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BY HAND

Ms. Victoria J. Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W., Room 504
Washington, DC 20423-0001

Re: STB Finance Docket No. 34424, Railroad Control Application, Canadian National Railway Company and Grand Trunk Corporation – Control – Duluth, Missabe and Iron Range Railway Company, Bessemer and Lake Erie Railroad Company, and The Pittsburgh & Conneaut Dock Company

Dear Ms. Rutson:

This is to report on certain consultations which CN has made with relevant agencies regarding the effects of the proposed CN/GLT transaction on grade crossing safety and historic preservation, as requested by the United States Department of Transportation and Environmental Protection Agency in comments filed by those agencies with the Section of Environmental Analysis ("SEA").

In my January 28, 2004, letter to you, I reported that CN was consulting with the Minnesota Department of Transportation ("MnDOT") to determine whether, in MnDOT's view, the crossing protection at grade crossings affected by the proposed transaction would be appropriate for projected vehicular and train traffic. Attached as Exhibit A is a copy of an e-mail message sent on behalf of CN to MnDOT describing the grade crossing issue, and of MnDOT's reply. As that message indicates, MnDOT advised CN that the information CN had provided would be unlikely to lead MnDOT to modify the draft of comments on the proposed transaction, which it had prepared for submission to the Board on January 26, 2004. In fact, when MnDOT filed those comments,¹ they were silent on the issue safety at the affected crossings. When CN

¹ Minnesota Department of Transportation Comments on the Acquisition of the Duluth, Missabe & Iron Range Railroad (dated Jan. 26, 2004; filed Jan. 28, 2004).

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later asked MnDOT orally about this omission, MnDOT advised CN that the omission was deliberate, because the agency did not feel it was a significant issue.

My letter of January 28 also reported that CN had asked HDR Engineering, Inc. ("HDR") to contact the Minnesota State Historic Preservation Office ("SHPO") to request its views on the impact of the proposed transaction on the DMIR shops at Proctor, Minnesota. HDR did so orally during January, in a telephone conversation in which HDR informed the SHPO that it would be receiving a copy of the Environmental Appendix and requested the SHPO's comments on the proposed transaction. The SHPO did not provide any comments directly to either HDR or CN, although, as indicated in my January 28 letter, it did send a letter to SEA (dated January 16, 2004), which provided no substantive comment, but which recommended that the Board consult with the Advisory Council on Historic Preservation ("ACHP") to determine whether the proposed transaction would have the potential to cause effects on historic properties and would therefore be subject to review under the section 106 process. At CN's request, HDR contacted the SHPO orally in late January to determine whether the SHPO would have any further, substantive comment on the effects of the proposed transaction, and was told that it would not.

I also noted in my January 28 letter that CN had requested that HDR contact ACHP, as recommended by the SHPO. HDR did so in a letter dated January 27, 2004 (attached hereto as Exhibit B), in which HDR provided ACHP with copies of the Environmental Appendix and of the SHPO letter of January 16, and in which it requested ACHP's comments on the question raised by the SHPO. Neither CN nor HDR has received any response to this request, nor are we aware of any comments submitted by ACHP directly to SEA.

Although CN has sought the views of MnDOT, the Minnesota SHPO, and ACHP regarding grade crossing safety and historic preservation, those agencies have not provided any substantive comments on those issues. Nonetheless, CN will promptly notify SEA of any response it might receive to its earlier requests for comments. In the absence of such a response, CN believes it has fully carried out its commitment, as made in my January 28 letter, to consult with those agencies.

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Please call me if you have any questions regarding CN's consultations with
MnDOT, the SHPO, and ACHP.

Very truly yours,

Paul A. Cunningham /jmc
Paul A. Cunningham

Attachments

EXHIBIT A

From: Allan Vogel
To: kevinSoucie@msn.com
Sent: Monday, January 26, 2004 8:07 AM
Subject: Re: DMIR and possible directional running of trains

Kevin, got the information, thanks. We will take a look at it and determine if it provides any reason for modifying our STB statement as currently drafted. I suspect not. AL

Al Vogel
Office of Freight and Commercial Vehicle Operations

>>> "Kevin Soucie" <kevinSoucie@msn.com> 01/23/04 01:31PM >>>

To: Al Vogel, MNDOT

Fr: Kevin Soucie

Soucie & Associates (for CN)

As we discussed by phone earlier this week, the CN/GLT transaction would allow CN to implement, fully or partially, the directional running of trains. As I explained in our conversation, this means the parallel DMIR and DWP tracks between Shelton Jct and Nopeming Jct could operate much like a double-track line. CN envisions possibly using the DMIR track primarily for southbound trains, while northbound trains would mostly use the CN (DWP) line. Here are a few points you should be aware of:

1) The transaction provides CN with the flexibility to introduce directional running. If full directional running were put in place, the maximum increase in traffic would be 6.5 trains on the DMIR segment between Shelton Jct and Nopeming Jct, with a corresponding 6.5 reduction on the DWP line between these same points. Please keep in mind that the 6.5 train per day increase is the maximum projected increase based on full implementation of directional running. The actual increase may be less if only partial directional running is employed. Partial or selective directional running would reduce the number of trains affected.

3) As you can see from attached Exhibit D, there are 37 crossings on that segment. Of the 37 crossings on the DMIR segment, only 6 have average daily traffic (ADT) counts over 500. All 6 of these locations have active warning systems in place. The two crossings with ADT counts over 1000 are equipped with gates in addition to flashers and constant warning time (CWT) circuits.

3) There is also no information from the accident history on the DMIR line (even when traffic volumes were higher due to EVTAC) to suggest that there would be additional safety issues associated with the potential increase in train traffic.

4) In the interest of continued safe operation, CN is willing to consult with MNDOT and those public agencies responsible for the above referenced grade crossings to assist in determining the adequacy of existing warning measures.

In addition, I have included the following attachments.

- a.. Detailed map of DMIR region
- b.. Potential Changes in Tonnage and Train Counts
- c.. Average Daily Traffic at Road Crossings Along DMIR (Faxed separately)
- d.. Crossing Section for Safety Improvement Plan

Please let me know if you have any questions. Thank you for your continued interest in this matter.

Kevin (414) 817-1442

January 27, 2004

Mr. John Fowler
Advisory Council on Historic Preservation
1100 Pennsylvania Avenue NW, Suite 809
Old Post Office Building
Washington, DC 20004

Dear Mr. Fowler:

On behalf of Canadian National Railway Company (CN), we are requesting comments from the Advisory Council on Historic Preservation (Council) under the provisions put forth in 30 CFR 800.9 (a).

CN and its wholly owned subsidiary, Grand Trunk Corporation (GTC) have filed an application with the Surface Transportation Board (STB), seeking approval for the acquisition by CN and GTC of control of three rail carriers: The Duluth Missabe and Iron Range Railway Company, Bessemer and Lake Erie Railroad Company and The Pittsburgh & Conneaut Dock Company. Information on the project and its potential impacts (Attachment A) was submitted to the Minnesota State Historic Preservation Office (SHPO) for review and comment under the National Historic Preservation Act (NHPA).

The Minnesota State Historic Preservation Office has recommended that the Council be consulted for its views regarding whether the proposed acquisition "has the potential to cause effects on historic properties" (Attachment B).

We believe that action on the part of the STB constitutes the licensing of an "undertaking" within the meaning of section 106 of NHPA. However, since the acquisition will only result in operational changes and "will not substantially change the level of maintenance of railroad property" (see 49 C.F.R. 1105.8(b)(3)), because it will not lead to construction of new facilities or abandonments of rail lines, and because CN has no plans to dispose of or alter any properties that are 50 years old or older, we see little potential for effects.

Please review Attachment A and provide your comments directly to the STB at the following address:

Case Control Unit
STB Finance Docket No. 34424
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

HDR Engineering, Inc.

6190 Golden Hills Drive
Minneapolis, MN 55416

Phone: (763) 591-5400
Fax: (763) 591-5413
www.hdrinc.com

Please write the following in the lower left-hand corner of the envelope:

Attention: Phillis Johnson-Ball
Environmental Project Manager
Environmental Filing

I would appreciate it if you could provide a copy of your comments to me and to CN's counsel: Paul A. Cunningham, Harkins Cunningham LLC, 801 Pennsylvania Avenue, N.W., Suite 600, Washington, D.C. 20004.

If you have any questions regarding this matter please do not hesitate to contact me at 763.591-5426.

Sincerely,


Mark Wollschlager, JD
National Technical Director