimony that came from local elected officials.

23 And I want to thank the press for being here to draw  
24 attention to the American public about a process that, from  
25 what we've heard from all of you today, is really failing the

1 American public. It's failing our citizens. It's failing our  
2 constituents.

3 We have a document that Congressman Manzullo so  
4 passionately pointed out is just missing the mark. As we heard  
5 from our planning folks, it's lacking in both scope and real  
6 measurable solutions for our communities.

7 Mr. Blankenhorn specifically challenged the  
8 unsupported assumptions about what are the real increases  
9 likely to be in freight traffic given our economic trends,  
10 given the high cost of fuel, and those are likely increases  
11 that we should be addressing realistically and not through  
12 myths or unsupported statements.

13 I think it was also important that you supported  
14 assumptions about Amtrak and STAR line services. And, most  
15 important, what I think you brought to our attention is how the  
16 timeline that has been suggested by this STB about when they  
17 should be making a decision is absolutely preposterous.

18 And it's failing us on so many levels that I know my  
19 colleagues are going to be joining me in appealing the timeline  
20 that they've proposed to try to reach a final decision.

21 The current process puts the interests of industry  
22 over those of American families and taxpayers. I think our  
23 legislation will better reflect American values by protecting  
24 the rights of our constituents and our communities.

25 I know I will be working with my colleagues to not

1 only advance that legislation when we're back in Washington in  
2 September, which truly, again, the current process does not  
3 reflect American values, but we are also going to be working to  
4 push back on the STB to move the timelines further out so that  
5 we can more realistically assess the challenges that we're  
6 facing in these communities to better protect the rights of our  
7 communities.

8 Thank you.

9 HONORABLE FOSTER: Well, I would also like to thank  
10 all of our panelists for their participation today. Your  
11 willingness to come here reaffirms your dedication to the  
12 future transportation needs of all our communities and to  
13 include the concerns of the residents in their planning.

14 I am very happy with the large turnout for the  
15 meeting today, and I am excited to see all of the people who  
16 have come from far-out towns to express their displeasure on  
17 how broken the process is.

18 I am not -- my attitude towards this delightful  
19 document here is pretty much summarized by what Randy said  
20 about it being too narrow.

21 You know, the people that generated that document did  
22 pretty much what Congress told them to do, which is to look  
23 very narrowly at a certain slice of the whole problem, and we  
24 have to look at the overall optimization of public policy from  
25 the private point of view, the public point of view, the

1 national good, and the local municipalities that are affected,  
2 and we have to balance this properly. And, unfortunately,  
3 Congress has not provided or mandated a mechanism to balance  
4 those interests properly.

5 Last week, Chairman Oberstar introduced a piece of  
6 legislation with our help and support, and that is only part of  
7 the problem.

8 One of the difficulties here is that this whole thing  
9 is triggered by an acquisition. But that's not the only thing  
10 that triggers big changes in the rail traffic through  
11 communities that should be triggered when there's a big shift  
12 or even a gradual shift in the freight traffic through an area.

13 Perhaps it should be looked at every decade or so on  
14 so that the nation as a whole has comprehensive plans to get  
15 respected by the rule-making authorities.

16 We simply have to do a better job of planning here.

17 HONORABLE BEAN: Thank you.

18 I will also mention that there is additional  
19 testimony that will be submitted for the record that came from  
20 the Port of Seattle, from the community of Joliet, and also  
21 from Will County.

22 But I will also mention to many of you who are  
23 present who are part of the public that didn't have an  
24 opportunity to testify today that there will be STB hearings  
25 where the public will be allowed to testify.

1           You don't have to wait for those hearings. You can  
2 continue to submit information and testimony that you think is  
3 important, because we do have to broaden their perspective to  
4 include all of those factors that they should be considering.

5           I will lastly mention before I gavel us adjourned  
6 that there will be a press conference in five minutes at the  
7 conference room down the hall.

8           Thank you so much. We are adjourned.

9           (Proceedings concluded.)

C E R T I F I C A T E

I, Colleen M. Conway, do hereby certify that the foregoing is a complete, true, and accurate transcript of the Ad Hoc Hearing had in the above-entitled matter before the aforementioned Congressional participants, at Chicago, Illinois, on August 5, 2008.

/s/ Colleen M. Conway, CSR, RMR, CRR

8/22/08

Official Court Reporter  
United States District Court  
Northern District of Illinois  
Eastern Division

Date