

40839
EB

SERVICE DATE – AUGUST 30, 2010

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 35087¹

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

Decision No. 24

Decided: August 27, 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 this decision, the Board reopens the Approval Decision for the limited purposes of imposing the terms of a newly negotiated agreement and modifying the mitigation provisions in Condition No. 18.

Negotiated Agreement with Barrington Hills, Ill. 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 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) and 22 (served March 10, 2010), 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.

¹ This decision also embraces Elgin, Joliet & Eastern Railway—Corp. 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).

CN has submitted a new negotiated agreement entered into with the Village of Barrington Hills, Ill. (executed May 1, 2010). Accordingly, we will reopen the Approval Decision to impose upon CN a condition requiring them to comply with the terms of this new agreement. There are no existing site-specific conditions that pertain to Barrington Hills.

Modification of Condition No. 18. In the Approval Decision, the Board imposed mitigation (Condition No. 18) requiring CN to install closed-circuit television (CCTV) systems with video cameras to facilitate emergency service response at specific locations in Illinois and Indiana.

By petition filed on April 23, 2010, CN seeks to reopen the Approval Decision for the limited purpose of modifying Condition No. 18 to require the use of the Active Crossing System (ACS), an alternative system developed by CN, in lieu of the CCTV system. The ACS, according to CN, is a web-based, password-controlled system, designed to assist emergency responders in obtaining information instantly. CN submits that ACS is a superior system and provides more dependable, useful information than what a CCTV system can provide.

CN states that, as part of its coordination efforts, it has met with representatives of the affected communities and discussed the merits of ACS as an alternative to the CCTV system. CN has also offered to maintain ACS after it has been installed, thus relieving communities of the requirement, under Condition No. 18, to maintain and operate the system after installation.² CN notes that Barrington, Ill., and Bartlett, Ill., are the only remaining communities that will receive mitigation under Condition No. 18.³ In support of its petition, CN states that it has engaged in “positive discussions” with Bartlett regarding the use of ACS and has submitted a letter from Barrington, notifying CN that it has no objection to the replacement of the CCTV system with ACS. No comments opposing the petition have been submitted. Accordingly, the Board will modify Condition No. 18 to require installation of ACS in lieu of the CCTV system at specific at-grade crossings in certain communities to assist emergency service provider dispatchers in determining whether individual crossing’s warnings are active. As with the CCTV system, CN will bear the costs of necessary ACS equipment, the installation of the equipment, and equipment training. Further, CN will be responsible for ongoing maintenance after ACS has been installed.

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

² CN Pet. 3.

³ CN previously reached negotiated agreements with West Chicago, Ill., Village of Lake Zurich, Ill., and Village of Plainfield, Ill., the 3 other communities originally listed in Condition No. 18. Those communities thus were removed from Condition No. 18’s coverage. See Canadian Nat’l Ry.—Control—EJ&E W. Co., FD 38087, et al. (STB served Mar. 10, 2010) and Canadian Nat’l Ry.—Control—EJ&E W. Co., FD 38087, et al. (STB served Aug. 5, 2009).

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, and 22):

Additional Agreements

78. Applicants shall comply with the terms of the following negotiated agreement:

- a. the negotiated agreement executed by Village of Barrington Hills, Ill., and Applicants on May 1, 2010.

3. Applicants’ petition is granted to modify Condition No. 18 of Appendix A of the Approval Decision, to require installation of ACS to replace the CCTV system at specific at-grade crossings in certain communities to assist emergency service providers. Condition No. 18 is modified as follows:

Emergency Response

- 1) In addition to VM 42, to further assist with the timely response of the emergency service providers listed in Table ES- 1 below, Applicants shall consult with all appropriate agencies to implement an Active Crossing System (ACS) so that the movement of trains can reasonably be predicted at the highway/rail at-grade crossings listed in Table ES-1. Applicants shall pay for the necessary equipment, the installation of the equipment, and equipment training for up to two individuals for each emergency service provider listed in Table ES-1 below. Applicants shall work with all appropriate agencies to determine specifications and scheduling for the installation of the ACS system. Applicants shall be responsible for the ongoing maintenance and operation of ACS after the system is installed and operational.

Table ES- 1. Emergency Service Providers Receiving ACS at Affected Highway/Rail At-Grade Crossing Locations		
Community	Facility	Highway/Rail At-Grade Crossings
Barrington, Illinois	Barrington Fire Department - Station No. 1	Lake Zurich Road Northwest Highway (US 14) Hough Street (IL 59) Lake Cook Road/Main Street
Barrington, Illinois	Advocate Good Shepherd Hospital	Lake Zurich Road Northwest Highway (US 14) Hough Street (IL 59) Lake Cook Road/Main Street

Table ES- 1. Emergency Service Providers Receiving ACS at Affected Highway/Rail At-Grade Crossing Locations		
Community	Facility	Highway/Rail At-Grade Crossings
Bartlett, Illinois	Bartlett Fire Protection District - Future Station No. 3	Spaulding Road West Bartlett Road Stearns Road

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

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