



**CITY OF GARY**  
**DEPARTMENT OF PLANNING &**  
**DIVISION OF ZONING**

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224396

23 January 2009

Surface Transportation Board  
395 E Street, SW  
Washington DC 20423-0001

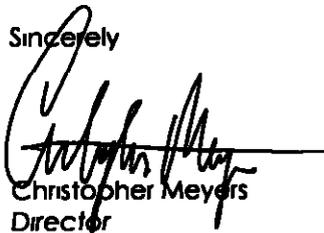
**PLANNING DEPARTMENT**  
**WAIVER**

Surface Transportation Board and Agency Staff.

Attached to this correspondence the Board and agency staff will find a Letter of Reconsideration relative to Finance Docket No 35087, Canadian National Railway Company and Grand Trunk Corporation – Control – EJ&E West Company, from the Honorable Rudolph Clay, Mayor, City of Gary Indiana

Please consider this submittal as an official request from the City of Gary and its Executive Officer for the agency's reconsideration of the final docket decision rendered for the denoted matter

Sincerely

  
Christopher Meyers  
Director

enclosures (1)



**OFFICE OF THE MAYOR**

401 BROADWAY, SUITE 203  
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**RUDOLPH CLAY**  
MAYOR

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January 22, 2009

Re: STB Finance Docket Number FD 35087  
Petition for Reconsideration

To Whom It May Concern:

On behalf of the citizens of Gary, Indiana, please accept this correspondence as a Petition for Reconsideration of the Surface Transportation Board decision of December 24, 2008 granting the purchase of the EJ&E West Company (EJ&E) by the Canadian National Railway Company (CN) and the Grand Trunk Corporation.

In part, our objections are based on the Surface Transportation Board's (STB) failure to recognize the City of Gary as a party of interest and to address in any way articulated concerns at every hearing and meeting conducted by the STB and adopt the concerns, in whole or in part, as required mitigation in the Environmental Impact Statement (EIS). The City's notice is attached hereto and incorporated herein in PDF form as exhibit "A". The City of Gary requests that the municipality immediately be amended as a party in interest.

As you know, the City of Gary, will be severely impacted, arguably most adversely affected, by the acquisition and the failure of the STB to address the City's previously articulated concerns and the refusal of the CN to negotiate with the City to come to an accommodation on their mitigation concerns.

Specifically on behalf of the City, I request that the following items be included as required mitigation prior to final approval of the sale:

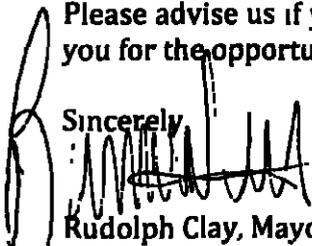
1. Establish hiring practices which require CN to hire local residents for any and all construction and expansion projects required in conjunction with the purchase, including adherence to the City of Gary hiring ordinances.
2. Feasibility studies on the at-grade intersections of 5<sup>th</sup>, 9<sup>th</sup>, 15<sup>th</sup> and 25<sup>th</sup> Avenues in Gary. Requirement that the CN at its expense construct one overpass if recommended by the studies. Study contractors must be chosen with the agreement of the affected communities.
3. Installation at the expense of the CN of pollution and noise barriers in the City of Gary from 21<sup>st</sup> to 25<sup>th</sup> Avenues.

- 4 Provide annual training for a period of five years for City of Gary Police and Fire Department to prepare for dramatically increased traffic and transportation of hazardous materials. Cost is approximately to be \$50,000.00 per year.
5. Timely disclosure to the City regarding the contents of each load transported through each community to allow each community to adequately prepare for emergencies
6. Purchase of a Mobile Command Unit to be utilized by the City of Gary and neighboring communities in the event of an accident or spill. Cost is approximated to be : \$600,000.00.
7. Purchase of three (3) specially equipped emergency vehicles for extra patrols required due to increased train traffic, including hiring of 4 additional officers Cost is approximated to be \$120,000 00, not including additional officers.
8. Purchase of communication equipment to adequately respond to emergencies, Motorola CM 300 Mobiles. Cost is approximated to be: \$105,000 00.
9. Personal protection equipment, air cylinders, decontamination showers, extinguishment equipment, detection equipment, spill control equipment, ICS, and extrication equipment Cost is approximated to be \$250,000.00.
10. Financial assistance with economic development projects within the City of Gary. \$4.2 million.
- 11 Adherence to all local codes, ordinances, fees, and procedures for any and all construction and expansion projects

I trust that these requirements will be added to the final Decision of the Surface Transportation Board in order that the process may move forward in a more cooperative manner To date, the City of Gary has not met with CN to negotiate a reasonable and amiable resolution to these issues despite repeated requests by the City to do so

Please advise us if you have additional questions or concerns. I would like to thank you for the opportunity to put forward our continuing concerns and requirements

Sincerely,

  
Rudolph Clay, Mayor  
City of Gary, Indiana

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Finance Docket No. 35087

CANADIAN NATIONAL RAILWAY COMPANY  
AND GRAND TRUCK CORPORATION  
-CONTROL-  
EJ&E WEST COMPANY

The City of Gary, Indiana by its Mayor, through its Law Department, hereby notifies the Board of its intent to participate as parties of record in the above-captioned proceedings pursuant to 49 C.F.R. Section 11804(a)(2).

The City of Gary by its Mayor requests that the Board provide the following persons with copies of all pleadings, notices and decisions in this proceeding:

The Honorable Mayor Rudolph Clay  
401 Broadway, Suite 203  
Gary, Indiana 46402

Hamilton L. Carmouche  
Corporation Counsel  
401 Broadway, 4<sup>th</sup> Floor  
Gary, Indiana 46402

RESPECTFULLY SUBMITTED:

THE CITY OF GARY, INDIANA,  
AND ITS MAYOR RUDOLPH CLAY

By: Susan M. Severtson  
Susan M. Severtson  
Assistant City Attorney  
City of Gary  
401 Broadway, 4<sup>th</sup> Floor  
Gary, Indiana 46402

Dated: January 22, 2008

**CERTIFICATE OF SERVICE**

I certify that I am qualified and authorized to file this Notice of Intent to Participate and that on January 2008 service of a true and complete copy of the above and foregoing pleading or paper was made upon each party or attorney of record herein by depositing the same in the United States mail in envelopes properly addressed to each of them and with sufficient first class postage affixed

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