

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 35087

CANADIAN NATIONAL RAILWAY COMPANY

AND GRAND TRUNK CORPOATION

-CONTROL-

EJ&E WEST COMPANY

**VILLAGE OF NEW LENOX, ILLINOIS'
COMMENTS REGARDING THE SCOPE OF THE PROPOSED
DRAFT ENVIRONMENTAL IMPACT STATEMENT**

The Village of New Lenox, Illinois, for its Comments Regarding the Scope of the Proposed Draft Environmental Impact Statement to be prepared in the above referenced proceeding, states as follows:

INTRODUCTION

This submittal is made on behalf of the Village of New Lenox, Illinois ("New Lenox" or "Village") to comment on the Draft Scope of the Environmental Impact Statement ("EIS") published by the Surface Transportation Board ("STB" or "Board") on December 21, 2007. The Draft Scope of the EIS was published as part of the Board's consideration of the October 30, 2007 application by the Canadian National Railway Corp. ("CNR") for approval of its acquisition of the Elgin, Joliet and Eastern Railway

Corp. ("EJ&E"). On November 27, 2007 the STB issued a decision determining that Board approval of the acquisition would be a "major federal action significantly affecting the quality of the human environment," thereby triggering the requirements of the National Environmental Protection Act ("NEPA"), 42 U.S.C. §§4331-4335. The Board also determined that a full EIS, as opposed to the more limited Environmental Assessment normally sufficient in railway acquisitions, was required due to the potential adverse impacts the transaction would have on a number of communities.

On November 30, 2007 New Lenox timely filed its notice to participate in the proceedings as a Party of Record. The Board's December 21, 2007 publication set a deadline of February 1, 2008 for public comments on the scope of the proposed EIS. That deadline was subsequently extended to February 15, 2008. New Lenox now provides its comments regarding the scope of the proposed EIS and further welcomes and encourages the Board's Section of Environmental Analysis' ("SEA") further inquiry and communication with the Village as to local conditions, committed developments, planned land use, and any other information that will assist the SEA in its preparation of the draft EIS.

AN INTRODUCTION TO NEW LENOX

A. The Village of New Lenox

New Lenox is located in the east central portion of Will County, Illinois, amid one of the fastest growing regions in the United States. Between the 1990 and 2000 censuses, Will County's population grew from 357,313 to 502,266 a growth rate of 40

percent. Will County's population as of July 1, 2006 was estimated to be 668,217, and is continuing to grow at a rate of 2,000 to 3,000 per month, or 25,000 to 30,000 people annually. New Lenox is bordered by the City of Joliet to the west, and unincorporated Will County to the north, south, and east.

New Lenox has shared in this unprecedented growth. New Lenox's population grew from 17,771 in 2000 to 24,938 in 2006. There are currently 25 approved or under construction residential housing projects and 18 projects that are under current review and in various stages of development. These projects involve the construction of 4,839 single family homes, 1151 townhomes, and 1134 condominium units. New Lenox also has numerous committed commercial and retail development projects underway. New Lenox projects that upon development of all available residential parcels, its population will swell to 88,282, based upon 2000 census data indicating an average of 3.03 per person household. (New Lenox's 2004 Comprehensive Plan Update, Chapter IV, p. 8, attached hereto as Exhibit A). The Northeastern Illinois Planning Commission projects that New Lenox's population will exceed 100,000 by 2030. (Id.)

New Lenox has been challenged to meet the needs of its growing population. In this regard, a new high school to serve an additional 2,500 students, Lincoln-Way West High School, is currently under construction. Additional infrastructure improvements are also planned. These include intersection improvements at Gougar Rd. and Spencer Rd., widening of the Nelson Rd. at-grade crossing at the EJ&E tracks, and construction of a sanitary sewer pump station at Gougar Rd. New Lenox has implemented an

Extensive Bicycle and Pedestrian Facilities Plan, which includes constructing pedestrian and bike trails in the Commonwealth Edison Right-a-Way adjacent and parallel to the EJ&E tracts.

New Lenox supports the Northeast Illinois Regional Commuter Railroad Corp., d/b/a Metra's ("Metra") STAR Line proposal, as it is critical to serving the growing transportation needs of the region. The STAR Line project will provide suburb-to-suburb commuter train service and make use of 50 miles of existing EJ&E track. Metra is a Party of Record to this proceeding, and the Village defers to Metra to identify the impact, if any, the proposed transaction will have on the STAR Line project.

New Lenox's fire and emergency medical services are provided by the New Lenox Fire Protection and Ambulance District ("NLFPD"). The NLFPD services New Lenox and unincorporated New Lenox Township, with an additional population of approximately 20,000 from four firehouses, utilizing five engines, five ambulances, one aerial ladder, and eight support vehicles. The NLFPD is staffed by four full time personnel supplemented by paid on-call firefighters. Daily staffing is 12 firefighters. In 2006, with a Village population of near 25,000, the NLFPD responded to 2,481 calls, with an average response time of 4 minutes, 20 seconds.

The New Lenox Police Department ("NLPD") has 40 full-time sworn officers and one part-time officer, which is approximately 1.6 officers per 1,000 residents. In 2007 the NLRD responded to 30,087 calls for service. Staffing levels range from 3-7 officers

on-duty at any given time. The NLPD has one station located at 701 W. Haven Ave., which is north of the EJ&E. There are no police stations located south of the EJ&E.

Silver Cross Hospital at 1200 Maple Road in Joliet, IL is the closest hospital, about 5 miles from the Village's geographic center, and is the hospital of first choice by New Lenox emergency responders. Next year Silver Cross Hospital plans to begin construction of a new hospital at the intersection of I-355 and U.S. Route 6, in New Lenox. The emergency department of the new hospital will have 39 private treatment rooms, 11 surgical suites, and an interventional platform that integrates both surgery and imaging.

B. The EJ&E Right-of-Way Through New Lenox

The EJ&E bisects the middle of New Lenox from east to west for a distance of six miles. There are five at-grade crossings within New Lenox:

1. Gougar Road;
2. Nelson Road;
3. Cedar Road;
4. Spencer Road;
5. Schoolhouse Road.

Each of these roads run north and south. Gougar Rd. and Cedar Rd. are major arterial routes through New Lenox providing present and future access to Interstate Highways I-80 and I-355. The rapid growth of the region is reflected in the Average Daily Traffic ("ADT") statistics for these crossings, and is set forth in the following chart:

EJ&E PUBLIC AT GRADE CROSSINGS IN NEW LENOX

STREET	BRANCH	ADT	YEAR	ADT	YEAR	% INCREASES
Gougar Road (CH 52)	Mainline	5,000	04	9,975	07	99.5
Nelson Road	Mainline	5,300	04	5,300	07	0
Cedar Rd (CH 4)	Mainline	6,700	04	21,085	07	214
South Spencer Road	Mainline	1,800	04	2,115	07	17
Schoolhouse Road	Mainline	6,300	04	7,380	07	17

A true and accurate copy of the ADT studies are attached hereto as Exhibit B.

There are three existing residential neighborhoods abutting the EJ&E. They are Stonebridge (265 single family homes; approx. 860 residents); Liberty Square (180 single family homes; approx. 585 residents); and Windermere West (74 single family homes; approx. 430 residents). Additionally, there are five committed housing developments abutting the EJ&E. They are: Berens Field (82 townhomes' approx. 143 residents); Kammerer (182 single family homes; approx 590 residents); Village Station (949 mixed housing units; approx. 1,900 residents), Leigh Creek Estates (215 single family homes, 80 Duplex; approx. 840 residents), and Heather Glen (187 single family homes, 150 townhomes; approx. 870 residents). Thus, there are 2,472 existing and committed residential units (approx. 6,200 residents) directly adjacent to the EJ&E line.

There are seven commercial/industrial areas abutting the EJ&E. One of these areas, the Cherry Hill Business Park, includes a rail spur off the EJ&E. New Lenox is unaware of CNR's plan for this rail spur. Another, the Schoolhouse Road Industrial Park, is where the School District Transportation Facility is located.

The EJ&E also abuts the property on Gougar Rd. where construction of the new Lincoln-Way West High School is underway. As stated above, this new high school

will serve 2,500 new students. It is anticipated that 90% of these students will be traveling to school by school bus. Assuming 30-50 students per bus, this translates into 45-75 school busses each morning and afternoon, a large percentage of which will be crossing the EJ&E tracks at Gougar Rd.

C. CNR's Proposed Transaction And The Increase In Rail Traffic And Hazardous Material Shipments

The EJ&E segment running through New Lenox is south of the East Joliet Yards. This segment currently averages six trains per day, or a train every four hours during a 24-hour period. Under the proposed transaction, rail traffic is expected to increase to 28 trains per day, or a train every 51 minutes during a 24-hour period. The trains are expected to be up to 10,000 feet in length. There are approximately 2 miles, or 10,560 feet, between Gougar Rd and Cedar Rd. Therefore, each train will potentially cause near simultaneous traffic backups at each of the Village's two main north/south arterial routes.

In addition to the increased number of trains, the proposed transaction will result in a significant increase in the amount of hazardous materials, and perhaps the nature of the hazardous materials, traveling through the Village. Currently, approximately 51 car loads of hazardous materials pass through New Lenox each year. If the proposed transaction is approved, the number of hazardous material shipments is expected to increase to at least 353 carloads per year, an increase of 692%.

CNR's projection of increased train traffic and hazardous material shipments is of grave concern to the Village. On February 12, 2008 the Village Board of Trustees

passed "A Resolution Objecting to the Adverse Impacts to the Village of New Lenox Created by the Sale of the Elgin, Joliet, and Eastern Railroad to the Canadian National Railroad." The Resolution requests the STB to condition approval of CNR's application on CNR paying for the following mitigation measures:

1. Construction of grade separation roadway crossings at Gougar Rd. and Cedar Rd., and at all other feasible locations;
2. Any remaining at-grade separation crossings be improved to facilitate the designation of the crossings as "Quiet Zones;"
3. The transition point from dual tracks to single tracks be made outside the Village;
4. Installation of barriers such as sound walls or earthen berms along both sides of the EJ&E tracks between Gougar Rd. and Schoolhouse Rd;
5. Crossing improvements and signals for pedestrian crossings at each of the five New Lenox crossings;
6. The allocation of defined resources to address the increased risk of hazardous materials moving through New Lenox and written plans addressing how hazardous material spills will be handled;
7. Necessary accommodations for the proposed Metra STAR Line.

A copy of this Resolution is attached hereto as Exhibit C.

COMMENTS

NEPA and the STB's Environmental Regulations set forth categories of potential environmental impact that must be assessed in the EIS. The STB incorporated these categories into a "Draft Scope of the EIS" that was attached as Appendix A to the Board's Notice of Intent to Prepare an Environmental Impact Statement. These

categories are: safety, transportation systems, land use and socioeconomics, energy, air quality, noise and vibration, biological resources, water resources, environmental justice, cultural and historic resources, and secondary and cumulative effects.

While comments are provided on each of these categories, New Lenox emphasizes the need for local investigation and analysis, and sets forth a summary of the multitude of adverse impacts resulting from the CNR proposal and a request that the Board identify, study, and take these adverse impacts into consideration in determining whether to approve, deny, or approve with conditions the CNR proposal. At a minimum, if the CNR proposal is approved, CNR must be required by the STB to mitigate the significant adverse impacts this transaction will have on our Village. New Lenox welcomes and encourages the Board's Section of Environmental Analysis' ("SEA") further inquiry and communication with the Village as to local conditions, committed developments, planned land use, and any other information that will assist the SEA in its preparation of the draft EIS.

A. Proposed Period of Study

New Lenox believes that the scope of the EIS should include projections of vehicular traffic, loss of service at intersections near grade crossings, rail traffic, land use and population growth of at least 10 years from the anticipated closing date of the proposed transaction. New Lenox cannot emphasize strongly enough that interjecting the burdens imposed by the rail traffic increases and other issues raised by the proposed transaction into one of the fastest growing regions into the United States,

without careful, *long range* planning and infrastructure improvements, is a recipe for disaster. Indeed, the 214 percent increase in ADT at the Cedar Rd. at-grade crossing in the three years between 2004 and 2007 alone demonstrates the folly of assessing the affects of the proposed transaction just three years out. In this regard too, the scope of the EIS should include an analysis and projection of rail freight traffic increases over this 10-year period, and include proposed conditions on capacity maximums for CNR's use of the rail.

The general consensus of planners studying rail traffic in the Chicago-area is that metropolitan Chicago will see significant increases in rail traffic over the next 10-20 years. Therefore, it is grossly inadequate to simply compare current EJ&E rail traffic levels with CNR's projected traffic levels as the proposed transaction's measure of rail traffic increase. Rather, any projection of rail traffic levels should the proposed transaction be approved must also factor in the anticipated significant increased rail traffic expected within the Chicago area rail system as a whole. A 10-year projection of rail traffic, vehicle traffic, and population growth is simply consistent with sound urban planning principles. For these reasons, New Lenox believes that the scope of the EIS must include assessments and projections of the environmental impacts of the proposed transaction for at least 10 years from the anticipated closing date of the transaction.

B. Mitigation

Furthermore, the Draft EIS should include detailed proposals to mitigate the significant safety, transportation, and environment hardships the proposed transaction

will impose upon communities such as New Lenox, including an assessment of the costs and available funding for the mitigation. It must be remembered that the proposed transaction provides no discernible benefit to New Lenox, but instead threatens the safety, well-being, and quality of life of the entire community. Those who will benefit from the proposed transaction, including CNR, those companies filing letters of support for the proposed transaction, and the Chicago rail community as a whole, should be prepared to fund the necessary infrastructure and other improvements to mitigate the hardships caused by the proposed transaction. The scope of the EIS should assess the willingness of these private entities to fund the necessary infrastructure improvements and mitigation measures, as well as the availability of public funding.

C. EIS Categories

Having set forth generally the scope of the planning window and the need to set forth and assess mitigation proposals, New Lenox will comment on each of the EIS categories, and identify specific characteristics of New Lenox the Draft EIS should analyze and consider.

1. Safety

The proposed transaction raises serious safety concerns with respect to greatly increased accident probabilities at the at-grade crossings, emergency response times, the interaction of commuter and freight train traffic, and hazardous material transportation. The STB proposes to conduct at-grade accident probability analyses for all at-grade

crossings with ATD levels at least 2,500 or more. New Lenox agrees that the EIS needs to address at-grade rail crossing accident probabilities and safety factors, including at-grade crossing design issues. All at-grade crossings within New Lenox meet the proposed 2,500 ADT threshold for the safety analysis with the exception of South Spencer Rd., whose 2007 ADT was 2,115. It is readily apparent though that given the area's growth the ADT of South Spencer will soon meet the proposed 2,500 ADT threshold, if it does not already. Therefore, New Lenox believes the scope of any grade crossing safety analysis include the South Spencer Road crossing.

Furthermore, the Draft EIS should include an analysis of how the proposed plan will affect emergency services response times. New Lenox has significant concerns that the proposed transaction will dangerously delay emergency responders needing to cross the EJ&E. The nearest hospital, Silver Cross Hospital in Joliet, is on the north side of the EJ&E. The newly proposed Silver Cross Hospital will be in New Lenox, but also on the north side of the EJ&E. The great majority of growth in New Lenox is south of the EJ&E. The nearest alternative hospital is St. James/Advocate Hospital in Olympia Fields, 13 miles away. Emergency traffic needing to transport patients from south of the EJ&E to Silver Cross Hospital will undoubtedly face delays due to train traffic that will, at some point, have fatal consequences.

Mitigation of these significant and readily apparent safety concerns requires that CNR fund construction of grade separation roadway crossing at all feasible locations, with specific consideration given to the Gougar Rd. and Cedar Rd. crossings. The scope

of the EIS should include an analysis of the feasibility of grade separation crossings, at least with respect to Gougar Rd. and Cedar Rd., including an analysis of costs, and available private and public funding.

Critical incidents occur on a regular basis requiring multiple police officers to respond to a particular area. Any officer being cut-off by a train blocking one or more of the grade crossing places public safety in jeopardy.

The Draft EIS should include a safety analysis of all pedestrian and bicycle pathways that cross, or run adjacent or parallel to the EJ&E line. As stated above, New Lenox has adopted an extensive Bicycle and Pedestrian Facilities Plan that includes improving the Commonwealth Edison right-of-way running adjacent and parallel to the EJ&E tracks with bike and pedestrian trails. The Draft EIS should identify all safety issues related to the proximity of these trails to the EJ&E line and propose a plan to mitigate any such identified safety issues.

The six-fold increase in hazardous materials transported through the area is also a serious safety concern for New Lenox. New Lenox agrees with the STB that the Draft EIS needs to address the types and quantities of hazardous materials and hazardous substances that would be moving through New Lenox. The analysis should include a determination of the area's abilities to respond to hazardous material incidents and the need for additional training, cooperatively with CNR, for the region's fire fighters and other first responders. Existing contingency plans should be reviewed and updated.

Important to both the at-grade safety issues and the hazardous material issues is CNRs safety record, safety management practices, training, their hazardous material response plan, and the protocols and procedures they intend to put in place to ensure their shipments proceed safely through New Lenox and the other affected communities. The scope of the EIS should include a critical examination of CNRs safety record, including but not limited to a study of all CNR derailments and hazardous material spills or discharges in the past 10 years, their cause, the adequacy of CNRs response, and the corrective action taken by CNR.

The Draft EIS should include an analysis identifying and mitigating the safety issues surrounding the integration of the Metra STAR line into the rail system affected by the proposed transaction. As stated above, New Lenox believes the Metra STAR line to be a critical component of its transportation infrastructure and asset to meet the rapidly expanding transportation needs of its residents and workers. To the extent that safety issues may impair the ability for Metra to bring the STAR line to fruition, they need to be identified, addressed, and mitigated.

2. Transportation Systems

New Lenox agrees that the Draft EIS needs to address vehicle delays at rail crossings resulting from the proposed transaction. In addition to the safety concerns implicated by emergency responders unable to quickly proceed across the EJ&E, New Lenox is concerned that the proposed transaction will inhibit access to Interstates I-80 and I-355 from the portion of New Lenox south of the EJ&E. The Board is proposing to

study at-grade crossings with ADT's exceeding 2,500 or that are expected to experience significant increases in train traffic. Each of its at-grade crossings meet the proposed study threshold, but, to the extent they do not, New Lenox proposes that the Draft EIS address each at-grade crossing within New Lenox.

The current ADT levels for Gougar Rd. and Cedar Rd. indicate, on its face, that the proposed transaction will significantly impair the north/south flow of traffic within New Lenox and inhibit access to other major transportation routes. New Lenox believes that the proper mitigation of the significant adverse effect on New Lenox's transportation systems requires that a study of the feasibility of grade separation crossings, at least at Gougar Rd. and Cedar Rd., be part of the EIS process, including an analysis of costs and private and public funding sources.

The Draft EIS should also include an analysis of the proposed transaction's affect on the Metra STAR Line. This analysis should include the affect on the area's transportation systems if the Metra Star Line does not come to fruition, and proposed alternatives to address the transportation needs the Metra Star Line was intended to meet.

3. Land Use and Socioeconomics

New Lenox is concerned about the effect the proposed transaction will have on property values, the viability of the new housing developments abutting the EJ&E, and the resulting effect on New Lenox's tax base. There are five housing developments abutting the EJ&E involving the construction of 584 single family homes, 1,261

townhomes, and other housing units. New Lenox believes that each of these developments is solvent and will be built to completion. However, New Lenox fears that the proposed transaction will have a detrimental effect on the solvency of these developments, as the proposed transaction may slow sales and reduce value below the price point needed for developers to meet their financing obligations. The implications to New Lenox are manifest. Therefore, the Draft EIS must include an assessment of the effect the proposed transaction will have on the five new housing developments abutting the EJ&E, including plans to mitigate any such effects.

There are also three existing residential neighborhoods abutting the EJ&E involving 627 housing units and nearly 2,000 residents. The EIS should assess the effect the proposed transaction will have on their property values and plans to mitigate any such effect.

As stated above, New Lenox has adopted an extensive Bicycle and Pedestrian Facilities Plan that includes converting the Commonwealth Edison right-a-way running adjacent and parallel to the EJ&E tracks into bike and pedestrian trails. The scope of the EIS should identify all issues related to the proximity of these trails to the EJ&E line and how the increased rail traffic will impair the aesthetics of using the trails, the willingness of residents to use the trails with the increased train traffic, and propose a plan to mitigate any such issues.

4. Energy

New Lenox agrees with the Board's proposal to assess the energy impacts of the proposed transaction, however, suggests that SEA add to this category an analysis of increased vehicle fuel consumption waiting at the intersections near grade crossings during train crossings

5. Air Quality

In addition to the identified discussions concerning pollution increases from the CNR proposal, not only from CNR's proposed rail operations but also from the additional vehicular traffic resulting from those operations, the receptors to that pollution should be identified and factored into this environmental impact evaluation. *With nearly 4,000 existing residential units, it's Village commercial center, well over 3,000 school children adjacent to the EJ&J rail line, plus an additional 2,500 students in 2009, the Village has an intense interest in protecting the air quality and health of its community.* The Village's concern with air quality impacts from the CNR proposal certainly extends well beyond the area adjacent to the rail line, to the cumulative impact to air quality of this community and the region.

Further, the draft scope of the EIS does not identify how it will calculate the change in emissions generated from the proposed transaction. The calculation should distinguish between freight and non-freight activity; estimate emissions by operational mode (*e.g.*, idling); account for the slow turn over in locomotives and potential for higher emission rates from older portions of the fleet; estimate emissions from freight loads, if any; estimate increase of coal transportation, consumption and emissions from

facilities that utilize that fossil fuel; and utilize emissions data collected from independent sources, rather than rely on rail industry reported data. If the SEA relies on a "standard" emission rate for locomotives, then it must condition CNR to use locomotives at that rate or better for any increase in rail use allowed. Likewise, consider mitigation conditions that prohibit idling within that portion of the EJ&E line within New Lenox; require all locomotives to be built or modified to meet the more stringent federal air quality standards; place mandatory limits on empty freight mileage; and, require, at a minimum, a percentage of locomotives to use low-sulfur locomotive diesel fuel (reducing PM-10 emissions). Freight rail is a major source of NOx and PM-10 omissions and, particularly in the Chicago-metropolitan and surrounding area where freight rail is a high contributing source to those emissions, no proposed increases should be allowed and, rather, decreases should be demanded.

Finally, in consideration of accidental spills and releases, the draft scope EIS states that the safety record of the CNR will be considered "to the extent available". This contingency is not acceptable. If the record is not available, then worst-case scenarios based on available data should be used in this evaluation. Moreover, if the record is provided by CNR, it should be disclosed publicly for comment and verified by SEA prior to reliance on it.

6. Noise and Vibration

New Lenox believe that all portions of the EJ&E track within its boundaries should be subject to noise and vibrations studies. New Lenox notes that it currently has

sensitive receptors along much of the EJ&E route, including existing residential neighborhoods and schools. Any noise and vibration analysis should also give consideration to future sensitive receptors, such as the above mentioned committed residential developments and new high school.

SEA should ensure that the EIS studies noise levels and models the impact for increased freight traffic of the size and type proposed by CNR, using a model, such as CREATE, that will take into consideration noise variables (e.g., pass-by noise and stationary noise; day and night noise levels; land use; condition of track; freight cars). SEA should also require CNR to use noise reducing technology for diesel locomotives, such as exhaust silencers.

As for vibration, SEA should ensure that the study includes evaluation of maximum levels from a single event involving the maximum number of train passings of a single point on the existing and proposed expanded track (e.g., if three tracks, then three freight trains). The analysis should include the freight trains at the maximum proposed length of 10,000 feet and resulting additional period of time for vibration event.

Both the noise and vibration analysis should take into consideration high sensitivity and residential land uses adjacent to the tracks. If CNR's proposal is approved, the approval should be conditioned on the assumptions of the study and any mitigation that is required to put noise and vibration into acceptable ranges.

The Draft EIS should include an analysis of the feasibility of constructing barriers such as sound walls or earthen berms along both sides of the EJ&E tracks between Gougar Rd. and Schoolhouse Rd, including an analysis of private and public funding availability.

7. Biological Resources

The study should not be limited to federal endangered species or designated critical habitats and should include State of Illinois endangered species and State threatened species. The EJ&J rail line is within 2000 feet of eight parks and crosses the Jackson Branch Creek, a tributary of the Jackson Creek. The Jackson Creek is the largest of three major streams that run through the Midewin National Tallgrass Prairie. Jackson Creek, however, is not only a high quality stream, but is one of the “least disturbed streams in Northeastern Illinois” (Glass, 1994). The Jackson Branch runs southwesterly, from northeast of the railroad tracks that are a subject of the proposal, into the Jackson Creek. The railroad crosses Jackson Branch with an outdated, depleted, and much in need of repair concrete overpass. Photos taken today of this overpass are attached as Exhibit D. Not only is the structural stability of this overpass as a safety concern, meriting study as part of Section 1., above an obvious issue, but equally important is the impact of this crumbling structure, the trains passing along it overhead, and the operational and construction practices on the track to the Jackson Branch flowing below.

One mussel, an Illinois watch list species, the ellipse (*Venustaconcha ellipsiformis*) inhabits Jackson Creek (Glass, 1994). This species is rare in the Midwest and has disappeared entirely from the state of Ohio. Moreover, in a recent Biological Assessment of The Jackson Branch Of Jackson Creek that was prepared for the Village in December 2007, another Illinois State threatened species was identified. Several slippershell mussels (*Alasmidonta viridis*) were located along the area of study, which included the area under the rail overpass.

The Jackson Creek and Jackson Branch are critical natural resources that, along with the biological resources within them, including but not limited to the threatened mussel species, should be protected. The Biological Assessment must be specifically identified and considered as part of the Draft EIS evaluation in conjunction with additional measures to protect and prevent impact to Jackson Branch and its inhabitants.

Additionally, in all areas of rail construction (including, but not limited to improved rail connections, sidings, and second tracks), special measures should be taken to protect these areas from impact, runoff, sedimentation, and contamination.

Further, the Draft EIS should consider operational procedures of CNR that have a potential impact on biological resources, such as any pesticides or de-icers used in track maintenance and prohibit the use of such measures.

Additionally, the Draft EIS should include an evaluation of increased rail traffic on biological resources, including but not limited to impacts from emissions. Finally,

the SEA should ensure that the Draft EIS addresses biological and, as discussed below, water resources in response to accidental spills and releases.

8. Water Resources

The Draft EIS should not be limited to impacts as a result of construction. It should include an evaluation of additional track use, increased emissions, and operational procedures and chemical/pesticide use by CNR in determining potential impact to water resources.

Additionally, particularly in areas adjacent to and involving tracks crossing water resources, such as creeks (the Jackson Branch in New Lenox) and streams, preventative rather than just mitigation measures should be evaluated and implemented.

Finally, it is critical that the Draft EIS address the protection of the New Lenox potable water supply. New Lenox has two community wells that are located approximately one-half (1/2) mile from the railroad tracks. Although the Village is currently connected to Lake Michigan as a water supply, these wells are maintained in the event their use is needed. The Draft EIS should include an analysis to the potential impact to these, and any other potable wells located within at least a one-mile distance from the tracks.

9. Environmental Justice

New Lenox agrees that the draft EIS should address environmental justice issues, including an analysis of the demographics of the New Lenox neighborhoods where

double tracking may be proposed, and where the projected rail traffic will increase to above eight trains per day. New Lenox believes that each of its neighborhoods meet this criteria.

10. Cultural and Historic Resources

New Lenox agrees with the Board's proposal.

11. Secondary and Cumulative Effects

New Lenox agrees with the Board's proposal to address the secondary and cumulative effects of the proposed transaction. New Lenox, together with its neighboring communities and Will County, are investigating and assessing the secondary and cumulative effects of the proposed transaction and welcome the opportunity to provide the Board with further input on this issue.

CONCLUSION

Approving the proposed transaction without careful, long range planning and a commitment from CNR to fund the necessary infrastructure improvements and mitigation measures will have disastrous effects on the safety and quality of life of the New Lenox community and the region as a whole. Indeed, interjecting the increase in train traffic projected by CNR into one of the fastest growing regions in the United States without first ensuring these infrastructure improvements and mitigation measures are in place is gross negligence. New Lenox strongly encourages SEA to further seek local participation in the EIS process, to further communicate with and inquire of local officials as to local conditions, planned land use, committed

developments, and any other local condition or issue that will aid SEA in fully assessing the safety, transportation, and environmental impacts of this transaction.

Respectfully submitted,



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EXHIBIT A

VILLAGE OF NEW LENOX 2004 COMPREHENSIVE PLAN

A copy of this exhibit is not included with the e-filing because of its size, but is included with the hard-copies served via U.S. Mail

EXHIBIT B

2004 AND 2007 ADT STUDIES

EJ&E Public At-Grade Crossings In Will County			
STREET	BRANCH	ADT	YEAR
87th St	Mainline	1,450	04
Hafenrichter Rd	Mainline	4,700	04
86th/Wolf's Crossing	Mainline	8,500	04
111th St	Mainline	8,800	04
118th St/Ferguson	Mainline	3,900	04
127th St	Mainline	4,850	04
135th St	Mainline	8,500	04
Van Dyke Rd	Mainline	5,000	04
143rd St	Mainline	4,300	04
Naperville-Plainfield Rd	Mainline	3,300	04
IL RT 128/Main St	Mainline	18,500	08
Center St	Mainline	1,150	99
Easton Ave	Mainline	2,800	04
Lockport Rd	Mainline	8,200	04
Ranwick Rd (CH 36)	Mainline	9,300	04
Essington Rd/East Frontage Rd	Mainline	3,800	04
Division St	Mainline	5,500	04
Gaylord	Mainline	4,100	04
Oakland St	Mainline	1,200	04
Woodruff Rd	Mainline	7,700	04
Washington St	Mainline	7,300	99
Rowell St (N)	Mainline	2,300	04
Mills Rd (CH 51)	Mainline	2,200	04
Rowell St (S)	Mainline	2,300	04
West Spencer Rd	Mainline	850	04
Eriggs St. (CH 54)	Mainline	10,000	04
Cherry Hill Rd	Mainline	800	04
Gouper Rd (CH 52)	Mainline	5,000	04
Nelson Rd	Mainline	5,300	04
Cedar Rd (CH 4)	Mainline	8,700	04
South Spencer Rd	Mainline	1,800	04
Schoolhouse Rd	Mainline	8,300	04
118TH/Owens Rd	Mainline	650	04
Wolf Rd	Mainline	7,200	04
Center Rd	Mainline	5,800	04
Seuk Trail	Mainline	2,500	04
Pfeiffer Rd/80th	Mainline	5,600	04
Harlem Ave/ IL 43	Mainline	8,400	02

WCGL EJ&E Crossing Survey

Crossing Location: Gougar Road

Current / Most Recent ADT: 9,975

Year Taken : 2007

Projected ADT (if available): _____

Accident Data (if available): _____

Are there any sensitive structures near this crossing (schools, nursing homes, hospitals, historic structures)

: none

WCGL EJ&E Crossing Survey

Crossing Location: Nelson Road

Current / Most Recent ADT: 5,300
Year Taken : 2007

Projected ADT (if available): _____

Accident Data (if available): _____

Are there any sensitive structures near this crossing (schools, nursing homes, hospitals, historic structures)

: None

WCGL EJ&E Crossing Survey

Crossing Location: Cedar Road

Current / Most Recent ADT: 21,085

Year Taken : 2007

Projected ADT (if available): _____

Accident Data (if available): _____

Are there any sensitive structures near this crossing (schools, nursing homes, hospitals, historic structures)

: none

WCGL EJ&E Crossing Survey

Crossing Location: Spencer Road

Current / Most Recent ADT: 2,115

Year Taken : 2007

Projected ADT (if available): _____

Accident Data (if available): _____

Are there any sensitive structures near this crossing (schools, nursing homes, hospitals, historic structures)

: None

WCGL EJ&E Crossing Survey

Crossing Location: Schoolhouse Road

Current / Most Recent ADT: 7,380

Year Taken : 2007

Projected ADT (if available): _____

Accident Data (if available): _____

Are there any sensitive structures near this crossing (schools, nursing homes, hospitals, historic structures)

: none

EXHIBIT C

VILLAGE OF NEW LENOX RESOLUTION NO. 08-04

RESOLUTION NO. 08-04

A RESOLUTION OBJECTING TO THE ADVERSE IMPACTS TO THE VILLAGE OF NEW
LENOX CREATED BY THE SALE OF THE ELGIN, JOLIET, AND EASTERN RAILROAD
TO THE CANADIAN NATIONAL RAILROAD

WHEREAS the Canadian National (CN) Railroad has submitted an application to the U.S. Department of Transportation's Surface and Transportation Board (STB) to acquire the Elgin, Joliet, and Eastern (E.J. & E.) Railway; and

WHEREAS, the U.S. Surface and Transportation Board (STB) is reviewing the CN application; and

WHEREAS, the proposed Acquisition, if approved by the STB is projected to result in a significant increase in the number of daily trains from 6 trains to 28 trains a day; and

WHEREAS, such an increase in freight traffic would significantly contribute to increased traffic congestion, grade-crossing risk, blockages of bicycle and pedestrian crossings, air and noise pollution, and hazardous materials risk; and

WHEREAS, the trains are projected to be up to 10,000 feet in length; and

WHEREAS, the quantity of hazardous materials is projected to increase from 51 carloads per year to 353 carloads per year, an increase of 692%; and

WHEREAS, the E. J. & E. line bisects the middle of the Village of New Lenox east and west for a length of six miles; and

WHEREAS, the E. J. & E line crosses the five major north/south roadways of Gougar Road, Nelson Road, Cedar Road, Spencer Road and Schoolhouse Road in New Lenox.

WHEREAS, Gougar Road and Cedar road are both major north/south arterial routes through the Village providing current and future roadway access to both I-80 and I-355.

WHEREAS, all five E. J. & E rail crossings are “at-grade” which will result in significant vehicle traffic congestion and back-up impacting north/south access through the Village;

WHEREAS, both Police and Fire responses will be significantly impacted by the increased railway traffic resulting in significant longer response times of emergency vehicles, drastically affecting the health, safety, and welfare of New Lenox residents; and

WHEREAS, much of the E. J. & E. line through New Lenox abuts current and proposed residential development, resulting in adverse quality of life conditions for these residents; and

WHEREAS, the proposed improvements to the E. J. & E. railway will impact the development of the Metra Suburban Transit Access Route (STAR) Line; and

WHEREAS, the STB is requiring an Environmental Impact Study (EIS) be conducted in connection with CN’s proposed acquisition of the EJ&E; and

WHEREAS, the Village of New Lenox has filed as a formal Party of Record with the STB and intends to comment and provide written input to the STB directly and through a consortium of affected Will County governmental units regarding the proposed acquisition and the forthcoming EIS.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND BOARD OF TRUSTEES OF THE VILLAGE OF NEW LENOX as follows:

SECTION 1:

That the Village of New Lenox hereby requests the STB to condition approval of CN acquisition of the E J & E Railroad on specified mitigation actions to be taken and paid for by CN, including by not limited to the following:

Condition 1. Construct grade separation roadway crossings at all feasible locations with specific consideration given to both Gougar Road and Cedar Road. .

Condition 2. All remaining at-grade separation crossings are to be improved to provide quad gates or other improvements to facilitate “Quiet Zones” along the railroad through the Village.

Condition 3. The transition point from dual to single tracks, if made, occur outside the Village of New Lenox so as to not adversely impact New Lenox.

Condition 4. Install barriers such as sound walls or earthen berms along both sides of EJ&E trackage between Gougar Road and Schoolhouse Road to buffer adjacent residential areas from noise generated by increased freight traffic and idling locomotives.

Condition 5. Provide crossing improvements and signals for pedestrian crossings at each of the five crossings in New Lenox.

Condition 6. Allocate defined resources to address increased risks associated with the transport of additional volumes of hazardous material along EJ&E trackage and provision of a written plan detailing how hazardous waste spills between Gougar Road and Schoolhouse Road will be handled; and

Condition 7. Provide reduction in freight traffic on the proposed two track system so as to accommodate the proposed commuter STAR Line.

SECTION 2:

That the Village of New Lenox also supports the coordinated efforts of Will County and other affected Will County municipalities in seeking to mitigate the negative impacts of the proposed acquisition.

SECTION 3:

That the Village of New Lenox calls upon its State and Federal representatives to assist it in petitioning the STB to require that specified mitigation actions to be taken and paid for by CN in connection with its proposed acquisition of the EJ&E.

Resolution No. 08-04

This resolution shall be in effect from and after its passage and approval as provided by law.

PASSED THIS 11th day of February, 2008

with five members voting AYE, with -0- members voting NAY, and with
one members ABSENT, the Mayor voting absent; and said vote being BUTTERFIELD aye,
TUMINELLO aye, BOWDEN aye, SMITH aye, DYE aye, and MADSEN absent.

Marcia Longert
VILLAGE CLERK

APPROVED this 12th day of February, 2008

[Signature]
MAYOR

ATTEST:

Marcia Longert
VILLAGE CLERK

EXHIBIT D

PHOTOGRAPHS OF BRIDGE OVER JACKSON BRANCH CREEK



15 11:32 AM

15 11:02AM

10 11:23 AM



15 11:34 AM



15 11:34 AM