

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35087¹

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

Decision No. 28

Digest:² Canadian National Railway Company (CN) reached an agreement with the Village of New Lenox, Ill., to resolve environmental concerns related to CN's acquisition of EJ&E West Company. The Board will now require CN to comply with this agreement as a condition of this transaction.

Decided: March 30, 2011

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) of EJ&E West Company, a wholly owned, noncarrier subsidiary of Elgin, Joliet and Eastern Railway Company (EJ&E). In this decision, the Board reopens the Approval Decision for the limited purpose of imposing the terms of a new negotiated agreement.

In the Approval Decision (slip op. at 40), the Board encouraged communities and other entities to continue seeking to reach negotiated agreements with CN. The Board indicated that

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

² The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement of Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

the terms of any such agreements would be imposed as additional mitigation conditions in subsequent decisions, and that the terms of the negotiated agreements would be imposed 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), 20 (served October 19, 2009), 22 (served March 10, 2010), 24 (served August 30, 2010), and 25 (served December 20, 2010), the Board modified the mitigation measures imposed in the Approval Decision to reflect negotiated agreements entered into with various communities in Illinois and Indiana.

CN has submitted a negotiated agreement entered into with the Village of New Lenox, Ill. (executed December 22, 2010). Accordingly, we will reopen the Approval Decision to impose upon CN a condition requiring CN to comply with the terms of this negotiated agreement. There are no existing site-specific conditions that pertain to New Lenox, Ill.

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 the negotiated agreement, 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, 20, 22, 24, and 25):

Additional Agreements

80. CN shall comply with the terms of the following negotiated agreement:
 - a. the negotiated agreement executed by the Village of New Lenox, Ill., and CN on December 22, 2010.
3. This decision is effective on the date of service.

By the Board, Chairman Elliott and Commissioner Mulvey.