

Congress of the United States
Washington, DC 20515

September 13, 2013

Daniel R. Elliott, III
Chairman
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Ann D. Begeman
Vice Chairman
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

234848
FD 35081 Sub-No. 2

Francis P. Mulvey
Commissioner
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

ENTERED
Office of Proceedings
September 20, 2013

Part of
Public Record

Dear Chairman Elliott, Vice Chairman Begeman and Commissioner Mulvey:

As you may be aware, earlier this year the South Dakota Congressional Delegation, on behalf of various shipper interests in our state, collectively sought certain information from the Canadian Pacific Railroad (CP) regarding their 2008 acquisition of the Dakota, Minnesota and Eastern (DM&E) railroad.

We have been seeking clarifications from both the CP and the Federal Railroad Administration (FRA) due to potential uncertainty regarding the CP's adherence to representations made as part of the Safety Improvement Plan (SIP) that was approved in 2008 and the implications of CP possibly selling the approximately 660 miles of DM&E rail line west of Tracy, Minnesota. Depending on the potential buyer of the DM&E rail line, such a sale could significantly impact shippers in our state and portions of Wyoming and Nebraska given the existing rail network that CP owns following the Board's decision to approve the purchase of the DM&E railroad nearly five years ago (STB Decision 11, Docket FD-35081).

At the time the Board approved the CP's acquisition of the DM&E railroad in 2008, two of the most compelling justifications were the fact that CP, as a Class I railroad, would provide shippers a host of new shipping options and financial resources that the DM&E railroad was unable to provide; and, secondly, that CP had a long-term commitment to rail service in our state and region. Today, however, questions have arisen regarding the long-term commitment CP has to our state and region as it solicits proposals from prospective buyers to acquire or potentially lease the DM&E rail line west of Tracy, Minnesota.

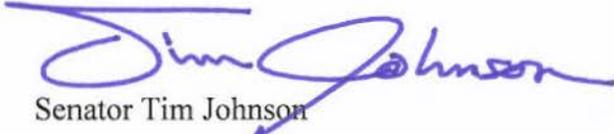
Last month, South Dakota Governor Dennis Daugaard filed a petition (Docket No. 35081) with the Board to ascertain whether or not certain representations are binding or have been fulfilled by the CP regarding the 2008 acquisition of the DM&E railroad. Given that the FRA and ultimately the STB remain responsible for CP's compliance with all the requirements of the SIP (thru September 29, 2013), we trust you will give the governor's petition and CP's reply due and timely consideration.

Independent of the petition in this matter pending before the Board, we are concerned about the potential impact that the sale of the DM&E line could have on our state and region. Should CP make a formal filing with the Board to sell its ownership in the DM&E line later this year, we will take an active role in evaluating the possible advantages and disadvantages of such a transaction – including how it would impact shippers and competitive shipping options in our state. Without knowing more about the prospective buyers, we reserve judgment, and we remain hopeful that alleviation of our concerns may be possible through direct discussions with the CP and any potential buyer(s). Nevertheless, we wanted to take this opportunity to inform the Board of our interests and concerns prompted by the CP's public announcement last December of its desire to potentially sell the rail line in our state that it actively sought support to acquire over five years ago.

Sincerely,



Senator John Thune



Senator Tim Johnson



Representative Kristi Noem

CC:

Joseph Szabo, Federal Railroad Administrator
Hunter Harrison, Canadian Pacific Railroad