

Before the  
SURFACE TRANSPORTATION BOARD

ENTERED  
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August 28, 2014  
Part of  
Public Record

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Finance Docket No. 35087  
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CANADIAN NATIONAL RAILWAY COMPANY AND GRAND TRUNK  
CORPORATION – CONTROL – E J & E WEST COMPANY

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PETITION SEEKING EXTENSION  
OF THE  
OVERSIGHT PERIOD FOR DOCKET NO. 35087  
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The Village of Barrington, Illinois (“Barrington”), for itself and the TRAC Coalition respectfully files this Petition seeking an extension of the oversight period for the above-referenced Docket until January 23, 2017. Furthermore, we request that the STB undertake as part of its oversight a thorough analysis detailing whether Canadian National’s operations on the EJ&E are adhering to the various representations CN made on the record in its transfer of control application, as well as the Board’s environmental impact conclusions that were detailed in the NEPA proceedings related to the transaction.

In approving the acquisition of the EJ&E rail line by Canadian National Railway (CN), the Board imposed a “monitoring and oversight condition” for a five-year period beginning with the implementation of the transaction. In its rationale for this condition the Board stated: *“The Board finds that an initial 5-year duration is appropriate, so that the oversight period will begin with the implementation phase (which applicants expect to be completed within 3 years after consummation of their acquisition of control over EJ&EW51) and continue for a 2-year period following the full implementation of the operating plan.”*

The Board's oversight commitment to the public was predicated on the need to, "*closely monitor whether applicants have adhered to the various representations made on the record in this proceeding.*" Close monitoring would enable the Board to retain "*jurisdiction to impose additional conditions and take other action if, and to the extent, the Board determines it is necessary to address matters related to operations following the transfer of control.*" The Board further noted, "*If operational problems arise after consummation of the transaction, this oversight condition should provide a fully effective mechanism for quickly identifying and addressing them.*"

On December 17, 2010, the Board extended the oversight on the transaction for an additional year until January 23, 2015. That extension was the result of the Board's findings – following Barrington/TRAC's repeated communications of such -- that CN had been underreporting instances of blocked crossings on the EJ&E and the Board's wish to determine whether "*the availability of RTU-generated data, which has provided a better picture of how the transaction has impacted affected communities*" would be efficacious in achieving that goal specific to examining instances of blocked crossings.

Petitioner submits that the oversight extension is necessary to achieve the Board's stated goal of helping the Board to determine how the transaction is impacting communities for "*a 2-year period following the full implementation of the operating plan.*" CN's most recent monthly operating report, as required by the oversight condition, detailed operations for the month of July 2014 and makes it clear that the rail traffic counts on the EJ&E have not yet even met the number of trains envisioned for the "full implementation of the operating plan", let alone a two-year "full implementation" period. The record of how the lengthy downturn in the economy has affected CN's rail traffic on the EJ&E is clear:

<b>Line Segment</b>	<b>2007 Full Implementation Projections</b>	<b>July 2014 Reality</b>
15 – Roundout to Leithton	3.2	1.2
14 – Leithton to Spaulding	20.3	18.6
13 – Spaulding to Munger	23.5	21.1
12 – Munger to West Chicago	24.4	20.7
11 – West Chicago to East Siding	34.5	23.1
10 – East Siding to Walker	42.3	27.7
9 – Walker to Bridge Junction	45.0	30.4
8 – Bridge Junction to Rock Island Junction	45.0	36.0
7 – Rock Island Junction to Matteson	28.3	24.1
6 – Matteson to Chicago Heights	31.4	24.5
5 – Chicago Heights to Griffith	34.0	26.1
4 – Griffith to Van Loon	27.6	26.5
3 – Van Loon to Ivanhoe	28.7	27.1
2 – Ivanhoe to Cavanaugh	29.8	25.6
1 – Cavanaugh to Gary	31.8	27.8
0 – Gary to Indiana Harbor	3.5	2.0
-1 – Indiana Harbor to Hammond	1.8	1.9
-2 – Hammond to South Chicago	0.9	1.9

Obviously, taking just one month of train traffic counts from the record of 65 months since CN began operating on the line is not a complete picture of the railroad’s operations, but a closer review of the train counts on the Leighton to Spaulding segment of the EJ&E since control began indicates that communities are not yet experiencing the full burden of CN operations on a critical rail line that provides a Chicago bypass for CN’s tri-coastal freight movements.

<b>LEIGHTON TO SPAULDING SEGMENT TRAIN COUNT AVERAGES</b>		
<b>Year</b>	<b>Average Annualized Number of Trains per Day</b>	<b>Full Projected Trains Per Day</b>
2009 (March through Dec)	6.4	20.3
2010	8.5	20.3
2011	7.9	20.3
2012	13.9	20.3
2013	16.5	20.3
2014 (Jan through June)	17.1	20.3

With the assumption that CN will achieve the full planned level of train counts by the end of this year, Barrington and TRAC submit that extending the oversight period until January 23, 2017, and conducting a thorough and broad-based oversight analysis on environmental impacts in the very near future will:

1. Provide the Board with the two-year full implementation time span for determining how CN operations are impacting affected communities.
2. Illuminate whether the Board's assumptions and expectations for environmental impacts as detailed in the NEPA review for the transaction (including crossing traffic impacts, vehicle delays, noise and vibration impacts, hazardous materials transportation, passenger rail interference, air quality, biological and water resource impacts, and CN's overall level of cooperation with impacted communities) are proving accurate.
3. Determine whether the mitigation ordered is achieving its stated goals or should be supplemented by the Board.

### **CONCLUSION**

For all the above-stated reasons and consistent with the Board's stated rationale for oversight of this transaction, the Board should extend the oversight period until January 23, 2017 and undertake a comprehensive post-implementation analysis of the transaction's impacts.

Respectfully submitted,

/s/ Richard H. Streeter

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August 27, 2014

Certificate of Service

I, Suzanne Devane, hereby certify that on August 27, 2014, I electronically served the foregoing *Petition Seeking Extension of the Oversight Period for Docket No. 35087 & Post-Transaction Analysis of Environmental Impacts* on the following named individuals:

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