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SERVICE DATE – DECEMBER 20, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35087¹

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

Decision No. 25

Decided: December 17, 2010

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

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 agreements with Applicants. The Board

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).

indicated that 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), and 24 (served August 30, 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 new negotiated agreements entered into with Village of Long Grove, Ill. (executed August 26, 2010), and Village of Sauk, Ill. (executed October 13, 2010). Accordingly, we will reopen the Approval Decision to impose upon CN conditions requiring CN to comply with the terms of these negotiated agreements. There are no existing site-specific conditions that pertain to Long Grove, Ill., or Sauk, 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 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, 20, 22, and 24):

Additional Agreements

79. Applicants shall comply with the terms of the following negotiated agreements:
 - a. the negotiated agreement executed by the Village of Long Grove, Ill., and Applicants on August 26, 2010.
 - b. the negotiated agreement executed by Village of Sauk, Ill., and Applicants on October 13, 2010.
3. This decision is effective on the date of service.

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