

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 35087¹

CANADIAN NATIONAL RAILWAY COMPANY AND GRAND TRUNK
CORPORATION—CONTROL—EJ&E WEST COMPANY

Decision No. 22

Decided: March 9, 2010

In Decision No. 16, served December 24, 2008 (Approval Decision), the Board approved, subject to numerous environmental mitigation and other conditions, the acquisition of control by Canadian National Railway Company and Grand Trunk Corporation (together, CN or Applicants) of EJ&E West Company, a wholly owned, noncarrier subsidiary of Elgin, Joliet and Eastern Railway Company (EJ&E).

In the Approval Decision (slip op. at 40), the Board encouraged communities and other entities to continue seeking to reach negotiated settlement agreements with Applicants. The Board indicated that the terms of any such agreements would be imposed as additional mitigation conditions in lieu of any site-specific mitigation conditions related to that community or entity in the Approval Decision. In Decision Nos. 19 (served August 5, 2009) and 20 (served October 19, 2009), the Board modified the mitigation measures imposed in the Approval Decision to reflect new negotiated agreements entered into with various communities in Illinois and Indiana.

Applicants have submitted new negotiated agreements entered into with Village of Lake Zurich, IL (executed November 16, 2009), and Village of Plainfield, IL (executed December 9, 2009). Accordingly, we will reopen the Approval Decision to impose upon Applicants

¹ This decision also embraces Elgin, Joliet and Eastern Railway Company—Corporate Family Exemption—EJ&E West Company, STB Finance Docket No. 35087 (Sub-No. 1); Chicago, Central & Pacific Railroad Company—Trackage Rights Exemption—EJ&E West Company, STB Finance Docket No. 35087 (Sub-No. 2); Grand Trunk Western Railroad Incorporated—Trackage Rights Exemption—EJ&E West Company, STB Finance Docket No. 35087 (Sub-No. 3); Illinois Central Railroad Company—Trackage Rights Exemption—EJ&E West Company, STB Finance Docket No. 35087 (Sub-No. 4); Wisconsin Central Ltd.—Trackage Rights Exemption—EJ&E West Company, STB Finance Docket No. 35087 (Sub-No. 5); EJ&E West Company—Trackage Rights Exemption—Chicago, Central & Pacific Railroad Company, STB Finance Docket No. 35087 (Sub-No. 6); and EJ&E West Company—Trackage Rights Exemption—Illinois Central Railroad Company, STB Finance Docket No. 35087 (Sub-No. 7).

conditions requiring them to comply with the terms of these new agreements. In addition, as set forth in ordering paragraph 3, we will remove the Board's existing site-specific conditions that pertain to the communities that have now entered into negotiated agreements, as well as the site-specific condition pertaining to Hawthorne Woods, which entered into an agreement on September 14, 2009 (see Decision No. 20).²

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. To reflect new negotiated agreements, the following condition is added to the end of the environmental conditions in Appendix A of the Approval Decision (as modified by Decision Nos. 19 and 20):

Additional Agreements

77. Applicants shall comply with the terms of the following negotiated agreements:
 - a. the negotiated agreement executed by Lake Zurich, IL, and Applicants on November 16, 2009.
 - b. the negotiated agreement executed by Plainfield, IL, and Applicants on December 9, 2009.

3. In view of the new negotiated agreements and the agreement with Hawthorne Woods, the following site-specific mitigations are removed from the environmental conditions of Appendix A of the Approval Decision:

- a. Condition No. 15 and 18, the references to Lake Zurich.
 - b. Condition No. 15 and 18, the references to Plainfield.
 - c. Condition No. 15, the reference to Hawthorne Woods.
4. This decision is effective on the date of service.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Nottingham.

² The site specific condition in Appendix A of the Approval Decision pertaining to Hawthorne Woods inadvertently was not removed in Decision No. 20. Accordingly, the Board will now remove that condition.