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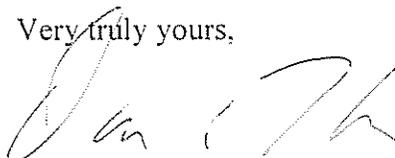
Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D. C. 20423-0012

**Re: *Canadian National Railway Company and Grand Trunk Corporation –
Control – EJ&E West Company (STB Finance Docket No. 35087)***

Dear Ms. Brown:

Enclosed for filing in the above referenced docket please find CN's Reply to Comments of Illinois Department of Transportation (CN-65).

Very truly yours,



David A. Hirsh

Counsel for Canadian National Railway Company
and Grand Trunk Corporation

Enclosures

cc: All parties of record

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 35087

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

**CN'S REPLY TO COMMENTS OF
ILLINOIS DEPARTMENT OF TRANSPORTATION**

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*Counsel for Canadian National Railway Company
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March 28, 2013

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 35087

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

**CN'S REPLY TO COMMENTS OF
ILLINOIS DEPARTMENT OF TRANSPORTATION**

Canadian National Railway Company and Grand Trunk Corporation (together, “CN”)¹ hereby reply to the Comments of Illinois Department of Transportation (“IDOT”), filed in this proceeding on March 8, 2013 (“Comments”), regarding the grade separation projects at Ogden Avenue (U.S. Route 34) and Lincoln Highway (U.S. Route 30) (“Projects”), which were imposed in Final Mitigation Condition 14 (“FMC 14”) in the Board’s decision in this proceeding approving CN’s acquisition of the major portion of the Elgin, Joliet and Eastern Railway Company (“EJ&E”).²

¹ Unless otherwise indicated, abbreviated references used herein have the same meaning as those set forth in the Table of Abbreviations in the Application (CN-2 at 8-11).

² See Decision No. 16 at 76 (STB served Dec. 24, 2008) (“Approval Decision”). Under the Approval Decision, CN is required to bear 67% of the specified costs of the grade separation at Ogden Avenue and 78.5% of the specified costs of the separation at Lincoln Highway, but CN is relieved of those funding obligations if construction does not begin by the end of 2015. *Id.* at 47, 76.

On January 1, 2013, EJ&E merged into its affiliate, Wisconsin Central Ltd. (“WCL”) and no longer exists as a separate corporation. For the sake of convenience and consistency, however, the abbreviation “EJ&E” will be used herein to refer to the CN lines that were owned and operated by EJ&E immediately before its merger into WCL.

IDOT's Comments are an odd mix of (a) misrepresentations suggesting that CN wields undue influence over the fate of the Projects, including IDOT's ability to meet the Board's deadline to begin constructing the Projects by the end of 2015, and (b) casual requests for clarification of "IDOT's role as the lead agency" for the Projects (*see* Comments at 5, 7). They contain no formal request or prayer for relief and fail, in any event, to show that any Board action is or will be required. In particular, IDOT's comments provide no basis to believe that the Board's deadline, which is almost three years away, cannot or should not be met. Nonetheless, IDOT appears to be attempting to set the stage for a potential future claim that CN's conduct has impaired IDOT's ability to meet that 2015 deadline. Any such claim would be baseless, but CN cannot allow IDOT's mischaracterization of CN's role, position, and supposed actions and inactions to go uncorrected, lest IDOT later cite its Comments as a basis to excuse any future IDOT failure to meet the 2015 deadline.

DISCUSSION

I. IDOT'S PROJECT ENGINEERING AND DEVELOPMENT COMPLAINTS ARE UNFOUNDED.

According to IDOT, "satisfactory progress toward completion of the grade separations is [not] being made," and this failure is primarily attributable to "CN's intransigence." Comments at 3. IDOT cites several examples of this supposed "intransigence," which IDOT claims has led to an "impasse" (Comments at 2, 5) that jeopardizes IDOT's ability to begin construction by the end of 2015. IDOT suggests the root of the alleged problem is CN's refusal to accept or abide by IDOT's role as "lead agency for the development of [the Lincoln Highway and Ogden Avenue] grade separations" (Comments at 1), and that the Board should therefore clarify that role (*id.* at 5, 7).

IDOT's complaints are baseless. There is no impasse that threatens progress, and CN has not been intransigent. Nor has CN questioned IDOT's role as lead agency. CN disagrees with IDOT, however, that IDOT's lead agency role requires CN to accept and reimburse IDOT for all expenditures without question or recourse, regardless of how unreasonable or unnecessary they may be to the Projects.

A. CN Timely Provided IDOT with CN's Uncontroversial Engineering Requirements.

According to IDOT, CN has insisted that its 2006 Guidelines for Design of Railway Structures "be the prevalent [standards]" over those of IDOT and AREMA³ and thereby attempted to "place an obstacle in the way of progress on [the grade separation] projects" (Comments at 4, 5).⁴ The reality is that, in response to a request from IDOT's consultant, CN long ago provided IDOT with its standard grade separation requirements, as found in CN's 2006 Guidelines, to assure adequate clearance and protection for safe rail operations and to prevent damage to CN's right of way. CN's specific requirements were:

- i. 23 feet of vertical clearance above the roadbed (as required by Illinois Commerce Commission standards);
- ii. Enough horizontal clearance for track-side drainage;
- iii. Enough horizontal clearance for at least two main tracks (in compliance with Illinois Commerce Commission and IDOT design criteria);⁵

³ "AREMA" is the American Railway Engineering and Maintenance-of-Way Association.

⁴ This assertion echoes claims made by IDOT in its earlier "Comments Seeking Clarification" (at 5 (filed Feb. 23, 2010)), which CN rebutted in its Reply to those Comments (CN-60 at 10 (filed Mar. 15, 2010)).

⁵ CN has long planned to add a second main track to the EJ&E line at Ogden Avenue and its plans were discussed in CN's Application and in the Board's EIS in this proceeding. Railroad Control Application (CN-2) at 222 (filed Oct. 30, 2007); I Draft Environmental Impact Statement § 2.2.2.2, at 2-29 (STB served July 25, 2008).

- iv. A 7-foot-high crash wall protecting any pier or abutment within 25 feet of the centerline of adjacent track (as provided in AREMA guidelines); and
- v. Drainage from the overpass to be directed off CN's property (as required by AREMA guidelines).

These basic design requirements are not controversial or onerous. They are standard requirements well grounded in safety considerations and fully consistent with IDOT design standards and AREMA guidelines. CN has routinely provided these requirements – without objection from IDOT – for previous highway overpass projects it has developed in cooperation with IDOT. IDOT has voiced no specific objection to their application in this instance. Nor has IDOT identified any specific conflict, because none exists, between its standards and goals and CN's engineering requirements.

Moreover, insofar as a non-existent conflict can be resolved, this one has been resolved in IDOT's favor. All drafts of the Funding Agreement under consideration by IDOT and CN since October 2012⁶ have contained a provision stating specifically that, in the event of a conflict between CN's design standards and IDOT's, the design engineering and construction standards of IDOT's Bureau of Design and Environment will prevail.

⁶ CN is negotiating with IDOT and Norfolk Southern Railway Company (“NS”) over the terms of a detailed agreement regarding funding of the Lincoln Highway project and related matters, such as procedures for review of design elements, acquisition of right-of-way, relocation of utilities, reimbursement of IDOT expenditures, and abandonment of the NS track that crosses Lincoln Highway immediately next to the EJ&E track. The parties intend that the substantive terms of a similar agreement for the Ogden Avenue Project (including all provisions discussed in this Reply other than those regarding NS) will be identical to those of the Lincoln Highway agreement, so the terms of the two agreements are referred to jointly herein as the “Funding Agreement.”

B. In Providing IDOT with Significant Additional Engineering and Project Assistance, CN Has Helped Reduce Costs and Expedite the Projects.

Besides providing its basic design requirements, as requested by IDOT, CN has continued to provide input and assistance regarding the Projects. IDOT could proceed without it – as illustrated by the many instances in which it has ignored CN’s value engineering suggestions – but CN’s assistance has enabled IDOT to develop the Projects more economically and expeditiously.

CN’s active efforts have made possible what IDOT calls the “one item of good news” concerning project development: the pending abandonment of the Hartsdale Industrial Track by NS,⁷ which will allow the Lincoln Highway overpass to be built less expensively to span only one track (EJ&E’s) rather than both the EJ&E and NS tracks. IDOT correctly notes that NS “was most cooperative” in moving this abandonment forward (Comments at 8).

IDOT, however, conspicuously ignores CN’s central role with regard to the abandonment. To preserve NS’s access to Chicago Heights via the Chicago Heights Terminal Transfer Railroad Company following the abandonment, CN agreed to grant NS trackage rights on CN’s line between Hartsdale and Chicago Heights and to permit NS to build necessary connections between its line and CN’s at Hartsdale and Chicago Heights. To preserve NS’s access to its customers in Hartsdale Yard (jointly owned by CN and NS), CN agreed to provide switching or haulage service for NS traffic between Hartsdale Yard and either Kirk or Pine Yard. CN agreed to remove, at its own expense, the diamonds and interlocking at the crossing of its tracks with NS’s at Hartsdale and rebuild, also at its own expense, a connection into Hartsdale Yard from CN’s track. CN’s proactive voluntary efforts to ensure that NS could abandon its

⁷ *Norfolk S. Ry. – Abandonment & Discontinuance of Serv. Exemption – In Lake County, Ind., & Cook County, Ill.*, Docket No. AB-290 (Sub-No. 336) (STB served Sept. 24, 2012).

track without impairing its commercial position are typical of the steps that CN has been taking to advance the Projects and reduce their costs.

CN has responded promptly to IDOT follow-up requests to the value engineering studies IDOT prepared after conducting its Phase 1 engineering studies (between fall of 2011 and spring of 2012). And on March 25, 2013, CN provided comments on IDOT's "pre-final" plans for the Ogden Avenue overpass, which it received from IDOT on February 28, 2013. It received "pre-final" plans for the Lincoln Highway overpass on March 11, 2013, and expects to provide IDOT with its comments on those plans shortly.

IDOT, however, suggests the Projects have been delayed by CN's failure to concur or comment on three earlier sets of design plans that IDOT sent to CN between July 2012 and January 2013 (Comments at 5-6). Those complaints are misplaced. CN may have inadvertently omitted to respond to the first iteration of IDOT's design plans.⁸ Nevertheless, as CN learned at a meeting held with IDOT on November 5, 2012, IDOT expeditiously completed its Phase 1 engineering reports on both Projects. CN asked for copies of those reports for its own files, and IDOT sent CN its report for the Ogden Avenue Project on November 5 and its report on the Lincoln Highway Projects on November 6, 2012. In its letters transmitting these reports, which CN understood to be final, IDOT requested no further comment from CN (*see* copies attached as Exhibits A and B). Having completed the Phase 1 engineering reports expeditiously without comment from CN and having requested no comments from CN after completion, it is disingenuous for IDOT to claim that the fact it "still has not received CN's response" is

⁸On July 12, 2012, IDOT sent CN hard copies of Preliminary Plan Sets for the Ogden Avenue and Lincoln Highway Projects, and CN distributed those plans for its internal review. Although CN's Senior Manager Design and Construction believed he had transmitted CN's comments to IDOT by the requested reply date of August 30, 2012, he has not found any record of doing so. However, his search has also found no record of any follow-up by IDOT asking CN for its comments, which apparently proved unnecessary for IDOT to advance the projects.

“[i]llustrative” of CN’s failure to cooperate with IDOT as “lead agency” for the Projects (Comments at 5-6).

IDOT’s remaining claim that CN has been unresponsive is that it “still has not received CN’s response” to “the Type-Size-Location (TS&L) plans for the US-34 project,” which it sent to CN on January 22, 2013 (*id.* at 5). IDOT is wrong. CN provided its comments on those plans on February 1, 2013 – nine days after receiving them (*see* Exhibit C).

In sum, CN has shown considerable initiative and undertaken considerable burdens, over and above its legal obligations, to facilitate the Projects, and it will continue to do so. IDOT’s claim that CN has been obstructive is therefore baseless. CN commented promptly on the “pre-final” engineering plans for the Ogden Avenue Project and on IDOT’s recent TS&L plans, and it will likewise comment promptly on IDOT’s “pre-final” plans for the Lincoln Highway Project when IDOT makes them available. Likewise, when IDOT shares with CN its final engineering plans for the Projects, CN will review those plans again to determine whether and the extent to which its prior suggestions have been incorporated. If IDOT fails to begin construction by the 2015 deadline, it will not be for lack of cooperation by CN.

C. IDOT’s Role as Lead Agency Does Not Compel CN to Waive Its Rights Under the Approval Decision or Its Right to Seek Recourse from the Board if IDOT Makes Unreasonable Expenditures.

IDOT’s remaining arguments concerning Project design and planning amount to complaints that, in discussions between the parties concerning those subjects, CN has declined to waive its rights under the Approval Decision or its right to seek recourse from the Board if IDOT insists on reimbursement from CN for unreasonable or unwarranted expenditures.

As evidence of CN's "constant challenges to IDOT's decisions," IDOT cites "time-consuming revisions to the 3-party agreement between IDOT, CN and NS on issues such as how to proceed with the engineering, design, utility relocation, land acquisition, construction and funding reimbursement of the two grade separation projects" (Comments at 5). CN's position in negotiations over the Funding Agreement is that its obligations to fund the grade separations are ultimately defined by the Board's Approval Decision. If CN and IDOT cannot agree on particular details that bear on CN's funding obligations, the Board, not CN or IDOT, is the final arbiter of those issues.

Based on that premise, CN has been able to reach agreement with IDOT on nearly all provisions of the Funding Agreement.⁹ Where disagreement remains, CN has proposed provisions that would allow the Projects to move forward, while preserving the right of the parties to seek Board resolution of their respective obligations.¹⁰ The fact that the parties have not yet worked out all the details of such a complex agreement signals no "reluctance" by CN to recognize IDOT's role as lead agency nor any "impasse" that could delay the Projects (Comments at 2, 5).

⁹ While a funding agreement may not be strictly necessary for the grade separation projects, given that CN's funding obligation is ultimately defined by the Approval Decision, CN and IDOT understand that it is to their advantage to work out, as far as possible, questions regarding application of that Decision rather than seeking Board resolution.

¹⁰ For example, with respect to the question of whether CN should contribute to the design and construction of pedestrian and bicycle accommodations on the U.S. Route 30 (Lincoln Highway) overpass in Aurora (discussed in Comments at 3-4), CN has sought to avoid allowing that issue to cause any engineering or construction delays by proposing in all drafts of the Funding Agreement submitted for IDOT's consideration since June 2012, a provision stating that "[d]esign elements associated with the PROJECT shall include, but shall not be limited to: ... any bicycle and pedestrian accommodations required under Illinois' 'Complete Streets' law (*Illinois Highway Code* 605 ILCS 5/4-220), which requires [IDOT] to consider the travel needs of all users of a transportation corridor including bicyclists and pedestrians." This provision gives effect to IDOT's decision to include such amenities as part of the project, even though the parties have not resolved between themselves whether such amenities are required by state law and whether CN should be required to contribute to them.

Moreover, insofar as there have been delays in the negotiation of the Funding Agreement, a principal cause has been IDOT's demands that CN assume obligations not imposed in the Approval Decision. For example, IDOT initially proposed that CN reimburse IDOT for CN's share of expenses incurred prior to the award of a construction contract, notwithstanding that the Approval Decision provides that CN's payment obligations begin only upon the commencement of actual construction (Approval Decision at 47, 76). More recently, notwithstanding the Board's decision to require CN funding only if "the required non-CN funds have been committed and obligated," IDOT has insisted that its own funds would be subject to "de-obligation," without any provision for refunding any payments CN might have made for the "de-obligated" project. And, as discussed in Part II, below, IDOT still maintains that CN should assume ownership of the overpass structures and responsibility for their maintenance, even though the Approval Decision imposed no such obligations on CN. Indeed, IDOT has resisted agreeing to any Funding Agreement that does not assign those responsibilities to CN, even one subject to a reservation of IDOT's right to seek such assignment by the Board.

Insofar as compensation issues remain unresolved, responsibility for that can be traced to IDOT's inflated notion of what it means for it to be the "lead agency." The Approval Decision stated (at 76) that the Board "anticipates that IDOT will be the lead agency for the development of [the Projects]," and CN agrees that IDOT is the lead agency. But that does not mean, as IDOT suggests, that it is improper for CN to insist that it should only reimburse IDOT for "customary and reasonable" costs, or to expect to have the right to "scrutinize" project invoices submitted for reimbursement (*see* Comments at 6). IDOT's lead agency status does not require CN to provide IDOT with a blank check. Nor does it suggest that CN must bear project costs that are unreasonable or unnecessary. CN has a right to review the costs IDOT demands that it pay, just

as IDOT has a similar right and responsibility to review the charges of its contractors. The Board, not IDOT, is the appropriate arbiter if the parties disagree.¹¹

II. IDOT HAS NOT EXPLAINED WHY ANY POST-CONSTRUCTION OWNERSHIP OR MAINTENANCE ISSUES SHOULD DELAY CONSTRUCTION, OR, IF THEY WOULD, WHY IDOT HAS NOT PROPERLY SOUGHT THEIR RESOLUTION IN ACCORDANCE WITH THE BOARD’S RULES.

As IDOT did in its earlier “Comments Seeking Clarification,” IDOT argues that CN should assume ownership and maintenance of the highway overpasses to be built in compliance with FMC 14 (Comments at 7-8). Further, it now asserts that “[u]nless this issues [sic] is promptly resolved, it may very well prevent the commencement of their construction by the 2015 deadline dates” (*id.* at 8).

FMC 14 specifies the project elements that are part of CN’s funding obligations – “preliminary engineering and environmental analysis, final design, ROW acquisition, utility relocation, and construction costs” (Approval Decision at 76). Those obligations do not include maintenance or ownership responsibilities. This is in contrast to other conditions in the Approval Decision that expressly impose continuing obligations on CN.¹² The Board does not impose multi-million dollar obligations by omission, and CN proceeded with its acquisition, and the D.C. Circuit upheld the Board’s decision,¹³ without any notice or suggestion that multi-

¹¹ As CN said in reply to IDOT’s earlier “Comments Seeking Clarification,” IDOT “should not be permitted here to seek to co-opt the Board’s decision-making power without a properly filed petition for reopening that fully justifies the proposition that the public interest requires the Board to cede to IDOT its authority to oversee the implementation of FMC 14.” (CN-60 at 5).

¹² *See, e.g.*, Approval Decision at 60 (CN to maintain grade crossing signs (VM 9)); 64 (CN to maintain a pedestrian tunnel for Metra (VM 40)); 70 (CN to maintain drainage ditches (VM 91)).

¹³ *Village of Barrington v. STB*, 636 F.3d 650 (D.C. Cir. 2011).

million dollar obligations were to be inferred from the Board's silence on ownership and maintenance.

IDOT argues that the Approval Decision also does not require that IDOT own and maintain the overpass (Comments at 7), and IDOT infers this must mean that the Board intended to impose those responsibilities on CN. But there is no basis for that inference. The Approval Decision affirmatively defines only CN's obligations. The decision requires IDOT to do nothing, not even to construct the Projects. IDOT has the option to construct the new overpasses or not, as it chooses. No specific Board statement in a decision defining CN's obligations is necessary to make IDOT the owner of a public highway structure in Illinois that IDOT has chosen to construct. Moreover, it would be contrary to the general practice in Illinois for CN to be required to own and maintain overpasses, such as the Projects, constructed at the initiative and under the control of IDOT.¹⁴

IDOT argues nonetheless that imposing these additional costs and responsibilities on CN makes sense because the overpasses would not be required but for CN's acquisition of the EJ&E lines. *See* Comments at 7. That, of course, is the basis on which the Board imposed most of the cost of the Projects on CN. But the Board did not impose the entire cost on CN, and it had good reasons for not doing so: the Transaction provides broad public transportation benefits; the Projects benefit the Illinois road system in a circumstance where CN has the right-of-way; traffic will actually move better and more safely after the Transaction-plus-overpasses than before the Transaction; and the value of the overpasses lies substantially in solving pre-existing congestion

¹⁴ IDOT Design and Environment Manual at 7-1.02(b) (2010)), available at <http://www.dot.state.il.us/desenv/bde%20manual/bde/pdf/Chapter%2007%20Railroad%20Coordination.pdf> ("The Department will maintain new grade-separation structures on Department initiated construction. Any structures constructed as a Railroad initiated project will be maintained by the Railroad.").

and traffic problems caused by vehicular traffic growth and historical under-investment in the road system. IDOT's vague comments are not the way to re-litigate whether the Board erred in not imposing additional costs and responsibilities on CN.

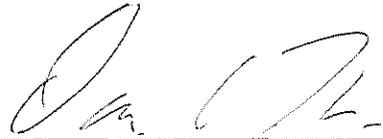
In any event, these arguments are all beside the point when it comes to the issue of potential construction delays. IDOT offers no support for its claim that imposing ownership and maintenance obligations on CN is critical to the timing for completion of the Projects. First, it fails to make any logical connection between the two issues. Second, it fails to address the fact that CN has offered IDOT an alternative means of ensuring that IDOT does not waive whatever arguments it may have: CN has proposed terms in the Funding Agreement that would allow the it to be executed, subject to IDOT's reservation of its right to seek resolution of its ownership and maintenance claim by the Board. Finally, it does not explain why, if IDOT truly believes reopening and modification of the Approval Decision to add ownership and maintenance obligations to CN's obligations is necessary to the advancement of the Project, it has not yet filed an appropriate petition seeking such relief. It is evident from IDOT's Comments Seeking Clarification that it has for years fully understood that CN believes it is and should be under no such obligations. Yet, once again, its informal comments neither purport to nor meet the standards for such relief. *See* 49 C.F.R. § 1115.4.

CONCLUSION

IDOT's Comments contain neither a prayer for relief nor adequate support for any action by the Board at this time. Moreover, the Board should not be misled by IDOT's mischaracterization of dealings between it and CN regarding preparations for construction of the grade separations provided for in FMC 14. CN has been working conscientiously with IDOT and NS on those preparations, including doing all it is obliged to do, and more, to put IDOT in a

position to begin construction of the grade separations by the end of 2015. Should IDOT fail to meet or elect not to meet that deadline, there is no basis in IDOT's Comments for the Board to extend it.

Respectfully submitted,



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*Counsel for Canadian National Railway Company
and Grand Trunk Corporation*

March 28, 2013



Illinois Department of Transportation

Division of Highways/Region One / District One
201 West Center Court/Schaumburg, Illinois 60196-1096

November 5, 2012

Dave Crader
Senior Manager Technical Services
CN
17641 South Ashland Avenue
Homewood, IL 60430

Transmitted for your information is a copy of the approved project report and a CD containing an electronic copy of the report for the Illinois Department of Transportation's (IDOT) study of US Route 34 at the EJ&E/CN Railroad crossing in DuPage County. The scope of work generally consists of providing a structure to carry US Route 34 over the CN/EJ&E Railroad crossing. IDOT's financial participation for the proposed improvement is identified in IDOT's FY 2013-2018 Proposed Multi-Modal Transportation Improvement Program contingent upon 67% financial participation from the CN Railroad. Our current engineering efforts are targeted to enable a contract letting in the early portion of our current multi-year program contingent upon plan readiness, land acquisition, and funding availability through our future annual legislative appropriations.

If you have any questions or need additional information, please contact Mr. Steve Schilke, Consultant Studies Unit Head, at (847) 705-4125.

Very truly yours,

John A. Fortmann, P.E.
Acting Deputy Director of Highways,
Region One Engineer

By: 

John Baczek, P.E.
Project and Environmental Studies Section Chief



Illinois Department of Transportation

Division of Highways/Region One / District One
201 West Center Court/Schaumburg, Illinois 60196-1096

November 6, 2012

Dave Crader
Senior Manager Technical Services
CN
17641 South Ashland Avenue
Homewood, IL 60430

Transmitted for your information is a copy of the approved project report and a CD containing an electronic copy of the report for the Illinois Department of Transportation's (IDOT) study of US Route 30 at the EJ&E/CN Railroad crossing in Cook County. The scope of work generally consists of providing a structure to carry US Route 30 over the CN/EJ&E Railroad crossing as well as the NS Railroad crossing. IDOT's financial participation for the proposed improvement is identified in IDOT's FY 2013-2018 Proposed Multi-Modal Transportation Improvement Program contingent upon 78.5% financial participation from the CN Railroad. Our current engineering efforts are targeted to enable a contract letting in the early portion of our current multi-year program contingent upon plan readiness, land acquisition, and funding availability through our future annual legislative appropriations.

If you have any questions or need additional information, please contact Mr. Steve Schilke, Major Projects Unit Head, at (847) 705-4125.

Very truly yours,

John Fortmann, P.E.
Acting Deputy Director of Highways,
Region One Engineer

By: 
John A. Baczek, P.E.
Project and Environmental Studies Section Chief



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February 1, 2013

Mr. Jim Morris
Illinois Department of Transportation
2300 South Dirksen Parkway
Springfield, Illinois 62764

Re: US Route 34 TS&L comments

Dear Mr. Morris,

CN engineering has reviewed the letter and TS&L plan sheets that were submitted on January 22nd, 2013 and offer the following comments:

- 1) Proposed overhead bridge meets both vertical and horizontal clearances.
- 2) The arched fence on the bridge next to the sidewalk and shared use trail that covers the CN property and meets the CN height requirements.
- 3) All bridge drainage will be constructed of a closed system and will not drain on CN property and no freefall deck drains will be present on the bridge.

I have no further comments at this time. Please keep us informed as the design proceeds so that we can make sure all engineering aspects have been covered. If you have any questions or require additional information, please feel free to contact me at (708)332-3557.

Sincerely,

Patrick Jones
Manager Public Works

CERTIFICATE OF SERVICE

I certify that I have this 28th day of March, 2013, served copies of the foregoing Applicants' Reply to Comments of Illinois Department of Transportation (CN-65) upon all known parties of record in this proceeding by first-class mail or a more expeditious method.

A handwritten signature in black ink, appearing to read 'C. Mellen', written over a horizontal line.

Christine A. Mellen