

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35087<sup>1</sup>

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

Decision No. 30

Digest:<sup>2</sup> Canadian National Railway Company (CN) and the Village of Bartlett, Ill., reached an agreement to address Bartlett's environmental concerns related to CN's acquisition of EJ&E West. CN also amended its existing agreement with the Village of Hoffman Estates, Ill. The Board will now require CN to comply with its agreement with Bartlett and its amended agreement with Hoffman Estates as a condition of this transaction.

Decided: April 11, 2013

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 newly negotiated agreement and an amendment to an existing agreement.

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<sup>1</sup> 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).

<sup>2</sup> 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 on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

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 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), 25 (served December 20, 2010), 28 (served on April 4, 2011), and 29 (served June 9, 2011), 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 Bartlett, Ill. (executed December 12, 2012). Accordingly, we will reopen the Approval Decision to impose upon CN a condition requiring CN to comply with the terms of this negotiated agreement. Furthermore, as set forth below, we will remove the Board's existing site-specific condition that pertains to Bartlett, Ill.

In addition, CN has amended its existing agreement with the Village of Hoffman Estates, Ill. (executed December 15, 2008, amended December 10, 2012). Accordingly, as set forth below, we will reopen the Approval Decision to modify Condition No. 69 to reflect the amended agreement.

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 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, 25, 28, and 29):

**Additional Agreements**

82. CN shall comply with the terms of the negotiated agreement executed by the Village of Bartlett, Ill., and CN on December 12, 2012.
3. In view of the negotiated agreement with Bartlett, Ill., reference to Bartlett will be removed from Condition No. 18 of Appendix A of the Approval Decision.
4. To reflect the amendment to CN's agreement with Hoffman Estates, Ill., Condition No. 69 of Appendix A of the Approval Decision is modified as follows:

**Agreements**

69. Applicants shall comply with the terms of the negotiated agreement that was executed by Hoffman Estates, Illinois and the Applicants on December 15, 2008, as amended on December 10, 2012.

5. This decision is effective on the date of service.

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