UNITED STATES OF AMERICA

SURFACE TRANSPORTATION BOARD

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PUBLIC MEETING

IN THE MATTER OF:

CANADIAN NATIONAL RAILWAY COMPANY
AND GRAND TRUNK CORPORATION -
CONTROL - EJ&E WEST COMPANY;
ISSUANCE OF FINAL ENVIRONMENTAL
IMPACT STATEMENT

Tuesday,

November 18, 2008

Surface Transportation Board
Suite 120
395 E Street, S.W.
Washington, D.C.

The above-entitled matter came on for hearing, pursuant to notice, at 10:00 a.m.

BEFORE:

CHARLES D. NOTTINGHAM, Chairperson
FRANCIS P. MULVEY, Vice Chairperson
W. DOUGLAS BUTTREY, Commissioner
# TABLE OF CONTENTS

**WELCOME:**
- Charles Nottingham ........................................ 3
- Francis Mulvey .............................................. 7
- Douglas Buttrey ............................................. 9

**SEA TEAM PRESENTATION:**
- Victoria Rutson ............................................. 14
- Evelyn Kitay - Regulatory Process ...................... 23
- Phillis Johnson-Ball - Public Involvement ............ 29
- Bill Burgel - Historic/Existing Conditions .......... 37
- Stephanie White - Meeting Locations .................. 46

**PROJECT TEAM ISSUES:**
- Bill Burgel - Train Traffic .............................. 54
- Leif Thorson - Rail Safety ................................. 64
- John Lazzara - Transportation/EMS Analysis 79/93
- Tim Casey - Noise and Vibration ...................... 102
- John Morton - Passenger/Commuter Rail .............. 120
- Kevin Keller - Hazmat Transportation ............... 125
- Fionna Goodson - Natural Resources ................. 144
- John Morton - Quality of Life ......................... 156

**QUESTIONS/DISCUSSION:**
- Round 1 ...................................................... 162
- Round 2 ...................................................... 254

**CLOSING REMARKS:**
- Francis Mulvey ............................................. 347
- Douglas Buttrey ............................................. 347
- Charles Nottingham ........................................ 349
10:03 a.m.

CHAIRMAN NOTTINGHAM: All right.

Good morning. The Board is meeting on our Section of Environmental Analysis, affectionately known as SEA. You will hear SEA mentioned a lot today regarding the Environmental Impact Statement they are preparing on the Canadian National Railway Company's application seeking to acquire control of the EJ&E West, a wholly owned non-carrier subsidiary of the Elgin, Joliet & Eastern Railway Company.

SEA is a company by members of HDR, Inc., the third-party contractor that has been working with SEA to prepare the environmental documents in this case. EJ&E is a Class II Railroad that currently operates 198 miles of track in Northeastern Illinois and Northwestern Indiana.

In addition to acquiring that existing line, CN is seeking to construct six new rail connections and, approximately 19 miles of
new sightings and double tracking. The application was filed on October 30, 2007 and on November 26, 2007, the Board announced that it would prepare an Environmental Impact Statement, also known as the EIS.

SEA has provided an extensive comment period to ensure that the public agencies, elected officials and communities have the opportunity to actively participate and comment on the environmental review process.

SEA first prepared a draft scope of study that was published in December 2007. During the scoping process, the Board received over 3,000 written comments and SEA held seven public open house meetings held in the affected areas during the scoping process.

The final scoping document was served on April 25, 2008 and was made available on the Board's website and 51 libraries located in communities along the EJ&E Rail Line.

SEA then served the draft EIS on July 25, 2008. SEA hosted eight public meetings
throughout the Chicago metropolitan area to present the findings of the draft EIS and received public comments. SEA received some 9,500 comments on the draft EIS by the close of the comment period on September 30, 2008.

Since then, SEA has been analyzing the comments submitted on the draft EIS and working to prepare a final EIS.

The purpose of this meeting today is to provide the Board Members an opportunity to hear from SEA on their report and have SEA report on the comments received from the public and also an explanation of the analysis that has been conducted and SEA's preliminary recommendations regarding potential mitigation to be included in the final EIS.

I look forward to exploring all these issues today. We are pleased to have with us members of the team working on the final EIS from the Board's staff: Victoria Rutson, Chief of the SEA, Phillis Johnson-Ball, who is the Deputy Chief of SEA, Evelyn Kitay, who is STB's
Association General Counsel and from HDR we have John Morton, Senior Vice President, and Bill Burgel, Vice President for Rail Operations, again both of HDR, Inc.

I understand other members of the HDR team will be making presentations today and will be introduced as the meeting proceeds. I do want to welcome all of the HDR staff who have made the trip to be here today.

The team will first give a presentation generally summarizing the environmental review process, its results and SEA's preliminary recommendations. Following that presentation, my colleagues and I will have an opportunity to ask questions and engage in dialogue.

I look forward to this morning's presentation and discussion. Before turning the floor over to the team, I would like now to turn to my colleagues for any opening remarks that they may like to offer. Vice Chairman Mulvey?

VICE CHAIRMAN MULVEY: Thank you,
Chairman Nottingham. And I want to thank the SEA staff for their efforts in this area. Vicky, Evelyn, Phillis, I know this has occupied a lot of your time over the last few months and this really shows a great deal of effort and a great deal of oversight on your part. You have done an outstanding job in very, very difficult circumstances.

I also want to thank the representatives from HDR. As you know, the Board Members had opportunity to go out and see the project at one point. And we were taken around and shown some of the places that were particular contentious where the environmental issues were particularly important. And we did learn a lot from that and we want to thank you for your efforts in taking us out there.

This is really the first major environmental review that this Board has undertaken in the last five years. I know the Board does these kind of environmental reviews often associated with abandonments and other
transactions. But the last one that was this large, unless I'm mistaken, was when the DM&E proposed to build into the Powder River Basin. That proposal raised a lot of concern and the Board undertook an extensive and environmental review of that proceeding as well.

That proceeding took place before I was on the Board. And since my tenure is co-termed with Mr. Buttrey's and precedes Mr. Nottingham, this is really the first one that any of us have really had to address. So we're looking forward to hearing what you have to say and to take this into consideration in coming up with our final decisions.

As the Chairman has mentioned, we have received nearly 10,000 responses/comments on the draft environmental review. They are both positive and negative as to the transaction's environmental impacts. And I understand it's very, very difficult to sort all these out.

I'm looking forward to hearing the results of your assessment today and with that,
I'll turn it over to my colleagues.

CHAIRMAN NOTTINGHAM: Thank you, Vice Chairman Mulvey. Commissioner Buttrey?

COMMISSIONER BUTTREY: Thank you, Mr. Chairman, and good morning to everyone. This proceeding, in my view, is the most interesting and perplexing case to come before me since I came to the Board. In some ways, it's a very simple case. It concerns a relatively short line of railroad and the purchase price is relatively small in today's economy.

The subject transaction involves only two railroads. Yet, this transaction has drawn an incredible amount of attention from a wide variety of stakeholders, including suburban Mayors, Members of Congress, one of whom is the new President-elect.

It has split the urban and suburban Chicago community and the Congressional Delegation and has fueled an emotional public relations campaign rarely experienced in the generally quiet, peaceful neighborhoods west of
When I visited these communities recently, I even saw yard signs and notices about public rallies. It was grassroots democracy at work.

The issues presented in this proceeding remind me of a landmark 1971 Supreme Court case, which has always been special to me, because its subject matter arose in the very city where I was a law student at the time of the decision. That case is Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402.

In that case, the United States Department of Transportation had decided to built Interstate 40 right through the middle of downtown Memphis and right through the middle of one of the oldest and most beautiful public parks in the south, which contained, among other things, the city zoo, golf course and the Historic Overton Park Shell built in 1936, where Elvis Presley performed his first paid concert.

Certain civic-minded citizens of
Memphis said no. The United States Supreme Court agreed. The Court said that under the applicable statutory provisions, the Secretary of Transportation could only approve the use of federal funds for construction of a highway in a public park if no feasible alternative exists and only after undertaking all possible planning to minimize harm.

Justice Douglas did not participate in consideration of the decision of that case. Otherwise, it was a unanimous decision by the United States Supreme Court.

Now, some of you might have had the pleasure of driving through the beautiful and very fertile Mississippi River Delta, which includes Memphis. If so, you might have noticed that I-40 splits just east of downtown Memphis and continues in a circle around the city, both north and south, and comes together again on the eastern bank of the Mississippi River where it crosses the river and enters the great State of Arkansas.
So it is obvious that the highway was eventually built to accommodate Interstate Commerce, but that it was built using an alternative route so as to also accommodate the environmental concerns of local citizens. In the end, the Supreme Court stood between the seemingly overwhelming forces of the Federal Government and the concerns of a few local citizens who just wanted to preserve their park.

In my view, this is undoubtedly one of the most elegant decisions ever rendered by the highest Court of the land.

As we go forward in the consideration of this and other similar cases, I would urge all concerned to be mindful of this ruling and others like it, so that we do not forget the power of the people to not have their rights abridged by their Government.

I have made it abundantly clear that I have serious concerns about this transaction, based on environmental grounds. It is my judgment that those concerns are on legal parity
with the transportation issues before us and that
to somehow subordinate those concerns runs afoul
of a long line of cases that require us to make
sure that we have fully considered, to use the
language of the court, "feasible and prudent"
alternatives and after undertaking "all possible
planning to minimize harm."

I'm going to try to ensure that we do
just that. Consequently, I look forward to
hearing what the presenters have to say. Thank
you, Mr. Chairman.

CHAIRMAN NOTTINGHAM: Thank you,
Commissioner Buttrey. We will now turn it over
to the team. Ms. Rutson, you will take it over
from here. Thanks.

MS. RUTSON: Good morning, Chairman
Nottingham, Vice Chairman Mulvey and Commissioner
Buttrey. On behalf of the Section of
Environmental Analysis and our third-party
consultant, HDR, we appreciate the opportunity to
discuss with you today the Environmental Impact
Statement that we are currently preparing in
Finance Docket 35087, Canadian National and Grand Trunk Railroad control EJ&E West.

I would like to take a few moments to introduce you to the rest of the team. Chairman Nottingham, you have already introduced the people at the table, but for those listening via website, I will repeat some of the introductions.

To my right from the Surface Transportation Board is Evelyn Kitay and Phillis Johnson-Ball. To Phillis' right is Gail Frane from HDR who will be helping us with the PowerPoint presentation. To my left is John Morton, the Project Manager from HDR. And to his left is Bill Burgel, Rail Operations Specialist.

The remainder of the team is sitting in the first two rows behind the speaker's table. Each member of this team specializes in a certain environmental discipline area. I'm going to call each of their names and they will stand up. When they speak, they will come forward and focus on their discipline area.

They will tell us what we did in the
draft EIS, explain the comments that we received on the draft and then provide a briefing to you on our preliminary findings, conclusions and recommendations and final EIS.

These folks are all from HDR. First, Stephanie White, Public Involvement; John Lazzara, Vehicular Transportation; Leif Thorson, Rail Safety; Fionna Goodson, Natural Resources; Tim Casey, Noise and Vibration; and Kevin Keller, Hazardous Materials Transport.

Rich Christopher from HDR is also joining us, not to speak individually, but prepared to respond to questions on state regulatory matters. Rich is the former Deputy Chief Counsel of Indiana DOT and we believe is uniquely qualified to respond to questions on the state regulatory process for Illinois and for Indiana.

Each of these technical experts represents large group of other scientists, technicians and professionals who have worked and are continuing to work on the EIS. They would
have enjoyed all being with us here today and I suspect there may have been enough seats in this hearing room for all of them, but it would have been a full house indeed.

A word about acronyms. The Chairman kindly explained some of them. Again, for those listening via webcast, I'm going to go over a few more. This will help everyone realize that we are actually speaking a language and not a mysterious code.

The environmental area is full of acronyms and it can get a bit confusing. EJ&E or J is the Elgin, Joliet and Eastern Railroad. EIS is Environmental Impact Statement, which we have issued in draft form and are preparing in final form. NEPA, National Environmental Policy Act. SEA or S-E-A is the Section of Environmental Analysis.

CN is Canadian National Railway. And CNN isn't involved in this case at all. Yet, the team and members of the public have ended up talking, I think, in an abundance of enthusiasm
over end about CNN. Not involved in this case.

The relevant background for this proceeding is set forth in the Board's press release of November 7th announcing this briefing and Chairman Nottingham has also provided a summary. Very quickly, on October 30, 2007, Canadian National Railway and its U.S. affiliate, Grand Trunk, filed an application with the Board seeking the Board's approval to acquire the Elgin, Joliet and Eastern.

The Elgin, Joliet and Eastern is an old railroad conceived by Joliet businessmen in 1855 for the purpose of avoiding congestion in the city of Chicago. The applicant's reasons for wanting to buy the EJ&E are set forth in their application. These reasons are three-fold.

First, applicants wish to move train traffic off the CN Lines that are currently running in and out of Chicago and move that rail traffic to the EJ&E. Thus, avoiding congestion in the City of Chicago.

Second, applicants wish to gain
ownership of Kirk Yard in Indiana.

   And third, applicants wish to offer
rail service to shippers currently served by the
EJ&E.

     Immediately after the application was
filed with the Board, SEA began receiving a
steady stream of letters. These letters were
mostly from people who live in the communities
along EJ&E. These people were fearful about what
would happen to them if train traffic on the J
increased.

     In November, the Board issued
Decision No. 2, which announced that the Section
of Environmental Analysis would prepare an EIS in
this proceeding. The Board's environmental rules
normally require an EA or Environmental
Assessment for rail acquisitions.

     But here, the Board stated that the
more rigorous EIS was appropriate. In that EIS,
we would examine both the benefits and the
adverse impacts of CN's proposal. We would also
examine reasonable and feasible alternatives to
that proposal, including a no action alternative.

SEA retained HDR to help us prepare the EIS. As you know, the third-party contracting process is permitted both by the Board's environmental rules and by the President's Council on Environmental Quality Regulations.

The process allows us to hire consultants to work for us and only us at the applicant's expense. Our work is impartial. Our job, my job is to ensure that the decision maker, you, have a full complete disclosure of all benefits and impacts that could occur as a result of this proposal.

I can tell you, based on my reputation, that our work has been and will continue to be done impartially. SEA and HDR experts in a broad spectrum of environmental discipline areas began work on the EIS. We conducted meetings, talked with federal, state and local officials, performed studies and gathered as much information as we could about
life in the communities that could benefit and
could be adversely impacted by CN's proposal.

We also learned about the rail
systems in Chicago, the history of the EJ&E and
how it operates today and delved into every
detail that we could find about CN's proposal.

On July 25, 2008, we issued a draft
EIS for public review and comment. As you well
know, over 9,500 comments were received. And we
are now preparing the final EIS which will in
part respond to those comments.

We hope to issue the final EIS in the
next few weeks. The final EIS in addition to
responding to comments will also set forth some
additional analysis that we have done based on
the comments received. It will also set forth
SEA's preliminary conclusions and
recommendations, which we would like to discuss
with you today.

Briefing highlights. Next, Evelyn
Kitay will discuss in more detail the regulatory
process. Phillis Johnson-Ball will then
summarize our extensive public involvement process. Bill Burgel will then set the stage describing the unique role of Chicago as a rail transportation hub, provide a short history of rail operations on the EJ&E and describe details of the applicant's proposal and alternatives that we examined during the environmental review process.

Stephanie White will build on Phillis' summary of public involvement and describe major issues that we discovered through working with the citizens of Illinois and Indiana. Then the HDR technical experts will lead us through what we did in the draft EIS, what we heard in comments and what we are thinking about doing in the final EIS.

So now, I would like to turn the microphone over to Evelyn Kitay.

MS. KITAY: Thank you, Vicky. Good morning, Chairman Nottingham, Vice Chairman Mulvey and Commissioner Buttrey. I have been working closely with SEA on the EIS in this case
and am happy to discuss the regulatory process.

Since 1920, Congress has vested the ICC and now the Board with plenary and exclusive authority over rail mergers and acquisitions. This proposed acquisition requires authority from the Board, because under the Interstate Commerce Act, a railroad may not acquire another railroad without STB approval.

As you know, CN filed its application for STB approval in October 2007. In November 2007, the Board accepted the application and concluded that a full EIS was warranted based on the information in the application on potential increased traffic along the EJ&E Line increases between 15 to 24 trains a day on certain segments and the concerns that had already been raised by potentially affected citizens and communities.

The dual purpose of an EIS is to disclose potential environmental impacts, consider reasonable and feasible alternatives, including the No Action Alternative, and develop reasonable mitigation that could be imposed to
eliminate or reduce potential environmental
impacts of the proposed action discovered during
the course of the environmental review.

The Board's practice is not to impose
mitigation for pre-existing conditions.
Conditions that exist when the Board's process
begins. Mitigation can, as here, include
voluntary mitigation proposed by applicants. SEA
also encourages applicants to enter into mutually
acceptable negotiated agreements with communities
or other entities. These negotiated agreements
can result in mitigation that is more far
reaching than the mitigation the Board could
unilaterally impose.

Ample opportunities for public input
are provided during the EIS process. The EIS
addresses not only issues that arise under NEPA,
which requires agencies to take a hard look at
the environmental consequences of their licensing
decisions, but also takes into account the
requirements of other federal environmental laws,
such as the Endangered Species Act and the
National Historic Preservation Act.

Consultations with other agencies is a very important part of the EIS process. And in this case, SEA has consulted extensively with agencies, including the Environmental Protection Agency and the U.S. Fish and Wildlife Service during the EIS review.

Steps for an EIS are set out in the Board's environmental rules at 49 CFR Part 1105 and the rules of the Council on Environmental Quality implementing NEPA. First, SEA issues a Notice of Intent to prepare an EIS and initiates scoping to determine the issues to be addressed in the EIS.

Then SEA issues a draft EIS for public review and comment containing environmental analysis of the potential environmental effects, both beneficial and adverse, and preliminary mitigation recommendations and recommendations on environmentally preferable alternatives.

After a public comment period, a
final EIS is prepared responding to comments containing further analysis, if appropriate, and presenting SEA's final recommendations including recommendations for environmental mitigation.

The conclusions of the EIS are staff recommendations that the Board considers in deciding what action to take on a proposed acquisition. In essence, the EIS process is what builds the record before the Board on the effects of the proposed acquisition on any issues other than those involving the transportation merits.

Just to briefly summarize the EIS process here, within days of the Board's November 2007 decision accepting the application, SEA began work on the EIS. In December 2007, a Notice of Intent and a draft scope study were issued. Open house meetings were held at seven locations in the Chicago area and over 3,000 scoping comments were received.

In April 2008, a final scope of study was issued. Less than three months later in July 2008, a comprehensive five volume draft EIS was
served. SEA then held eight public meetings in the Chicago area as well as stakeholder meetings during the 60 day comment period on the draft EIS, which ended September 30, 2008.

9,500 comments both pro and con were received on the draft EIS addressing a wide range of environmental issues. In May 2008, CN asked the Board to establish time limits for the completion of the EIS. In July 2008, the Board set a target date of December 2008 to the end of January 2009 for completion of the final EIS and stated that a final decision would be issued as soon as possible thereafter.

No specific date was set for the issuance of the final EIS, because the Board could not predict in advance the extent and type of comment that might be made on the draft.

In September 2008, the Board denied CN's subsequent petition to modify the procedural schedule. SEA is well along with completing the EIS. A final EIS responding to comments containing additional analysis as appropriate and
setting forth SEA's final mitigation recommendations should be issued in the next few weeks.

The issuance of the final EIS will conclude the environmental review process and the Board will then issue a final decision in this case addressing both the transportation related and environmental issues.

In doing so, it will consider the draft and final EIS and all of the environmental comments received as well as the information filed on the transportation merits.

In short, a thorough environmental review that encompasses both the EJ&E Rail Line where rail traffic will increase and the CN Lines in the Chicago area, which will generally benefit from an expected decrease in traffic, has taken place in this case.

I now turn it over to Phillis.

MS. JOHNSON-BALL: Thank you, Evelyn.

Good morning, Chairman Nottingham, Vice Chairman Mulvey, Commission Buttrey. I will be talking
about SEA's public outreach and coordination activities for the proposed transaction.

The public has an important role in the NEPA process, particularly doing scoping and providing input on what issues should be addressed in the EIS and commenting on the findings of the EIS. SEA's purpose in conducting public involvement in Agency consultation activities is to comply with NEPA to raise public awareness, inform interested or affected individuals about the proposed action and to gain public and Agency input on the development and review of the EIS.

For this transaction, SEA conducted extensive and proactive public outreach to encourage board participation in the environmental review process. Public participation throughout the environmental review process was unprecedented. The public, federal, state and local agencies, stakeholders, communities and organizations actively participated in the environmental process by
providing information, reviewing and commenting on all aspects on the development of EIS.

To ensure that parties typically under-represented in the environmental review process received all available information, SEA conducted targeted outreach to minority and low-income populations, environmental justice populations and federally recognized tribes.

On December 21, 2007, the Board issue the Notice of Intent to prepare the EIS. This also announced the start of the scoping process and included the times and dates of public meetings. The publishing of the Notice of Intent began the flow of comments into the Board. SEA received, approximately, 350 comments prior to the issuance of the draft scope of work.

By comparison, no comments are typically received during this period. During the scoping process, SEA informed the public about the proposed action, described the environmental review purpose and process and gathered public comments on the draft scope of
the EIS.

Also to inform the public about the proposed transaction, SEA prepared public notices, media outreach, announcement posters, develop a project website and maintained a toll free project information line and project update mailings.

SEA developed and maintained an environmental distribution list which included individuals, locally elected officials, agencies and agencies that have interests that would normally be contacted during the EIS process.

In November 2007 and January 2008 to advertise and prepare for public scoping meetings, SEA distributed media releases and placed public notices and advertisements in 24 Chicago area newspapers. SEA also placed posters in public libraries and other public locations that served the communities along the EJ&E Rail Line.

SEA held 14 public scoping meetings at seven locations throughout the Chicago
metropolitan area in January 2008. Meetings were held in Mundelein, Illinois; Barrington, Illinois; Joliet, Illinois; Madison, Illinois; Chicago, Illinois; West Chicago, Illinois and Gary, Indiana.

The meetings were held in an open house format. Two meetings per location were conducted, one in the afternoon and one in the evening. The public was able to provide scoping comments in a variety of ways. Written comments, verbal comments, e-filings and via a toll free project information line. The information line also had a Spanish option.

At the public meetings, commenters were also able to provide verbal comments to transcribers. Approximately, 4,000 scoping comments were filed by the end of scoping. And approximately, 2,600 people attended the public scoping meetings.

In addition to public scoping meetings, SEA invited 38 federal, state and local agencies to participate in stakeholder focus
groups and to provide feedback on their areas of expertise. On April 28, 2008, the Board published the Notice of Availability of the proposed scope of study in the Federal Register.

On July 28, 2008, SEA issued the draft EIS and made it available for public review and comment with a 60 day comment period. On the same day, the Board released a press release announcing the availability of the draft EIS.

In August and September 2008, SEA held eight public scoping meetings to provide the public with information on the draft EIS and to receive comments. Meetings were held in Madison, Illinois; Mundelein, Illinois; Barrington, Illinois; Bartlett, Illinois; Chicago, Illinois; Aurora, Illinois; Joliet, Illinois; and Gary, Indiana.

Again, as with scoping, the meetings included an open house format and a more formal public meeting in which attendees could make formal comments. As during scoping, comment forms were provided in several languages,
including Spanish, Polish and Chinese. Chinese and Polish languages were added as a result of our outreach activities.

Comments at the public meetings were accepted either on-site or by mail. The project toll-free telephone line remained open and updated for the duration of the comment period to record comments over phone lines. Commenters could also submit electronic comments through the Board's e-filing system.

SEA distributed the draft EIS using the same outreach methods used in scoping, that is distributing copies of the draft EIS to all parties of record and parties on the environmental distribution list placing copies in libraries, placing the entire EIS on the project website and notification through the media of the availability of the draft EIS.

As part of SEA's outreach to agencies and public officials, SEA notified 20 Congressional Members, 31 State of Illinois elected officials and 10 State of Indiana elected
officials of the public meeting.

On June 25, 2008, SEA attended a metropolitan Mayor's conference meeting with 27 officials from the Chicago area. On September 30, 2008, SEA attended a meeting of the South Suburban Mayor's and Manager's Association, a group of stakeholders representing the cities from the south side of Chicago. Information gathered at as a result of that meeting, was vital to the analysis of the EIS.

SEA continued to conduct outreach to under-represented groups, including minority and low-income populations and environmental justice populations. More than 30,000 individuals are currently on our environmental distribution list.

SEA believed that our proactive outreach efforts played a large part in the large participation rate for this transaction. SEA received over 9,500 comment documents containing over 43,000 issues and concerns on the draft EIS. All 30,000 individuals on our environmental distribution list will receive either a
notification of the availability of the final EIS, a copy of the executive summary, a CD copy of the entire document or a printed copy of the document. Thank you.

MS. RUTSON: I would now like to turn the microphone over to Bill Burgel, who will be discussing historic and existing conditions in the project area, the proposed action and alternatives and anticipated changes.

MR. BURGEL: Mr. Chairman, Vice Chairman and Commissioner, I'm here today to describe the -- how Chicago and the rail industry interact with each other, both at a local, regional, national and perhaps global level. If I may, I'll stand and use the podium here.

6 out of the 7 Class Is, the large railroads that operate in the U.S., all converge in Chicago. The -- you've got the Norfolk Southern and the CSX both originate or Eastern Railroad either originate or terminate here in the eastern part of the Chicago area. Western Railroads, Union Pacific and BNSF, be in or end
here in Chicago as well.

Two other railroads, Canadian Pacific
and CN both operate through Chicago. The -- with
-- CN is the only railroad that operates through
on its own track. It's got five quarters in red
here, three of them are primary quarters and CN
operates north to south and then east through
Chicago.

To facilitate the interchange of all
these different railroad systems, we have several
smaller railroads that serve at the discretion of
the Class Is. They are owned and operated by the
Class Is. Those include the Indiana Harbor Belt
and the Belt Railway of Chicago and they perform
the switching assignments for these Class Is.

The various trackage rights and
haulage rights that are negotiated by all the
Class Is are performed by the smaller railroads.
Interlaced with all these freight railroads are
the extensive passenger service of Amtrak, Metra
and also the Northern Indiana Commuter
Transportation District or NICTD who operates
through the south shore.

Currently over 1,200 trains a day operate in Chicago. Roughly half freight and the other half passenger. On top of this fabric is a network of highway systems, lots of great separations in the urban core of Chicago, less though on the outer core. It is the changing volumes of the highway system and the rail system that were not quite in sync with each other and that's one of the reasons we are here today.

One of the adjustments that -- as described previously, the EJ&E is this outer railroad that serves to the boundary of this CORA map which is produced by the Chicago Area Railroad Operators and it's no accident that it forms the boundary of this map.

As Vicky described earlier, it was envisioned by a group of businessmen in the mid-1800s and came to fruition in the 1890s or so of several predecessor railroads that link together to form this circumference or route around Chicago. It has seen 50 trains per day that
operated roughly in the World War II area and had
passenger service that linked several communities
as well.

The Griffith Historical site talks
about 180 trains per day operating through
Griffith at one time. The EJ&E performs several
functions. It is owned by U.S. Steel and then
forms the switching functions for U.S. Steel,
that's one of its primary roles. It is an
industrial railroad that has and supports many
on-line customers that depend heavily on the
service, one of which is certainly Midwest Energy
that depends on it, the coal delivery on a timely
basis that is provided by the EJ&E. That
supplies have the electrical energy for the
Chicago area. So a very vital service that the
EJ&E performs.

Because all these railroads
intersect, again, it performs a perimeter around
Chicago. All the Class Is at one location or
another intersect with the EJ&E and as it --
where these intersections occur, the J is used to
shuttle cars back and forth between these Class Is, so it performs that service.

And one trend that is increasing is BNSF, Norfolk Southern and Union Pacific primarily are using the EJ&E to bypass routes that they used to come into Chicago and back out. They are now using the EJ&E as a bypass, mostly in this southwest quadrant. It's primarily how the Class Is are used and the J is a bypass.

As described earlier, the CN operates on the former Wisconsin Central to the north and then from the east they entered Chicago initially back in 1923, the Grand Trunk has been in Canadian ownership since then. And then the CN acquired the Illinois Central in the early -- a few years ago. And that performs, along with the other two, routes that is their primary service.

They have a couple of yards that they service here in -- along Glenn Yard along the Joliet, and their primary yard is Marcum Yard which is down by Homewood. You notice gaps in the flow of the red lines through here. The only
continuous route is along the St. Charles Airline, which is one that Air Daily has asked CN to relinquish in terms of train flow through Chicago.

Every other -- these gaps are places where CN doesn't operate on their own railroad. They have to basically run on other railroads and by that very nature, they are controlled by others and that's one of the things they are trying to rectify by the acquisition of the EJ&E.

The heart of this -- what -- most of their trains come in and are classified, switched around at a major classification yard that is owned by the Belt Railway of Chicago. That is a clearing yard. And the process right now, because they will bring trains in along the -- say from the north and they will have trains that will stay all along here waiting for their slot to come into the clearing yard.

Again, it is owned by others. And as these trains are brought in, they will -- as that slot opens up, each one of these trains will move
forward into that slot. That's extremely, you
know, wasteful in terms of locomotive efficiency
for CN utilization and these idling locomotives
produce unwanted air emissions as they wait their
turn.

It will take somewhere 12 to 15 hours
to make that move inside the arc from Leithton
down into the clearing yard and another 12 to 15
hours as they get classified there at clearing.
So it's quite a process just to get into a yard
they don't own. That's the very heart of their
system and yet they don't control that.

For many reasons, this and many
reasons, CN has asked the Board for permission to
acquire the EJ&E and that's to divert roughly 15
to 24 trains that now operate on these lines
inside the Chicago arc, so that train traffic is
proposed to move over on the EJ&E to bypass
Chicago and into Kirk Yard or East Joliet.

To accomplish this and then again
where they interact with these different
railroads, they propose six connections that they
would like to construct as well as double track up in this area and along through between Eola down to just north of Plainfield along here and that's roughly 19 miles of double track. About half of that trackage is on road bed that was -- formerly supported a second track.

They also are talking in terms of CN is proposing increases in the switching activity at both East Joliet Yard and at Kirk Yard as well.

In response to comments received during scoping, SEA considered four alternatives to the proposed action, one of which was expanded trackage rights along the EJ&E to where CN could -- would operate without the Board's permission on an expanded trackage rights basis.

A second alternative was the full implementation of the Chicago CREATE Project, which might have the benefit of increasing the throughput through Chicago.

The third alternative was perhaps CN could invest on a line interior of the arc and
create a faster throughput in that fashion.

And a fourth that we heard was to construct an alternative bypass outside the arc in some -- in an area or locale yet to be determined for -- because a lot of these reasons didn't meet the purpose need that's before us. So we didn't explore these options.

I'll turn it back to John here now.

MR. MORTON: Thank you, Bill. We would like to start discussing some of the technical issues. And what I would like to do first is ask Stephanie White to elaborate a little bit on the discussion that Phillis had in terms of the outreach and cover some of, in more detail, you know, where the outreach was and, you know, the comments that came in. Stephanie?

MS. WHITE: Thank you, John. Chairman Nottingham, Vice Chairman Mulvey and Commissioner Buttrey, again, my name is Stephanie White. And I'm the public involvement lead for this project.

I would like to call your attention
to a series of slides that I will use to illustrate both how we chose the meetings or the locations for all the public meetings as well as to show you some of the distribution of comments that we received during both formal comment periods on this project.

The first slide you are looking at showcases some of the environmental justice communities and particularly those in close proximity to the J. We discovered 28 environmental justice communities. These represent a few of those.

When we were selecting meeting locations -- if you will move to the next slide, please?

COMMISSIONER BUTTREY: Ms. White, excuse me, would you point that mike right at you, please?

MS. WHITE: Yes, sir.

COMMISSIONER BUTTREY: Thank you.

MS. WHITE: Is that better?

COMMISSIONER BUTTREY: I think so.
MS. WHITE: Okay.

COMMISSIONER BUTTREY: Thank you.

MS. WHITE: You will see that the seven locations for the public meetings during the scoping period are represented on this slide. At that time, we endeavored to choose locations that gave our environmental justice communities as equal opportunity to participate as possible. We also were looking for a good geographic distribution, both along the J and then representation in both states as well as representation inside the yard created by the EJ&E.

The next slide will show you the distribution of comments as they were submitted during the scoping period, the public scoping period. You will see that Barrington represented the majority of those comments. We had a total of 3,958 comments submitted during the scoping period.

2,289 of them came from Barrington. Second in rank would be Frankford, Illinois with
300, 500 -- I'm sorry, 353 comments. And then close behind Frankfort were Bartlett with 324 comments, Aurora with 305 and Naperville with 263.

As we looked for locations for the public meetings to solicit comments on the draft EIS, we chose to replace the west Chicago meeting with meeting locations in Bartlett and Aurora, because of their substantial contribution or commenting activity on the scope of service.

If we move then to the next slide, I would like to talk you through some of the comments that were submitted by members of this area, particularly by the method by which they were submitted. We endeavored to provide as many opportunities as possible for members of the community, agencies, elected officials to comment on this.

On the left side of that graphic, you will see the methods for submission, certainly the e-filing or the electronic filing on the Board's website, the toll free project hot line
that Phillis mentioned, the opportunity to speak your comments formally at a public meeting and we offered that at the draft EIS meetings, those transcribed by a Court Reporter at public meetings, letters, comment forms or petitions submitted during either of the comment periods.

You will see -- you can see the difference between the scoping comment periods, which totaled 3,958 comments and those submitted during the draft, 9,530, for a total comment submitted on this -- in this action 13,488.

The next slide is a distribution of comments submitted during the draft EIS comment period. Because of the volume of comments, we changed the scale a little bit on this one. Letters again, 9,530. To be precise, comments were submitted on the draft Environmental Impact Statement.

The community submitting most of those comments was Barrington with 2,155 followed closely by Crown Point, Indiana; Chicago, Illinois; Bartlett and Frankfort.
Now, also during the draft EIS period, we had 12 petitions submitted representing roughly 18,000 signatories, two-thirds of which were in support -- were in opposition to the proposed action. One-third was in support of the proposed action. You will see a significant move towards the south and the east of the project area. There is a significant concentration of petition signatories.

Those come from Griffith, Dyer, Schereville and Frankfort communities that all submitted their own petitions. There are several petitions submitted by the applicant and an organization in the area known as START.

The final slide that I would like to show you represents the 10 major issues of public concern. Now, you have heard a couple of numbers today, comments submitted during the draft EIS. You will hear the number of 9,500. Phillis also mentioned the presence of 43,000 comments -- I'm sorry, issues.

Inside of every comment, there might
be five to seven issues. Those specific references to environmental impacts in an area and that's what constitutes the number of 43,000 issues. That's what you see here on this screen from left to right in ranking order, this graphic represents the most common issues that we heard about in those 9,500 letters or comments.

So they are traffic delays and congestion on the far left, emergency response directly to its right in ranking order No. 2, mitigation funding, communities and community cohesion, hazardous material transport, vehicle safety, noise, economics and employment, the number, the frequency and the length of trains and then finally property values.

I will now turn it back over to John Morton, who will lead a discussion with our Project Team touching all of these issues in one fashion or another. Thank you.

MR. MORTON: Thank you, Stephanie. Mr. Chairman, Mr. Vice Chairman, Mr. Commissioner, we have a number of issues that we
would like to talk in detail and I'm going to
call upon various members of my technical team to
help me do that.

The issues that we would like to
cover this morning are listed on the board in
front of you. Those are certainly not all the
issues, but those represent the -- kind of the
main concerns that the public had and where a lot
of the energy and the draft EIS focused its
analysis and the final EIS is focusing its
analysis.

I would like to start off with a
discussion of train traffic. I would like to
turn it back over to Mr. Burgel to talk about
that.

CHAIRMAN NOTTINGHAM: Thank you.

MR. BURGEL: Howdy. The train
traffic numbers or the input in which we use,
basically all the analysis in the EIS is based on
these numbers, so we work to get these numbers
correct. The CN, the applicant, as part of their
operating plan in the application that they gave
us, proposed a certain number of -- diversion of a certain number of trains onto the -- from the routes through Chicago onto the EJ&E, based on their operating plan, which is the method and manner in which they propose to operate their trains along the existing traffic along the EJ&E.

The facts as we understand them, the train numbers were given to us, the amount of tonnage associated with the diversion, the number of hazardous material of cars that operate before and after the transaction, the speed, the average speed of these trains through the crossings was provided as well as the length of trains beyond the average length was used in the analysis.

We certainly worked on that average in a couple of aspects and I'll describe those later. The criteria again, as Vicky described, is where we have met or exceeded the Board's threshold for environmental review is what triggered -- a lot of these lines didn't see any change and so we didn't spend much time, if any, on some of these branch mains.
But primarily, the 15 to 24 trains that were diverted certainly exceeded the threshold and so we looked at that. We also looked at the proposed changes in yard activity. Again, the two major yards on EJ&E were the Kirk Yard in Gary, which now handles roughly about 680 cars per day and CN envisions going to roughly 2,000 cars per day on the yard there. And then the yard at East Joliet, they would plan to go from 680 -- or excuse me, from 500 cars today to about 1,200.

Then we also analyzed and looked at each of the connections as well as the double track sections and were there alternatives that we could look at to that? We also looked -- took -- we heard from many folks in the scoping comments about CN's proposed planning horizon of 2012 and was that realistic from a lot of respects?

A lot of people thought that was too short. A lot of planning agencies typically analyze growth patterns into the 2025, 2035 era.
And 2012 seems way too short from their point of view. And you know, the comment was also held closely by the public that, you know, CN wouldn't embark on a transaction if these were indeed the numbers.

So they might -- right after the end of the 2012 period, they might suddenly spring a lot of trains onto the public. So the concern was that the time horizon was too short. We also got comments back from CN that going further out into the time period was too long. It would be speculative.

Again, there were service organizations that meets the needs of customers and customer patterns change capriciously and so they have to change the traffic patterns to meet that as well.

If somebody were to site a major distribution facility somewhere on the line, suddenly there would be a couple more trains per day and then that changes as business needs also change.
Our response, SEA's response to that was we couldn't go too far out, say 2025, 2035, and that you wouldn't be producing reliable information. And traditionally, the STB, the time horizons are much shorter than that. And so we compromised and extended the time to about 2015, three years longer than the railroad had asked for.

The idea of being -- that was CN's plans to ramp up the traffic was going to take roughly three years and this would give us a few years to see how that traffic balanced out on the revised alignment.

We also took a look at the concern about could 100 trains suddenly appear out of nowhere and suddenly be operating by CN along this route. Again, if there is some time advantages to operating through Chicago, wouldn't the -- any shippers out there suddenly fought to CN in terms of this more expedited route through Chicago?

We looked at that from five different
ways in terms of an economic analysis of, you
know, what type of business is out there?
Certainly, we saw a shift. Fuel prices were high
over the summer. We did see a shift towards the
general railroad industry. But now that prices
are low again, that shift has gone away.

So it's a, again, somewhat steady
business, but does see changes on that. We also
saw historical trends for flow in the Chicago
area. The general -- while Chicago is still very
important from the rail industry point of view,
the general trends of Class I is to go south
through the southern tier and bypass Chicago,
because of the time penalty of coming through
Chicago. So we did see that and just, you know,
how that national flow would affect CN traffic
levels here.

We then took a hard look at what we
called a bottleneck analysis. Again, the concern
was, you know, if certain segments along EJ&E
were experiencing a certain level of traffic,
would that traffic grow if suddenly all the, you
know, approvals were met and all of a sudden here comes 100 trains through Barrington, for instance.

That -- from the bottleneck analysis, we felt that the number of trains through the Joliet area would be the constraint and not in other sections through the EJ&E system. That was based on several factors. It was a qualitative analysis in terms of this bottleneck analysis.

It looked at things like the river crossing over the Des Plains River Bridge, a lift bridge, that operates at the discretion of the navigation vessels. 17 times a day up and 17 times a day down, single track bridge. Although it was constructed for two tracks, it has only got one track across it.

The approach spans are missing. There would be quite a bit of work needed to rehabilitate this bridge to any greater standard than it is now. So that was certainly a bottleneck that we looked at in terms of train flow over 10 miles an hour through that area,
through the east Joliet Yard.

The switching operations, again, that yard is built to switch cars and EJ&EE typically originates and terminates trains there. It doesn't operate through, so there is going to have to be some revamping there in terms of the ability to get the train flow through that east Joliet area.

So the bottleneck analysis tended to focus on this, what I call, southwest corner of the yard. We then put numbers around that into kind of a quantitative analysis we call the why not, it's the index, which is kind of a spreadsheet analysis that determines the number of minutes in a day and how long it takes a train to actually operate through that particular segment.

It also incorporates things like the lift bridge outage, the type of track, management system whether it is track warrant control or centralized traffic control, whether the industry is now on-line. Over there by Plainfield there
is a lot of industry there that EJ&E works three
to four hours a day spotting up and pulling cars
from those industry.

So the idea that, you know, you would
be able to run the volume of trains that CN is
contemplating would be right at its maximum
through that Joliet area. The numbers that
flowed through the rest of the yard were pretty
much, we felt, going to be at the maximum based
on this constraint in the Joliet area.

The last analysis we did was kind of
a computer simulation of the whole system using
software, dispatch software called RGC. It is
the same software that the Chicago CREATE people
use to funnel all the traffic improvements in the
Chicago area for the infrastructure plans that
they put together for that program as well.

The rail traffic control model took
into account the proposed changes of where the
Metra plans to increase frequency there say
through Barrington, through West Chicago. We
looked at how the Star Line would interact, you
know, between Joliet and Hoffman Estates. John
will talk about that a little bit later.

And then we also looked at the
proposed service in the southeast service through
Chicago Heights. While we looked at the average
number of train lengths in terms of what CN
proposes to run, but we also anticipated that CN
may run trains much longer than the average
length. So we threw in, you know, several 10,000
foot trains to see how they would operate through
there.

And the RGC software has a mechanism
inherent with it that it won't advance a train
that we also put the road crossing locations in
there and if the train exceeds the space between
the road crossings, it will hold the train back.

So I mean, it did show that the CN could operate
on the proposed number of trains by the
infrastructure as they offered in the
application.

I'll turn it back to John now.

MR. MORTON: Thank you, Bill. Next,
I would like to talk a little bit about safety and I would like to have Leif Thorson talk about that. For each one of these technical areas, we are going to try to describe what the issue is, what we -- the scoping process concerns were, what methodology we used, we employed, the analysis that we did in the draft EIS, conclusions from the draft EIS, the comments that were -- that SEA received on the draft EIS and concluded with, you know, the preliminary conclusions and the work that we are doing on the final EIS. And with that, Leif?

MR. THORSON: Thank you, John. And good morning, Chairman, Vice Chairman and Commissioner. My name is Leif Thorson. I'm the technical area lead for rail safety. And our group looked at the effects of the proposed action upon rail safety.

During our scoping process, seven major areas of concern were identified that we needed to include within the EIS. And these were infrastructure, the infrastructure of the EJ&E,
accidents or train-related accidents, hazardous material transport, which will be covered by Mr. Keller later on, passenger commuter rail safety, vehicular safety, pedestrian and bicycle safety and lastly, quiet zones.

I'll briefly touch upon each of these. Some of them more so than others and talk about what we did in the draft analysis and the comments that we received and an additional analysis that we did.

The first area which was infrastructure, you know, was the condition of the EJ&E capable to handle the traffic that the applicants are proposing to do?

And in short, we reviewed existing -- the existing infrastructure and found that the EJ&E, its track, its bridges and its right-of-way were fully adequate and maintained to a standard that would allow for the traffic that the applicants proposed. And that that track complied with the Federal Railroad Administration or FRA's track safety standards for Class IV
The second area we looked at was train accidents. And the accidents that we looked at were the same definition of an accident that the FRA uses when they define accidents. And that is any accident involving rail equipment that results in greater than $8,400 in property damage, results in personal injury or release of a hazardous commodity.

SEA staff reviewed the FRA's database and used a 5 year -- the most current 5 year window that we have, which would be years 2003 through 2007. So we looked at that database and the accident statistics that both CN and EJ&E had for train accidents and how those accidents compared with peers in that group, peers being Class I railroads for the CN or Class II or Group II railroads for the EJ&E.

Our findings were that CN had an accident safety record of 4.2 accidents per million train miles operated, which compared with 3.9 for the average of the Class Is. We thought
it was slightly higher, it was fairly comparable.

The EJ&E on the other hand had a safety record that was 18.2 accidents per million train miles operated, which compared with 4.9 accidents for the other Class II peers.

Our results or our analysis going forward, we looked at using Canadian National's safety record along with the 2015 planning horizon for trains. Our rationale for doing that was that the additional train traffic that the applicants were proposing was going to be more similar to the CN traffic that they operate now. And also, safety is more reflective of a corporate policy and cultures than the predecessor properties.

What we found in our analysis was that there would be an additional one expected accident per year on the combined system. That is to say that the EJ&E -- along the EJ&E, we would expect there to be -- go from 1.5 accidents per year to as many as 3. And on the CN Lines we would go down correspondingly with a net result
of an increase of 1 accident per year. We received numerous comments from public and from agencies that we consider CN's Canadian safety record as well as its U.S. safety record. There is a different method looking at rail safety in Canada than there is in the U.S. Whereas, in the U.S., the Federal Railroad Administration has jurisdiction over that. In Canada, it is Transport Canada.

They have similar roles, similar functions, but entirely different reporting systems as it relates to accidents. So a direct comparison between the two was not allowed. But what we did find and we have a rather detailed breakout in the proposed final -- or the final EIS is that CN's Canadian safety record is comparable to the U.S. safety record. And we did not think that inclusion of the Canadian safety record was necessary or required for our analysis.

The third item that we looked at was passenger and commuter rail safety. We want to
be able to show what the implications of the proposed action would be on passenger and commuter trains. The difference being primarily is that the commuters or the Metra trains, people going to and from work, and the passenger trains are primarily the Amtrak trains which is more a long distance haul.

What we -- what our analysis showed is that currently on the CN Lines there are a number of corridors that passenger trains and freight trains commingle either on the same track or on the same corridor. We did not have that situation along the EJ&E. Along the yard there are no shared corridors between passenger and commuter.

As a result of the proposed action, there would be significant reduction in the number of freight trains on those shared corridors, on the CN Lines, so we found no adverse effects. And in fact, we thought there would be a positive result to commuter and passenger safety by removing those freight
trains.

The next area that we looked at was vehicle safety and what was the effect upon the proposed action for cars, trucks, buses and other motorized vehicles at highway rail crossings? There are 178 public at-grade crossings along the EJ&E Lines. And 155 along the CN Line segments that we looked at.

This included all crossings on all of the EJ&E western properties that would be acquired by CN, as well as the CN Line segments inside of the arc and a distance of 5 miles outside of the arc. We thought in our study area that we wanted to include a buffer zone outside of the yard for trains that might be negotiating those connections.

We used the existing FRA's database, the FRA maintains the definitive grade crossing database that the states also use for their analysis. We started with that and then we field verified those crossing locations as to types of warning devices, number of tracks through there
and number of roadway lanes, so that we could update the accident prediction again using year 2015 numbers.

Using -- our preliminary conclusions running those accidents is that there will be a decrease from 11 accidents per year to 10 accidents per year on the combined system. It -- the numbers went from 4.5 to 6.0 along the EJ&E for an increase of 1.5 accidents per year and a decrease of 2.5 accidents per year inside the yard from 6.5 to 4.0 along the CN Lines.

This reduction is due primarily to the decrease in the number of trains on the CN Lines where we had higher ADTs or Average Daily Traffic.

The next thing we did with the vehicle safety is we looked at the high predicted accident frequency locations. Using past EISes before the Board, there is a -- there was a threshold or a target to look at accident rates of .15 per year or greater. What that equates to is one accident per 7 years.
A crossing that had a predicted accident of that rate was considered to be a high accident frequency location. Under the No Action scenario, we -- there were five locations, three of which were on CN Lines, two of which were on the EJ&E Lines.

Under the proposed action, there were four and they were all on the EJ&E Lines. Those four were Lake Street and Miller Street in Griffith, Indiana; Renwick Road in Plainfield; and Woodruff Road in Joliet. We have recommended mitigation measures that would address the Lake Street and Miller Street in Griffith, Indiana.

Renwick Road at the time we did our analysis had simply flashers. It has since been upgraded through normal processes to include gates, so that would -- that mitigation there is not required. And Woodruff Road is addressed within the community agreement between CN and Joliet.

The next area that we looked at was pedestrian safety. Pedestrian crossings, we
looked at pedestrian safety at pedestrian crossings. And those occur at legitimate and authorized locations along the line and they occur at one of two locations.

Predominantly, they are where the -- similar to a sidewalk, where it shares the same corridor as the roadway. And as such, when the state DOTs or the Illinois Commerce Commission, as stated in the case of Illinois, looks at those and determines the adequacy of the warning devices and the appropriateness of those devices, they take into account the pedestrian uses at that location as well.

The second type is those where we have trails or pedestrian only uses, where they are not sharing the same corridor. Those are under a slightly jurisdiction. Those are primarily considered private crossings that exist between agreement between the railroad and the agency having authority over the trail.

There are -- along the lines that we looked at, there are 16 -- I'm sorry, I'm going
to back up. We also identified what we considered trails. We tried to identify designated trails. And what we use was the Department of Natural Resources of both Illinois and Indiana maintain a GIS database and a listing of trails.

We overlaid those onto the system. There are 16 on the EJ&E and 19 on the Canadian National Lines that are pedestrian access along side of highway rail crossings. And there are three on the EJ&E and two on the CN Lines that are pedestrian only at-grade crossings.

SEA staff solicited input from the Federal Railroad Administration, the Illinois Commerce Commission and the DOTs of both Illinois and Indiana for guidance in policy on adequacy of the warning devices, the appropriateness of those for pedestrian safety.

And what we discovered was that none of those agencies had standards or policies that addressed pedestrian issues, similar to what they did for highway vehicles. Our recommendation for
mitigation was that a diagnostic review be done at these locations. And a diagnostic review is an on-site meeting between railroad, the agencies that have responsibility over those warning devices, the trail authority and other local users that may have, you know, special knowledge to provide input to that. And that those diagnostic reviews would identify and look at the appropriateness of the warning devices and if any modifications should be done.

Following release of the draft EIS, we received hundreds of comments regarding pedestrian issues as it relates specifically to school age children. Concerns were also given for student drivers, proximity of schools to the tracks and school bus safety. This is something that was covered in more general terms under the draft, but in the final EIS, we have expanded and added considerable language and some additional analysis to approach the school issue.

What we have -- what we did was using U.S. Census Bureau data, local GIS data, Illinois
and Indiana School Board of Education and National Catholic Education Association and local school boards and use of aerial photography, we identified the number of schools K through 12 that were located 2 miles from the line segments, 1/4 of a mile from the line segments and that were immediately adjacent to the line segments.

What our analysis showed was that there are 12 schools immediately adjacent to the tracks along the EJ&E, 14 along the CN Lines. Within a 1/4 of a mile of the track, there are 44 schools along the EJ&E Line segments and there are 118 along the CN Line segments. And within the 2 mile buffer, there are 344 schools along side the EJ&E Lines and 983 along the CN Lines.

So our preliminary findings were that although those problems and concerns may be exacerbated along the EJ&E Lines, they are offset by improvements along the CN Lines for those conditions as well.

Now, the applicants have offered voluntary mitigation that would specifically
address these issues of schools or at least some of these issues of schools and that would include Operation Lifesaver training, educational materials. And in the case of those schools and parks that are adjacent to the tracks, fencing.

The last item that I'm going to discuss here is that of quiet zones and the implication that the proposed action would have on those existing locomotive on quiet zones. The quiet zones are established by the communities using Federal Railroad Administration Rules and look at a safety risk analysis on the corridor.

There are seven existing -- there are six existing and one that was proposed at the time of the applicant's application and five of those were along EJ&E Lines. Two of those were along CN Lines. Our analysis looked at again the year 2015 and using the FRA's risk calculator, we looked at the proposed action and what affect it would have, if any, on those communities ability to maintain the quiet zone.

What we found is that only one quiet
zone, that in the City of Barrington, was likely
to fall out of compliance as the proposed action.
And we have proposed mitigation that would
require the applicants to maintain the
Barrington's quiet zone as part of that.

And I think that concludes mine.

MR. MORTON: Thank you, Leif.

MR. THORSON: Um-hum.

MR. MORTON: The next issue that we
would like to talk about is traffic delay in
emergency response. If you remember, the graphic
that Stephanie showed you, those are the two
issues that received the greatest number of
comments. To talk about the analysis that we did
is Mr. John Lazzara.

MR. LAZZARA: Thank you, John. Good
morning, Mr. Chairman, Mr. Vice Chairman and Mr.
Commissioner. As John mentioned, my name is John
Lazzara and I'm a transportation planning
engineer. And I am the technical lead for the
transportation analysis as well as the emergency
services analysis that we will talk about in a
I would like to start off with the transportation analysis. Many roadways within the study area currently experience vehicular traffic congestion without the influence of train operations. This trend continues to grow each year. Transportation effects at highway rail and crossings is a primary concern and is directly related to train operations.

The proposed actions effects to the transportation system involve delay and mobility issues, both on the local and regional level. The objective of this EIS is to identify the effects related to the change in train operations for the proposed action.

During the scoping process, comments noted concerns that have been consistently expressed throughout the EIS process. These issues included average daily traffic, also referred to as ADTs, that will be used during the analysis, the growth rates to be applied to project future traffic volumes and a planning
horizon to be considered as Mr. Burgel mentioned earlier.

The analysis started with data collection, which was initiated in December of 2007. SEA used the Federal Railroad Administration database to develop an inventory of crossings. This information was supplemented by data sources such as state and county DOTs and various municipalities to develop existing traffic volumes.

We also did field verifications of all the at-grade and grade separated crossings along the EJ&E and CN Lines. Crossings in line with the change in trains were initially examined which included 112 at-grade -- public at-grade crossings along the EJ&E Rail Line and 134 crossings along the CN Lines.

When we started to establish our existing base condition for traffic data, we obtained any available traffic data on a daily basis. The daily information was available for years ranging from 1980 through 2007. SEA
developed growth rates that we applied to this traffic information to grow those existing numbers up to a base condition for 2007.

In growing the traffic volumes, SEA looked at historical traffic data, population statistics and contacts with local agencies to develop county level growth rates to use for the projections. SEA then applied these same county level growth rates to project traffic through our planning horizon which was 2015.

Next, SEA looked at the ADT threshold for analysis for a grade crossing. SEA considered initially 5,000 vehicles per day at a crossing if the at-grade crossing had at least 5,000 vehicles per day, it would be considered in the analysis.

Through the scoping process, there were many comments on this threshold and SEA reconsidered this and the threshold was lowered to 2,500 vehicles per day. This provided a conservative approach incorporating more crossings into the analysis.
VICE CHAIRMAN MULVEY: 2,500 vehicles a day in both directions?

MR. LAZZARA: Correct.

VICE CHAIRMAN MULVEY: Thanks.

MR. LAZZARA: Total, in total. The crossings that were based on this ADT threshold, the crossings for the EJ&E resulted in 87 crossings meeting that threshold and 134 crossings along the CN Line.

Delay mobility issues were then considered. The existing roadway network is congested today and SEA needed to consider local and regional effects to account for travel between municipalities as well as within the communities themselves. SEA considered several factors in its calculations.

SEA used the average number of trains, average train speed, average train length and the average daily vehicular traffic on the roadways. To determine if crossings were substantially affected, SEA established three threshold criterias of significance for the
The first criteria was level of service at the crossing. If the level of service at a highway rail at-grade crossing was a Level of Service D or better in the No Action Condition and it dropped to below Level of Service D in the Proposed Action Condition, the crossing was determined to be substantially affected.

The second criteria was used -- that was used was from the Federal Highway Administration and that's the total delay in a 24 hour period. If this total delay, total vehicular delay, exceeds 40 hours or 2,400 minutes when collected over a 24 hour period, then that crossing was determined to be substantially affected.

The third and final criteria used was queue length changes. A queue length is where traffic backs up from an at-grade crossing and stacks up towards another intersection. It was decided that if a queue length backed up in the Proposed Action Condition and blocked a major
thoroughfare, which did not get blocked under the No Action Condition, then this also would be considered a substantial affect to that crossing.

SEA performed calculations for average delay per delayed vehicle, average delay for all vehicles, total delay for all vehicles, total blocked crossing time and the change in queue lengths. In general, the draft EIS concluded that there would be negative effects from increases in vehicular delays at highway rail at-grade crossings along the EJ&E Rail Line and positive benefits from decreases in vehicular delay at crossings along the CN Rail Lines.

In the draft EIS, SEA concluded that there were 16 crossings substantially affected. Two of these crossings were due to level of service criteria and they were located in Joliet, Illinois. The other 14 crossings were spread throughout the study area and they were due to total delay, increased queue length or a combination of both conditions.

One of these 16 crossings did not
warrant consideration for mitigation. It was Diamond Lake Road in Mundelein, Illinois. This crossing was considered substantially affected in the draft EIS due to queue length increases, but a dedicated right turn lane allows the blocked movement to still occur. So this, SEA determined, mitigation would not be warranted.

Mitigation presented in the draft EIS was a range of options for the public to consider. These options ranged from voluntary mitigation to roadway modifications to grade separations as well as other options. SEA requested input from the public on these strategies.

During the draft EIS comment period, many people commented on issues such as average daily traffic volumes that were used in our calculations, the growth rate factors that were used to develop our traffic projections, both comments were indicating that the growth rates were too high and too low.

Commenters noted that the threshold
criteria for determining substantial effects was greater than used in past cases. Commenters noted that there was concern about proximity of signalized intersections to at-grade crossings and that there were not enough substantial effects noted in the draft EIS.

Comments relative to the mitigation really focused on grade separations. The public felt that there was not enough grade separations proposed and there was not enough mitigation in general for transportation effects.

In the final EIS analysis, several factors were updated. There was a change in average daily traffic relative to new information becoming available. SEA researched information on Illinois DOT website, contacted the Illinois and Indiana DOTs, contacted counties and municipalities and received information through the draft EIS comment period on new daily traffic information.

SEA verified this information and, where appropriate, used it in the updated
analysis. Train operations also were updated. The applicant modified a connection configuration at Madison, Illinois and they also improved the double tracking at least in Mundelein, Illinois. With these improvements, they increased the train speeds which affected the operating speeds and the delay associated with those -- with several crossings in those areas.

One new highway crossing along the EJ&E Rail Line was also added to the analysis, because with updated 2015 traffic volumes, this roadway Keating Drive, 87th Street near Aurora, Illinois now met the 2,500 vehicles per day threshold.

Now, I would like to talk briefly about the preliminary conclusions found in the final EIS. SEA's preliminary analysis shows that 13 highway rail at-grade crossings are currently considered substantially affected. Starting with the 16 substantially affected crossings in the EIS, two were eliminated due to train operation changes. This was at Allison Road and Cicero
Avenue in Madison, Illinois. Both of these locations, the train speeds increased, the total delay decreased below the substantial affected criteria level.

Next, there were three crossings that were eliminated from being potentially substantially affected due to the ADTs being updated. In this case, the ADTs were reduced and this reduced delays and queue lengths and some of the queue length conditions are still substantially affected, but they are also -- they happen in the No Action Condition, which would indicate that there were preexisting conditions.

And finally, there were two crossings that were added to the potentially substantial affected list, because the ADTs were updated and increased. This affected the queue lengths at those crossings.

In the draft EIS, the EJ&E Rail Line crossing at Illinois 6083 in Mundelein, Illinois showed a total delay above the 40 hour total vehicular delay threshold. However, it was not
identified as a substantially affected crossing, at that time.

The applicant modified their double track connection at least and updated ADT information was used. At this crossing, this increase -- the train speed, the train operating speed at several crossings, including the Illinois 6083 crossing. The updated analysis shows that the total delay for the Illinois 6083 crossing now falls below the 40 hour total delay threshold is not considered substantially affected.

The preliminary analysis in the final EIS indicates that mitigation is proposed for eight crossings. SEA is considering, at this time, two crossings that are considered under the applicant's agreement with Joliet, it's Woodruff Road and Washington Street in Joliet, Illinois, two grade separations proposed at Ogden Avenue and Aurora, Illinois and Lincoln Highway in Lynnwood, Illinois and four crossings that SEA considers potentially warranting traffic advisory
signs indicating do not block intersections to address queue length issues.

These warning signs would be posted at Old McHenry Road in Hawthorne Woods, Illinois, Main Street in Lake Zurich, Illinois, Huff Street in Barrington, Illinois and finally Plainfield-Naperville Road in Plainfield, Illinois.

Of the 13 crossings -- 13 crossings substantially affected, the remaining 5 are related to total vehicle delay issues and in one case an increased queue lane where a blocked movement can still occur with the existing dedicated right turn lane.

Traffic advisory signs were not deemed to be effective mitigation for total delay effects. Also, grade separations were not determined to be appropriately based on specific level of effects at these highway rail at-grade crossings.

Thus, in SEA's preliminary analysis, mitigation is not proposed for the 5 remaining crossings, which include Diamond Lake Road in
Mundelein, Illinois, Montgomery Road in Aurora, Illinois, Western Avenue in Park Forest, Illinois, Chicago Road in Chicago Heights, Illinois and Broad Street in Griffith, Indiana.

As mentioned before, Allison Road in Mundelein, Illinois and Cicero Avenue in Madison, Illinois are no longer considered substantially affected due to increased train speeds associated with the applicant's improved double track and connection configurations.

As an additional recommendation condition, SEA, in a preliminary analysis, believes it is important for the applicant to follow through with the revised double track in Mundelein and the connection at Madison in order to decrease -- increase train operating speeds and decrease the delay.

As a final preliminary condition, SEA also recommends that the applicant consult with the Illinois Commerce Commission and the Indiana DOT to identify signalized intersections in close proximity, approximately, 1,000 feet to at-grade
crossings.

That concludes the transportation analysis. I would like to move on to the emergency service analysis. Key issues within this category were the impacts of the additional train traffic and the response times of emergency service providers, such as ambulance, fire and police personnel.

The commenters' concerns were consistent with these key issues that I just mentioned about the effect of congestion and delays at highway rail at-grade crossings on emergency service response times.

This evaluation considered the proximity of each facility to the rail line, locations of all the crossings and the number of highway rail at-grade crossings. SEA located all emergency service providers along the EJ&E and CN Rail Lines and evaluated those that were located within 2 miles of the EJ&E Rail Line or CN Rail Line of a zone where emergency service providers have a higher probability of interacting with
rail operations because of the impact of traffic
delays and the limited number of available routes
or they were located within 2 miles of at least
one public highway rail at-grade crossing and 1
mile away from a public grade separated crossing.
Again, limiting their access to get to the other
side of the tracks.

And the final criteria was they were
located outside a reasonable distance of a
similar facility on the opposite side of the rail
line. Interviews were conducted with various
service providers about their dispatch procedures
emergency service routes, communication
technology, the number of emergency vehicles
crossing per day and finally the procedures
currently followed when an emergency vehicle
arrives at a blocked crossing.

SEA assumed a response time for many
emergency service providers is within the 4 to 6
minute limitation time window set forth by the
National Fire Protection Association. So an
increased delay of 30 seconds or more could be a
serious effect.

As additional screening criteria to identify which facilities may experience potentially substantially affected crossings as a result of the proposed action, SEA analyzed the highway rail at-grade crossings and used two criteria: An increase of 30 seconds for the average delay per delayed vehicle or an average or an increase of 30 minutes in total blocked crossing time.

This took into consideration the effect an emergency vehicle might have to wait in the average delay and also the frequency that it might occur at a blocked crossing.

In SEA's draft EIS analysis, SEA analyzed 104 police stations, 239 fire stations and 41 hospitals for potential impacts. SEA determined that impacts on police response would not be based on the location of facilities, because police are typically deployed throughout the community.

11 fire and emergency medical service
providers near the EJ&E Rail Line would experience potentially substantial effects as a result of the proposed action. Of these 11, 9 were fire stations and 2 were emergency medical facilities.

Mitigation was presented in the draft EIS as a range of options that SEA was considering for effects to emergency services. Similar to the transportation mitigation, SEA requested public input on these options. These options ranged from applicant's voluntary mitigation to enhanced communications in relocating emergency service facilities.

During the draft EIS comment period, emergency services was the No. 2 issue that was identified through comments. Many people cited specific personal examples of trains historically blocking crossings and affecting the fire protection and ambulance service. Even more people were -- expressed concern of future potential delays.

During the comment period of the
draft EIS, SEA received comments from the public identifying several other emergency service facilities as having the potential to be substantially affected. In response to the comments, SEA screened all of the facilities suggested in the communities and identified 10 other emergency service facilities that warranted additional analysis.

In SEA's final EIS analysis, SEA conducted additional analysis to determine if these facilities would be potentially substantially affected by their proposed action. In the preliminary findings, SEA determined that 3 of these 10 facilities would be potentially substantially affected and they include Advocate Good Shepherd Hospital in Barrington, Illinois, West Chicago Fire Protection District Station 1 and West Chicago Fire Protection District Station 3, both in West Chicago, Illinois.

Now, I would like to talk about the preliminary conclusions of the EIS. The preliminary findings indicate that 14 potentially
substantially affected emergency services would result from the proposed action. This includes the 11 facilities identified in the draft EIS analysis, plus the 3 additional facilities that I just mentioned through the updated FEIS analysis.

SEA’s preliminary mitigation considerations include one potentially substantially affected emergency service facility that was found to not warrant mitigation. St. James Hospital in Olympia Fields has three grade separations located within a 3 mile radius and thus the access is less affected by increased train operations and does not warrant mitigation.

This leaves 13 potentially substantially affected emergency service facilities that were found to warrant mitigation. In determining appropriate mitigation for the affected facilities, SEA considered several factors, including the following: Access to and from the emergency service providers, the existing service areas and emergency response operations, the applicant's voluntary mitigation
and public input.

The -- in the applicant's voluntary mitigation, one of the mitigations, voluntary mitigations, the applicant -- includes the applicant notifying emergency service dispatching centers when an at-grade crossing would be blocked by a stopped train and may be unable to move for a significant period of time.

This voluntary mitigation also commits the applicants to work with communities towards improving communication by providing items such as dispatching monitors for real time train locations when requested.

In the preliminary review of mitigation, as an additional analysis -- additional mitigation condition, SEA proposed closed captioned TV cameras to provide real time video monitoring, information on train operations, for 12 of the 13 substantially affected emergency service facilities.

The cameras would be positioned at strategic highway rail at-grade crossings, which
would provide train operational information to emergency service dispatchers for each of the affected facilities.

The 13th emergency service facility is in the Joliet -- is the Joliet Fire Department Station No. 8 in Joliet, Illinois. Mitigation for this facility is covered by the applicant's agreement with the City of Joliet that no further mitigation is proposed in the preliminary analysis.

This concludes my portion of the briefing. Thank you.

MR. MORTON: Thank you, John. I would just like to expand on one of the items that John talked about. In the draft EIS, SEA requested that the public comment on a number of things including the appropriate percentage that the applicant might commit to a grade separation project.

SEA received a lot of comments, a lot of discussion on that. I think as SEA pointed out in the draft EIS, that grade separations, you
know, primarily benefit the public. They are also a function of preexisting conditions as well as a result of the transaction. For the final EIS undertook an examination of kind of the regional contribution of the transaction to total delay.

It would contribute about 15 percent to total delay and SEA is proposing that the applicants would contribute 15 percent to a grade separation which is more than their traditional share of a grade separation.

With that, I would like to turn over to talk about the noise analysis and would like to have Tim Casey step forward and discuss our analysis on noise.

MR. CASEY: Thanks, John. Good morning, Chairman Nottingham and Vice Chairman Mulvey and Commissioner Buttrey. I'm Tim Casey. I'm the technical lead for the noise and vibration analyses and I want to thank you for the opportunity to brief you on SEA's studies.

The basic issues that SEA addressed
are -- is a potential for noise and vibration to increase as a result of trains rolling down the track, a potential for locomotive horn noise increase at-grade crossings and any potential for vibration changes.

During the scoping period, we received comments touching upon all those subjects in addition to concerns about potential vibration at Fermi Lab and potential changes to vibration at Fermi Lab.

SEA used standard noise and vibration analysis methods that are consistent with the methods that have been used on prior Board decisions and they are also consistent with the methods used to assess freight train noise and vibration nationwide under current practices.

Using the Board's thresholds for noise analysis that exist in the regulations, the Environmental Regulations, SEA determined that almost every segment on the EJ&E arc is-- was predicted to experience a traffic increase that required a noise analysis. Almost every segment
on -- was analyzed by SEA.

In addition, both the Kirk and East Joliet Rail Yards were projected to experience activity increases that trip the thresholds for noise analyses, therefore, they were also included in the work we did.

SEA expressed a desire to evaluate both the effects and also the benefits of the proposed action, so we performed noise analyses on the 5 CN Lines that radiate inside the arc as well.

The Board's environmental rules require that the noise analysis express the results using the day/night noise level, that's abbreviated LDN. The day/night noise level, the LDN, is a descriptor that is actually calculated. It is not instantaneously measured. It doesn't represent noise levels that are experienced on a 24 hour basis continuously.

Rather, the LDN takes average hourly noise levels for 24 continuous hours and it applies a 10 decibel penalty to the nighttime
noise levels. The LDS is a calculated noise parameter that has a penalty assessed to nighttime noise periods. And in that matter, it is useful for evaluating community response to noise, because people generally don't like noise at night, whereas they have a higher tolerance for it during the daytime.

It is important that you understand that the LDN does not represent continuous noise levels for an entire 24 hour duration nor does it represent instantaneous noise levels during the train pass-by.

From a practical perspective, it is also important to recognize that train noise levels rise and fall as a train pass-by event occurs. And after the pass-by ends and the train is gone, noise levels drop down to existing kind of background noise levels that presumably are acceptable in the project area. And really all the proposed action has the potential to do is to increase the frequency of train pass-by events.
Let's see, I'm going to skip over that concept. SEA measured noise levels and vibration levels throughout the project area. SEA performed 24 hour noise measurements at 41 locations. The sound level meters continuously process data, stored it every hour for continuous 24 hours. That information allowed SEA to determine the LDN, the day/night noise level at these 41 locations spread roughly equally throughout the project area.

SEA also measured noise from train pass-by events. Those measurements were served a different purpose. That allowed SEA to identify a noise emissions term for a locomotive and a rail car and for locomotives and rail cars operated by CN, operated by the EJ&E and operated by any other freight carrier active in the overall project area.

These pass-by measurements, that data was used in the model, the mathematical model that we constructed to assess future noise levels. So in that way, we kind of custom
tailored our model to the project area by using these project specific noise emission terms that SEA measured.

SEA also measured vibration continuously for 24 hours at a number of locations in the project area. And similar to the work that we did in the noise analysis, SEA measured vibration specifically from train pass-bys and also created vibration events and measured the propagation of that controlled vibration event through the soil.

And the combination of those propagation test measurement data, the -- and the pass-by data, vibration data, it allowed SEA to assess future vibration levels associated with the proposed action. SEA also performed a very detailed ground vibration analysis at Fermi Lab.

The noise model that SEA constructed used equations that were published by FTA and FRA as recently as 2005 and 2006. Additionally, SEA implemented the FRA locomotive horn noise model to assess horn noise at public grade crossings.
We performed a remarkably detailed analysis of locomotive horn noise at every public grade crossing. The results of that led to the creation of site specific unique locomotive horn noise contours at every over 100 public grade crossing in the project area. And that is a level detailed and I don't think many people expect it.

Similarly, SEA assessed vibration, the vibration assessment used in current FTA methods and at Fermi Lab in addition to the FTA methods, we used site specific geologic data that was provided by Fermi Lab and also a finite element analysis model that had over 1,000,000 element points in it. It was a very rigorous and detailed analysis.

Results of all those analyses were plotted using GIS technologies and digital area photos. And communicated to the team and also in figures in the appendix of the draft EIS as noise and vibration contours. And you can see where noise and vibration levels were projected to
reach threshold levels by identifying -- by visual inspection of those contours.

So the draft EIS includes SEA's noise and vibration results. Based on train pass-by measurements, SEA determined that CN trains actually are quieter than other trains that operate in the project area. However, the projected increase in train traffic results in an overall increase in average hourly levels and therefore the LDN, the day/night noise level is projected to increase also.

Under existing conditions, SEA's analysis identified roughly 4,800 noise effects, 2,800 of them were on the existing CN Lines and about 2,000 of them are on the EJ&E, that's under existing conditions. Under the proposed action, SEA's analysis determined that, approximately, 3,000 noise effects are predicted to occur and those are largely on the EJ&E and areas adjacent to the EJ&E.

Under the proposed action, SEA also determined that there is a potential net benefit,
a net reduction of about 2,700 noise effects on
the CN Lines. And in the draft EIS, SEA provided
a simple comparison of the projected effects
under the proposed action and the projected
benefits and that results of that simple
comparison showed a net increase of about 300
noise effects under the proposed action.

In this simple comparison, we received some comments during the comment
response period. It is important to note that
this simple comparison is a convenient way to
assess both the benefits and the effects that
neither diminishes the merit nor the consequences
of a proposed action. And it also provides an
opportunity to look at things on both a local and
a regional scale, which fulfills the full
disclosure requirements of NEPA.

SEA also identified, approximately,
1,600 noise effects inside a noise contour that,
for lack of a better term, will call up the noise
mitigation contour. It was the 70 DBA LDN
contour and we will talk a little bit about that
in just a few minutes here.

SEA's vibration analysis determined that vibration -- ground borne vibration levels associated with CN trains, EJ&E trains and other trains that operate in the greater project area, do not differ materially. So that the analysis results in the draft EIS suggested that we don't expect vibration levels to change if more CN trains operate on the EJ&E, because vibration levels right now are comparable.

Vibration levels from CN trains, EJ&E trains and other trains that operate in the project area are comparable. So under the proposed action, we don't expect there to be a net increase in vibration associated with train pass-bys.

And that's kind of an important concept to embrace. Unlike noise which for the purposes of our work here on the project, which is assessed on a cumulative basis, vibration is only assessed on a per pass-by basis. It is not a cumulative assessment.
In response to the work that we published in the draft EIS, we received a number of comments that addressed concerns over the assessment of wheel squeal and whether or not it was adequately addressed. There was some feedback, some comments that suggested that the LDN descriptor itself is not fully understood, which is why I took a minute to try to explain what the LDN is.

There was some concerns that the--some comments that are model and methodology are outdated, you know, recognizing that they are based on 2005 and 2006 FRA and FTA methodologies, clearly they are not outdated. And that the mitigation threshold is too high. The mitigation threshold is based on prior Board decisions. And the Board is the only agency that has jurisdiction for the proposed action.

We disagreed with the comments -- with comments that suggest that that threshold is too high.

But in response to the comments on
the draft EIS, SEA refined the noise and vibration analyses. SEA performed a very conservative assessment of wheel squeal. Wheel squeal is somewhat of a moving target in that it has potential to occur on sections of curved track where you may not have expected it to occur and it may not occur in areas where you probably would have expected it to occur.

To address that well of uncertainty, SEA chose a very conservative criteria for when to assume wheel squeal was going to occur. Very conservative criteria for assessing the effects of wheel squeal. We had a conservative over-assessment of the number of effects due to wheel squeal. But in this manner, we ensure that we didn't under-predict it and there is no potential that we under-predicted it in the project area.

Although it is kind of a moving target, it can be controlled using very simple track lubrication techniques, which balance the over-conservative assessment, because it is very easily controlled.
SEA also modified the noise and vibration analysis to more complete assess noise and vibration effects at crossover gaps in the track where the wheel flange has to cross over a track to allow the train to move on in a different direction. At that gap, when the wheel rolls over the gap and contacts the track on the other side of the gap, it creates additional noise and additional vibration.

We refined our assessment of those effects for the draft environmental -- for the draft EIS. We also enhanced the noise and vibration analysis that was performed for the connections to more thoroughly assess noise and vibration at those locations. We revised our assessment of noise from idling trains and SEA also provided an assessment of cost-effectiveness of potential noise mitigation measures and that was based on criteria used by the Illinois and Indiana DOT to assess and abate highway noise.

Now, the preliminary analysis results, preliminary conclusions in the current
version, the working version of the final EIS, SEA's noise analysis identifies a total of 5,100 effects under existing conditions and that's a combination of effects on the CN and effects on the EJ&E under existing conditions.

Under the proposed action SEA's noise analysis results indicate, approximately, 5,800 noise effects. So we are seeing an increase of, approximately, 700. That is a shift largely from the 5 CN Lines to the EJ&E corridor. It is also dominated by a very conservative wheel squeal analysis. Again, that's a phenomenon that's very easily controlled.

The increase is also dominated or I should say a large portion of the increase in noise effects is also due to the assessment of noise at crossovers and also from idling locomotives. The idling locomotive analysis is also very conservative in that we, essentially, assume that all the locomotives that could idle in the entire duration, that they could be idling at any given day, could occur in any where that
there is space for them to be.

Where in reality, they won't be everywhere at the same time throughout the day. They will just idle in one location and then move on. So we have conservatively over-predicted the noise effects of idling locomotives as well.

Similarly, SEA's estimate of the number of effects inside that mitigation contour has increased up to about 900.

So in summary, the increase in the noise analysis results are largely attributable to these conservative over-assessments of noise from wheel squeal and idling locomotives and also from our revised assessment crossovers. As a result of that refinement in the analysis of crossovers, the vibration results actually show a decrease in the number of vibration effects.

This is not intuitive, it is explained, I think, clearly in the preliminary working version of the draft of the final EIS. I'll explain it to you very briefly. SEA did not have very accurate locational information for
crossover at the time the analyses were performed in support of the draft EIS.

To reflect the uncertainty in the actual location of those, SEA used a rectangular-shaped contour. Now, the crossover themselves were the -- the vibration from the crossover themselves were modeled as point sources, where the energy radiates equally in all directions, so that would have been a circular contour.

Because of the uncertainty in the actual location, we drew a rectangle around the area that we knew contours were in or that we thought contours were proposed to be in. For the final EIS, we took great pains to refine and locate the precise location, identify the precise location of existing and proposed crossovers. That allowed us to remove the rectangular contour and present in our analysis only the circular point source contours. Thus, we cover a much smaller area with the vibration contour at crossover and correspondingly the number of effects decrease.
Now, additional preliminary conclusions also identified opportunities to reduce noise. In fact, the applicant proposed voluntary noise mitigation measures to work with affected communities and reduce train noise levels to as low as an LDN of 70 DBA. SEA also recommended or we have preliminary recommendations to implement track lubrication measures in areas where communities identify wheel squeal has been occurring and we are also kind of -- a preliminary recommendation also addresses working together with Fermi Lab and notifying Fermi Lab when operational changes have potential to occur and effect ground borne vibration levels.

And that concludes my briefing.

MR. MORTON: Thank you, Tim. I would briefly like to talk about passenger and commuter rail activities. Mr. Thorson talked some about safety-related issues associated with passenger rail. I would like to talk about three other issues that came up during the scoping process
that were addressed in the draft EIS.

And, you know, we were addressing in the final analysis. And that is Amtrak and Amtrak's use of the St. Charles Airline. The Metra and Metra's proposed new Star Line Service and the Northern Indiana Commuter Transportation District or NICTD's future West Lake corridor -- the Amtrak issue came up first during scoping.

CN's proposed operating plan would take all its traffic off of the St. Charles Airline leaving Amtrak as the sole occupant. And Amtrak expressed concern that because they would be the sole occupant, they would be expected to shoulder the maintenance and the operations cost or that, at some point in time, CN would come to the Board seeking to abandon the St. Charles Airline.

Prior to the publication of the draft EIS, CN committee to Amtrak to allow to remain on the St. Charles Airline and capped its costs at the current day costs just subject to inflation. That was discussed in the draft EIS. I think the
final EIS preliminarily, you know, concludes that
that condition should address Amtrak's concerns
with the St. Charles Airline.

The Star Line is a proposal by the --
by Metra to introduce a new commuter rail
service. The service would start at O'Hare
Airport and run, you know, the I-90 corridor out
to about Hoffman's Estate at which point it would
turn to the south and travel on the EJ&E corridor
down to about the Joliet area.

The -- in the draft EIS, you know,
for the draft EIS CN took a lot of discussions
with Metra, reviewed the current concepts for the
Star Line, evaluated SEA's -- CN's operating plan
and concluded that the proposed transaction would
not preclude the implementation of the Star Line
on that corridor.

We received a lot of comments on the
draft EIS and specifically on that conclusion
that indicated that they disagreed with the
conclusion, that they felt that the proposed
transaction would kill the Star Line or make it -
- add cost to it such that it would no longer be reasonable or would make the Star Line feasible.

For the final EIS, we have gone back and looked at all the data, the preliminary information that Metra has developed for the Star Line. They are currently in their preliminary engineering phase. They don't really have a defined concept, so we identified four different scenarios under which you could implement a Star Line service on the EJ&E Rail Line.

We examined all the proposed infrastructure improvements that would be required to implement the Star Line on the EJ&E and all the things that Metra has indicated that they were looking at in terms of infrastructure upgrades on the EJ&E. We evaluated CN's operating plan and all of CN's proposed improvement to that section of track between Hoffman Estates and Joliet that they are proposing.

We ran the RTC model that Mr. Burgel talked about earlier looking at the various
operations with various train levels on it. And our preliminary conclusions are that, you know, the Star Line certainly doesn't preclude the implementation of the Star Line. In some cases it could add as much as 2 to 8 percent to the cost of that section of the Star Line for the additional infrastructure that would be needed to run both the passenger rail and the freight traffic on that.

The third issue is the Northern Indiana Commuter Transportation District's proposed West Lake corridor. For the draft EIS, SEA looked at the planning that had gone on to the West Lake corridor and what NICTD, you know, efforts were today and concluded that that potential new start was far enough out that SEA didn't need to consider it in the draft EIS.

We received a lot of comments from the public and from various agencies on that conclusion for the final EIS. We have gone back and reassessed that, have looked at all of NICTD's plans, have looked at the potential
effect that the transaction might have on NICTD's West Lake corridor. And the preliminary conclusions is that there would be no adverse effect and their could potentially be a beneficial effect by taking some traffic off CN Rail Line segments that NICTD would plan to use.

And with that, I would like to invite Kevin Keller up to talk a little bit about hazardous material transportation analysis and our water resource analysis.

MR. KELLER: Thank you, John. Mr. Chairman, Mr. Vice Chairman, Mr. Commissioner, I'm the technical lead for the hazardous materials transportation, hazardous waste sites areas of the EIS. And I would like to brief you on what we have done in our preliminary conclusions that we have reached so far.

The EIS discusses the potential environmental impacts of the proposed transaction on public health and safety with respect to the transportation hazardous materials, including changes in the types of hazardous materials and
quantities transported or rerouted, the nature of
the hazardous materials that are currently being
transported or are proposed to be transported,
the applicant's safety practices and protocols
based on a review of our Safety Integration Plan,
which by the way just recently did get FRA
approval, the applicant's U.S. safety data on
derailments, accidents and hazardous material
spills, the applicant's emergency response plans
and resources to address accidental spills and a
probability of increased spills and releases for
the proposed action given railroad safety
statistics and applicable FRA requirements.

In order to evaluate the hazardous
materials transportation changes due to the
proposed action, SEA performed the following
assessments: We verified the historical data
provided by CN and EJ&E on hazardous material
shipments. In addition, we analyzed potential
safety impacts of the proposed rail operations
related to hazmat transport within the study
area.
We evaluated all rail lines potentially controlled by the EJ&E and CN in the area to identify those rail line segments and rail yards that would experience an increase in the volume of hazardous materials transported as a result of the proposed action.

We evaluated the safety effects of transporting hazardous waste and materials by rail along the proposed routes associated with the proposed action using the applicant's and industry's data sources. We evaluated historical releases of hazardous materials by CN and EJ&E, system-wide and locally, and other rail shippers in the study area.

We also reviewed the FRA's safety database and the pipeline of hazardous materials and substances agencies, hazardous materials incident reporting system for entries involving CN and EJ&E within the study area for the most recent 5 year period. We made a preliminary determination of routes that would be designated as key routes as defined by the Association of
American Railroads.

We assessed local communities emergency response capabilities to address the hazmat spill or release, including an evaluation of local emergency response plans and local emergency planning communities. We calculated such parameters of annual hazardous materials car miles, both total and per rail segments, system-wide averages for derailments, release rates per mile and other statistics.

And finally, we calculated the probability of a release of hazardous materials per rail segments, including the frequency of release and the consequence of release.

In the draft EIS, we presented the following findings. Hazardous material releases had historically been and should continue to be remote due to existing regulatory requirements and best management practices that prevent circumstances that might otherwise result in a release and regulations and procedures that typically lead to prompt responses by the
appropriate authorities.

There would be a potential increase in the possibility of a release due to the increased train miles resulting from the longer route and more car loads of hazardous materials transported on the EJ&E Rail Line.

However, the possibility of a hazardous materials release would remain remote due to regulatory and other safeguards already in place. There would be a substantial reduction in the risk of a release on the CN Rail Lines as a result of the proposed action due to the downward redistribution of rail traffic.

In addition, the CN Rail Lines were located in more densely populated areas than the areas along the EJ&E Rail Lines, thus presenting a positive impact for overall exposure to hazardous materials.

Other considerations to take into account include the no action alternative, in which hazardous materials take more time to move through Chicago on CN Rail Lines than they would
under the proposed action, thus continuing to potentially expose people in the vicinity of the CN Rail Lines to risk for a longer period of time.

And also, the same hazardous material classes would be proposed to be carried on EJ&E Line are the same as those currently being transported on the EJ&E Rail Line. Local emergency responders are already trained and equipped to respond to such incidents with these materials.

The following request and suggestions were received after publication of the draft EIS. Commenters requested that EIS address the potential environmental impacts to the proposed acquisition in further detail, including a discussion of possible accidental release, spill management capabilities and the presence of contaminated sites along the EJ&E Rail Line.

Commenters also suggested to include CN's safety record in Canada as well as the United States.
Commenters suggested assessing alternative routes for hazardous material shipments.

In order to respond to these comments in the final EIS, we will provide a table listing hazardous commodities proposed to be transported as a result of the proposed transaction based on AAR classifications. CN did provide us, in the application, a very detailed analysis of the hazardous materials that they will be transporting on the proposed action.

However, that information is deemed to be secure information, cannot be disclosed in its present form. What we did to mitigate that in the final EIS is we will prepare a summary table that breaks down those commodities per AAR Hazard Classification groupings. So that data will be summarized and presented.

We will also provide a further description of potential and response procedure releases of hazardous materials in different environments and in different situations in the
final EIS. We will provide a description of CN safety record in Canada. You heard Mr. Thorson earlier talk a little bit about it. We will also include in the final EIS some discussion on the hazardous materials records in Canada for CN.

We will also provide a description of the proposed final FRA and Department of Homeland Security rule makings on transportation security of hazardous materials. As you may know, those newly released regulations will require all rail carriers of hazardous materials to perform an analysis of alternative routes of which a hazardous material could be transported and to do a comparison of those routes and to select the most appropriate route for transportation.

The preliminary conclusion of the hazmat transport evaluation is that although train accidents resulting in the release of hazardous materials are remote, increases in freight rail traffic along the EJ&E Rail Line would have a corresponding increase in the risk of hazardous material spills.
The freight currently being transported by EJ&E, as I told you earlier, includes hazardous materials and the same classes of hazardous materials will be transported if the proposed action is approved. Therefore, SEA has reached a preliminary conclusion that proposed action does not create any new threats.

Adverse impacts on the proposed action take the form of increased probabilities for spills and releases, although those probabilities are still remote. As explained in the draft EIS, if a spill of a hazardous material were to occur, CN is required by federal and state regulations to report and respond immediately to that incident.

SEA has also determined that CN has appropriately trained and equipped the responders to provide effective and timely response in the event of a release. As mitigation for the possibility of a spill or release of hazardous materials, the applicant has proposed 13 voluntary mitigation measures, including the
training of local emergency providers and committing to integrate the EJ&E system into their hazardous materials management and spill response policies and procedures.

SEA has recommended an additional two mitigation measures to ensure that local communities are receiving the appropriate support and communications from the applicant.

That concludes my briefing on the hazardous materials transport area. I would also like to brief you on the water resources area, if I may.

Railroad operations and construction activities can have adverse impacts to water resources and water quality. For the water resources area, we evaluated the potential effects of the proposed transaction on surface and ground water quality as well as on flood plains, local drainage systems and wetlands.

For this evaluation, we identified and assessed existing surface and ground water resources in the vicinity of the EJ&E Rail Line,
particularly in areas where the applicant has proposed construction activity. We assessed whether potential impacts from the construction of proposed rail connections, sighting extensions and installation of double tracks would be consistent with applicable federal and state water quality standards.

We assessed whether permits may be required under the Clean Water Act for any construction of proposed rail connections, sighting extensions and installation of double track and whether any such projects have the potential to encroach upon any designated wetlands or 100 year flood plains.

We also assessed the hydrogeology in the study area and the possible presence of any designated sensitive ground water areas. In performing this evaluation, we reviewed information from the Illinois EPA, from the Illinois Department of Natural Resources, Illinois State Geological Survey, the Illinois State Water Survey, the Indiana Department of
Natural Resources, the U.S. Army Corps of Engineers and also the U.S. EPA.

Based on our assessments in the draft EIS, we reached the following preliminary conclusions: Potential effects on surface water identified include a short-term effect due to sediment, erosion from a construction phase of the new connections and double tracks.

It also may have a long-term screen bed degradation downstream of culvert extensions based on soil surveys and culvert velocities. Under the proposed action, ground water and surface water quality could be impacted by construction activities. However, implementation of erosion and saltation control measures neither required U.S. Army Corps of Engineers and MPDES permits would limit impact to water bodies.

Potential impacts to water body elevations would also be reduced in design of bridges and culverts. Changes in rail operation would not alter existing culverts and would not affect flood plains or streams.
The proposed construction of rail connections and double track, however, could affect water surface elevations and flood plains and streams unless appropriate measures are taken during design to avoid or minimize potential effects.

CN has proposed mitigation which will minimize these potential effects to flood plains. Operation of maintenance activities to the proposed action such as mowing and weed spraying also have the potential to affect surface water quality, although these activities are currently being performed by the EJ&E. CN's proposed right-of-way Maintenance for Vegetation Control Program would not involve changes to those current practices. So the situation should remain the same.

Near surface groundwater flow direction in the vicinity of the EJ&E Rail Line were estimated by interpreting USGS digital topographic data of the elevations of nearby surface water features. We also utilized
information from the Illinois EPA and from the
U.S. EPA, where applicable.

The groundwater flow direction was
estimated at approximate distances of 1.5 to 2
miles from the vicinity of well head protection
areas, preserves, documented locations of fins
and county -- other county natural resource
areas.

Designation of a well head protection
area is required by the Illinois Groundwater
Protection Act of 1987. The well head protection
area, basically, provides a setback that will
protect any public water supply sources coming
from groundwater in that area.

In the course of the public meetings
on the draft EIS, several additional comments
were received. Some commenters wanted more
information on wetlands mitigation and what the
applicant would do in case wetlands were
encroached. Some commenters were concerned about
potential impact from releases of hazardous
materials on water resources, such as surface
water streams and groundwater.

Based on our review and analysis of the data and taking the public comments into consideration, we have reached the following preliminary conclusions: Although the change in rail operations would not affect wetlands, the construction of the proposed rail connections and double track could result in the loss of some wetlands.

Unless existing drainage patterns are maintained, degradation of additional wetlands by the loss of hydrology could also result when proposed connections are constructed. The largest wetland impacts would occur at the Munger connection and alternate configurations of proposed Madison connection.

The construction activities, the double track segments could also affect wetlands. SEA has proposed mitigation to address these wetland impacts. The draft EIS provided the results of an examination of susceptibility of local groundwater supplies to a hazardous
material spill.

The study considered the proximity of drinking water wells to the right-of-way, direction of groundwater flow and the potential for contamination as determined by the thickness, permeability and other properties of the geologic materials.

Additional analysis have identified one location in Plainfield, Illinois where an existing public water supply well could be affected by a hazardous material spill and also identified several rail segments with greater potential for a spill that could impact private wells or natural areas.

SEA undertook additional investigation since the draft EIS and identified areas primarily on Des Plains River in Will, Cook and DuPage Counties in Illinois where the geologic materials overlying the bedrock are thinner and are more permeable than along most of the other right-of-ways.

The shallow bedrock offered in this
area is more susceptible, therefore, to contamination from the surface. It must be noted, however, that the EJ&E Railroad currently runs through these susceptible areas, so that wells and water supplies are already at risk from a potential spill.

The freight currently being hauled includes hazardous materials, as I have presented earlier, representing the same classes of hazardous materials that would be transported if the proposed action is approved. Therefore, effects from the proposed action on groundwater would take the form of increased probability for a spill, which increases the likelihood that a given well or resource may potentially be impacted, but there is no difference in the types of hazardous commodities that would have to be responded to and remediated.

Statistics on the current proposed action release intervals will be also included in the EIS. As explained in the draft, if a spill were to occur, the applicant would be required by
federal and state laws to mitigate the impacts by
remediating the groundwater resource immediately
and/or providing an alternate supply of water to
the property owner.

The applicant's have proposed 12
voluntary mitigation measures in the water
resources area, including compensation for what
land impacts in accordance with U.S. Army Corps
of Engineer Regulations and one regarding best
management practices for management and
preservation of aquatic biota.

The applicant's remaining voluntary
mitigation measures address a variety of
potential storm water, groundwater and surface
water protection issues. In addition to these
voluntary mitigation measures, SEA is
recommending three additional mitigation measures
to ensure that the applicant complies with all
applicable federal, state and local water
regulations.

And that concludes my briefing.

MR. MORTON: Thank you, Kevin. The
next to the last resource area that we would like
to discuss with you is natural resources and
specifically some endangered species issues. And
Fionna Goodson from the team will brief you on
that.

MS. GOODSON: Mr. Chairman, Mr. Vice
Chairman, Mr. Commissioner, my name is Fionna
Goodson. I was the biological resources
technical lead.

Effects due to construction and
changes in operation can have an impact on
natural communities and the species that live in
these communities. In order to evaluate the
effects of the proposed action and transaction-
related constructions on natural resources, we
defined the study area as a 1 mile corridor
centered on rail lines where there was an
increase in train numbers of at least one train
per day.

As a result, we were limited to areas
adjacent to the EJ&E Rail Line. We used data
from published reports, feasibility studies,
regulatory agency documents, guidance manuals, discussions with resource personnel, aerial photography, topographic maps, analysis of GIS databases and field visits.

Field visits were conducted in February and April for the draft EIS and subsequently in October and November in preparation for the final EIS. Since publication of the draft EIS, SEA met with natural resource stakeholders and reviewed their comments and conducted additional analysis to better detail preliminary conclusions in the final EIS.

A biological report is being prepared to submit to the U.S. Fish and Wildlife Service for their review and concurrence. The biological report evaluates five species: The endangered Indiana Bat, Hine's Emerald Dragonfly, Karner Blue Butterfly and the Leafy Prairie Clover and the threatened Eastern Prairie Fringed Orchid.

These species were evaluated because preliminary information indicated that they occur or may occur in or near the EJ&E Railway. An
additional four plant species were eliminated from further consideration, because they do not presently occur in proximity to the EJ&E or because they occur only in areas where no construction or operational impacts were reasonable anticipated.

For the previously mentioned species, critical habitat exists for the Hine's Emerald Dragonfly and the Indiana Bat. After a detailed review of the best scientific and commercial information available and habitat level surveys, SEA preliminarily concludes the following: The proposed action and transaction related construction may affect, but is not likely to adversely affect, the Indiana Bat, the Karner Blue Butterfly, the Eastern Prairie Fringed Orchid, the Leafy Prairie Clover and the Hine's Emerald Dragonfly.

Additional analysis based on comments from the Department of Interior letter was conducted for the Hine's Emerald Dragonfly. And therefore, I will provide you with details of
what was found. The U.S. Fish and Wildlife Service disagreed with the may affect, not likely to adversely affect determination in the draft EIS and determined the proposed transaction could adversely affect the dragonfly in one of four areas.

The first area along the Paul Ales Branch, there is potential for adult mortality and effects to larval habitat. Since there are no increases in operations or construction activity proposed on the Paul Ales Branch, there is no effect as a result of the proposed action.

Additionally, there are speed restrictions in this area under a special condition of a 1996 core permit and will remain a requirement if the transaction is approved.

The second area at the Joliet connection, there is no breeding, forging or larval habitat occurring in the area. The area where the connection is proposed is vegetated by dense buckthorn and other invasive shrubs and saplings.
No Hine's Emerald Dragonfly observations have been made in this type of vegetation community in 14 years of monitoring it and other Illinois sites. There is a stream located on the site, but it is larger than normal Hine's Emerald Dragonfly sites. Fish, many of which are insectivores, were observed during an October site visit providing additional support to the non-habitat determination. Construction of the Joliet connection would not affect the Hine's Emerald Dragonfly.

The third area increased traffic along segment 9B. Concern was raised by the Fish and Wildlife Service about increased traffic on segment 9B where the EJ&E crosses the Des Plains River. Traffic is projected to increase from 18.5 to 42.3 trains per day. However, train speeds would not exceed 10 mph in this area, because of track and bridge constraints.

Observations on the nearby Paul Ales Branch have indicated that Hine's Emerald Dragonflies have no difficulty evading slow
moving trains.

The final area of concern was along the Joliet subdivision where the draft EIS indicated a proposed increase from 1.8 to 2 trains per day. Discussions with the applicant indicate that contrary to information included in the draft EIS, there will be no increase in train traffic on CN's Joliet subdivision.

Operations are currently 2 trains per day, plus 10 Amtrak trains and 4.3 Metra trains all using the same lines and will remain identical if the transaction is approved.

CN has conducted preliminary studies on the interactions of dragonflies and the relatively fast moving trains on the Joliet subdivision and plans to continue these studies in coordination with U.S. Fish and Wildlife Service. Because there is no proposed change in operations at this location, there will be new -- no new adverse impacts to adults or larvae dragonfly.

In terms of indirect effects, on
October 23, 2008, Midwest Generation informed the U.S. Fish and Wildlife Service that the proposed acquisition of the EJ&E would result in loss of coal train storage areas serving their Will County Generation Facility. And would have required Midwest to increase the number of rail sightings, lines within the River South area, a highly environmentally sensitive area along the Paul Ales Branch. This would result in adverse impacts to the Hine's Emerald Dragonfly.

After a detailed review of Midwest's proposal and discussions with Midwest Generation, U.S Fish and Wildlife Service, SEA and CN, it has been determined that there is no cause and effect relationship between the CN acquisition of the EJ&E and construction of additional rail sightings at River South.

Midwest has indicated that the construction of the additional rail sightings is not its preferred alternative to solve its coal storage capacity issues. CN has committed to a voluntary mitigation measure which would result
in discussions with Midwest Generation to identify reasonable alternative locations for coal train storage.

Since publication of the draft EIS, the applicant has committed to seven additional voluntary mitigation measures, including, as previously mentioned: Cooperating with Midwest Generation to identify locations for staging of coal trains.

Two, participating in the development of a habitat conservation plan for the Hine's Emerald Dragonfly.

Working with relevant natural resource stakeholder groups to support creation or enhancement of migratory bird habitat away from the rail line to offset proximity impacts.

Construction and maintaining turtle crossings where habitat occurs on both sides of the rail line.

Investigating participation in the Safe Harbor Agreement for the Karner Blue Butterfly.
Designating areas of prime prairie
and dune and swale habitat for potential land
management agreement and/or conservation
agreement within Kirk Yard.

And finally, serving suitable habitat
for the Eastern Prairie Fringed Orchid. If
orchids are found, the applicant shall not
conduct any construction activities in that area,
shall notify the U.S. Fish and Wildlife Service
and the Board immediately and the Board shall
reinitiate consultation with the U.S. Fish and
Wildlife Service.

As previously described, the
methodology for biological resources in the draft
EIS focused on areas where effects were presumed
to have a potentially detrimental effect. The
methodology presumed that areas with a reduction
in train traffic would lightly experience
positive effects due to a decrease in rail
operations.

The biological resources analysis
does not state that these potential positive
impacts inside the EJ&E arc negate negative impacts along the arc. SEA acknowledges that the EJ&E arc where rail traffic is proposed to increase contains more and generally higher quality habitat areas than areas where CN trains are likely to decrease or remain the same along CN lines within the arc.

Forest preserves, INAI sites, state nature preserves and national park service lands occur in areas inside the EJ&E arc, including Lockport Prairie, Wampum Lake, Thatcher Woods Prairie, Hoosier Prairie and portions of Pratt's Wayne Woods where CN trains are likely to decrease.

It is acknowledged that there are fewer higher -- that there are fewer high quality biological resources inside the arc rather than along the arc. However, significant resources exist along routes where train traffic is likely to be reduced.

The decrease in CN trains near these areas is likely to result in fewer species
collisions and decreased noise effects. Although natural areas occur all throughout the city area, only Pratt's Wayne Woods Forest Preserve is potentially impacted by both operations and construction.

Many commenters, public and agencies, expressed concern for Pratt's Wayne Woods. SEA concurs that Pratt's Wayne Woods Forest Preserve is an important natural area with habitat that supports numerous listed and protected species. As such, effects to Pratt's Wayne Woods were included in the draft EIS.

The applicant proposed modifications to the proposed Munger connection alternative involving the construction of two retaining walls to remain within the right-of-way and to minimize direct impacts to the forest preserve.

Additionally, numerous mitigation measures are proposed, such as avoiding construction to minimize disturbances to breeding birds and development of a local liaison that will allow natural resource stakeholders to
interact with CN to complete various adaptive management measures and monitoring in natural areas along the EJ&E right-of-way.

In addition, CN will either conduct or will supply financial support for pre- and post-construction monitoring to evaluate and document potential affects and subsequent impacts by the proposed action.

Once monitoring is completed, the CN local liaison and natural resource stakeholders can develop and implement appropriate site-specific mitigation measures once potential effects from the proposed action are realized, including identifying and improving habitat away from the rail line to offset increased train noise level impacts.

That concludes my briefing.

MR. MORTON: Thank you, Fionna. The last area that we would like to talk about is an area that is -- we call quality of life and it is actually composed of a number of specific concerns including safety, noise, schools,
traffic, all of which we have already talked about. One issue that has generated a lot of comments is -- that is related to quality of life is property values.

For -- the concerns on property values is that the increase in rail activity would result in a reduction of property values for those homes, residences, near the EJ&E rail line. We did -- for the draft EIS, we did literature survey to see if there were studies that we could, you know, turn to to help us.

There is very limited information about the effects of increased traffic. There was a study that was done as a result of Conrail in the Cleveland area that provided the best information that we could find for the draft EIS. And the general conclusion was that there would be a nominal reduction of property values for some ranges of homes, lower and moderate priced homes.

The more expensive homes would not see the same level of reduction in property
values. We received a lot of comments on the
draft EIS, you know, where people were concerned
about those conclusions. For the final EIS, we
have gone back and we have done more extensive
analysis of actual property values, home prices,
both along the EJ&E Rail Line and adjacent to it
and away from it, compared those in several
sections, you know, both in more affluent areas
and also in more modest areas along the EJ&E Rail
Line.

We have also went back and did a lot
of literature survey. The commenters pointed us
to some studies that they felt were appropriate.
And I think, as a result of that, essentially, we
think that the conclusions in the draft EIS, you
know, were correct.

We did go in and then look at the
effects that the property value -- a change in
the property value, a nominal change might have,
assuming a reduction along the EJ&E Rail Line and
properties adjacent to it of about 5.56 percent,
which is kind of what the study thought would be
the maximum reductions and looked at what that
would do for the residential property values
within communities and also what that would do
for property tax revenues within those
communities.

The preliminary conclusion is that
the property tax revenues, you know, the greatest
impact might be in the neighborhood of $10,000 in
a reduction of property tax revenues for some
communities.

And with that, that completes our
discussion of the major resource issues on the
EIS. I would like to turn it back over to Vicky
Rutson. Vicky?

MS. RUTSON: Only 30 more seconds and
we will be quite and respond to your questions.
So what would happen if, to the environment, you
were to approve this proposal? Well, the team
has assessed and preliminarily concluded that
there would be benefits. There would be adverse
impacts.

Some of these adverse impacts could
be mitigated, but some of them exacerbate an existing condition. In other words, make a bad situation worse. The applicant has volunteered over 100 mitigation measures, which they have priced at, approximately, $16 million.

We have looked at each of these measures and believe that they will help. Additionally, SEA has developed and is continuing to develop and is eager to discuss with you 69 additional measures that we hope will minimize impacts to the absolute extent that we are able to do so.

With that, we await your questions.

VICE CHAIRMAN MULVEY: This should not be interpreted as not having any questions.

CHAIRMAN NOTTINGHAM: We weren't taking a straw vote on the merits of the -- we were talking about breaking logistics. I'm cognizant that staff and consultant staff have been largely stuck here for three hours now and we have the luxury of being able to sneak about 10 yards down the hall with the sound system on
to occasionally stretch our legs and not miss anything.

But without further delay, we will break now for 45 minutes. We will -- we do expect significant questions, so gear up. It could be a full afternoon and we will come back. I have it is about 12:50 now. So we will come back in 45 minutes, which I believe would be 1:35. Thanks. We are temporarily adjourned.

(Whereupon, the meeting was recessed at 12:48 p.m. to reconvene at 1:39 p.m. this same day.)
1:39 p.m.

CHAIRMAN NOTTINGHAM: Good afternoon.

We will resume this morning's meeting with some questions. I'll start it off and I think we will -- just to mix it up a little bit, I'll let Commissioner Buttrey have the opportunity right after I finish the first round. And then we will switch it up, accordingly everybody kind of gets a chance to ask all the questions that we have.

Let's see, thank you, first of all, that was a very comprehensive presentation, clearly, a lot of work has gone into this. And I'm, you know, familiar with HDR's work in general having worked on some highway projects where I have had the chance to observe and I definitely want to commend HDR for a very comprehensive and professional job on this. It's a reminder of how your firm has earned the very strong reputation that you do have. So I appreciate that.

MR. MORTON: Thank you, Mr. Chairman.
CHAIRMAN NOTTINGHAM: Let me ask though, you guys do this not for charity. You have homes and bills and families that need to be taken care of. What does all this kind of work cost, ballpark? I mean, I don't want to meddle in, you know, any business sense. I mean, we're talking about a couple hundred thousand dollars, a couple million dollars, ten plus million? I mean, just ballpark.

MR. MORTON: In ballpark, this has been about a $20 million effort. It is a very accelerated effort. We have done a lot of things on parallel, you know, with a lot of very senior staff and that's one reason why, you know, it's actually certainly more expensive than one would have, you know, typically expected.

CHAIRMAN NOTTINGHAM: Our Agency's entire budget for a year, the last time I checked, is something around $27 million. Does that sound right, colleagues? $26-ish. So clearly, we are not paying for that nor do we customarily pay for applicant's environmental
work.

Just for the record, so everyone has the same understanding how this works, who pays those bills in this situation?

MR. MORTON: We are concerted as Ms. Rutson mentioned at the beginning, we are a third-party contractor, that is there is a Memorandum of Agreement between SEA, HDR and Canadian National that specifies that SEA is responsible for directing and that we report to SEA and that Canadian National is responsible for the cost for the analysis.

We then have a separate commercial terms contract with Canadian National that specifies, you know, the billing rates and, you know, invoice procedures and the mechanisms for compensation.

CHAIRMAN NOTTINGHAM: Now, do you get paid whether or not CN likes your work or doesn't like your work?

MR. MORTON: I certainly hope so, Mr. Chairman.
CHAIRMAN NOTTINGHAM: That's your expectation?

MR. MORTON: That's my expectation, yes. Our clients are the Surface Transportation Board and specifically, Vicky and Phillis and Evelyn.

CHAIRMAN NOTTINGHAM: Okay. Do you - I think I know the answer to this, but I want to make sure to get it on the record. Do you receive oversight and direction from CN on what you should report or not report in your work?

MR. MORTON: Absolutely not. CN had an opportunity to review the draft EIS when it was made public on July 25th. To the best of my knowledge, that's the first time they saw any of the analysis or the results of those analysis. We do ask CN for information when we need it.

There is a very formal and very transparent process and that is our team, my team generates the information request. We pass that on to Vicky and SEA and Phillis and they review that information request. They then submit that
formally in writing to the applicants. We post that request out on the project website, so everybody can see what we are asking for.

And then when we get their response to those information requests, you know, once again it comes back through SEA to our team. And once again, we post all those responses on the project website, so everybody can see the correspondence trail. And in the draft EIS, we published all that correspondence and we propose in the final EIS to publish all the correspondence that has taken place since the draft EIS.

CHAIRMAN NOTTINGHAM: Thank you. I guess I should probably -- something tells me we have all kinds of stakeholders following this, I hope, on the -- on our webcast. I also see some stakeholders in the room today, too.

I should probably just express some recognition and gratitude to the CN for supporting the EIS process to the tune of $20 plus million, that there has been a lot of mixed
signals sent in the media and through legal
channels, but, clearly, financially they are
supporting the EIS process just as they told us
they would at the -- near the outset of this
project. So we appreciate that. It helps us
make an informed decision, which we need to make
consistent with the law.

I was interested a little bit, I
guess, as a very amateur historian in a little
bit of the history that came up in your
presentation that the concept for a EJ&E type
western loop around Chicago dates back to 1855
and that the project was cut -- sort of cobbled
together in pieces, it sounded like, and it was
pretty much in tact as of 1890, according to my
notes, following the presentation.

So since 1890, there has been some
type of western loop bypass rail traffic going on
at different levels over all those years?

MR. MORTON: That's correct. I think
you recorded those dates correctly. I would like
Mr. Burgel to maybe clarify or expand upon kind
of the history of the EJ&E and then maybe, you
know -- so that, you know, we can get some more
of that into the record.

I know we kind of briefly covered it
this morning, but, Bill?

MR. BURGEL: Mr. Chairman, the --
yeah, that's correct. The routes were pretty
much contiguous as of 1892, I believe. And then
it was primarily owned by predecessors, the U.S.
Steel, and they used to run trains back and forth
between Waukegan and then down to the Gary Mill.
And very much shuttle trains back and forth
between the two facilities.

And then along the line came, you
know, lots of industry along there as a result.
Primarily an industrial railroad that in some
place more, more than others, industrial and
rural in others. U.S. Steel had a transaction
with TranStar, which was a holding company, and
then they acquired it back. So it has been back
and forth in terms of ownership since 1980 or so.
So that's more recent.
And now several other Class Is have certainly been interested in the property, but never to the extent that CN has, you know, expressed interest here.

CHAIRMAN NOTTINGHAM: And if I followed your presentation, according to my notes, probably the high water mark for train traffic would have been during World War II, which I guess makes sense. There was those high water marks for a lot of communities situated along rail lines. And that was 50 some trains a day?

MR. BURGEL: That's correct, yeah. And pretty much as an average throughout the arc. More in some places and less in others, but that's pretty much anecdotal information, you know, as far as a lot of folks at the public meetings, as you will all imagine, a lot of folks were ex-EJ&E employees. And they supplied us with that type of information.

CHAIRMAN NOTTINGHAM: So your historical information is somewhat anecdotal, but
it's based on, in part, information conveyed by sort of first-hand knowledgeable sources. What about written resources? Any historical tracks that reference the history of the railroad or anything else?

MR. BURGEL: That's correct. Yeah, that was a supplemental. There are books on the EJ&E that we sourced as part of our information as well. Passenger schedules there at Barrington, that sort of thing.

CHAIRMAN NOTTINGHAM: Were you able to come up with any indication that EJ&E or any predecessor owner of that line held itself out as planning to get out of the rail business, close the line, abandon the line? I'm trying to get a sense of this is a situation where people who live along the line have a right to be completely shocked that they are living next to an active line railroad that could --

MR. BURGEL: Well, actually --

CHAIRMAN NOTTINGHAM: -- actually see a growth in traffic.
MR. BURGEL: Yeah.

CHAIRMAN NOTTINGHAM: Some of the correspondence we have gotten almost indicates that, but I just was trying to, not being intimately familiar with the history of the region, get a sense of is there anything in the record that we know about that would lead people to think that the line was scheduled to be abandoned at a certain date or that traffic generally in the Chicago area was on the decline and it would be a safe bet to move next to a rail line under the assumption that it would just be a matter of time before it faded out of existence? I'm just trying to understand the situation.

MR. MORTON: The historian that worked on the entire line isn't with us today and we would be more than happy to get you an answer to that question. I don't think the team, as such, really researched that specific question. From an anecdotal standpoint, you know, we certainly know that it has been an active rail line and, you know, continues to be an active
rail line.

We have got a lot of, like Mr. Burgel mentioned, former and current EJ&E employees that came to the various public meetings, both the scoping meetings and the draft EIS meetings, and took that time to, you know, kind of give us the back brief on their first-hand knowledge and, you know, were more than happy to sort of talk about their history and experience with the line.

MR. BURGEL: My personal history, I was -- started my railroad career in the Detroit, Michigan area and one of my first assignments was to -- on the Penn Central that came in to Chicago. So part of my territory was the Chicago area, but from then on, I switched to a western road. But pretty much the entire 38 years I have been working in the rail industry, I have always heard that EJ&E has been considered an asset by those in the Chicago area.

And not once have I heard that, you know, there was a consideration that it would be, you know, abandoned or rendered mothballed or
Chairman Nottingham: Okay. Anything in your research or in the record that would help us get a picture of what the outer -- the western, what we now view as the western, suburbs of Chicago would have kind of looked like in the 1890s when this line actively, you know, came into existence as far as the situation where most of the growth and development had actually come to the area adjacent to the line after the lines existence or was it there prior to?

Mr. Morton: I think it's a combination. There are certainly several communities that have indicated that they preceded the line. There is information that some communities grew up along the line. I think, you know, that we did a lot of work on kind of the history and the historical areas. Many of the communities, you know, along the line include the line as part of the context in which the, you know, boundaries of their historical districts are set.
And so it is included in discussions, you know, that -- and nomination forums for, you know, things like, you know, nomination for a historic district, you know, with the Keeper of the National Register and those sort of things.

And once again, I apologize we did not bring the historian who did all that work. We do have information in the record, you know, a series of -- you know, a book of photographs of their early EJ&E and some history of the EJ&E and that's certainly all the -- currently in the record.

And we would be more than happy to drill in and, you know, get a better answer for you, if you would like.

MR. BURGEL: As late as the EJ&E is pretty early, 1890, but even at that time, they were late coming to the party, so to speak, in terms of the railroad scene in the Chicago area. Most of the lines that radiate out from the hub and spoke, so to speak, were there much before the EJ&E. You can see that in the agreements
that, you know, Union Pacific, which acquired
CN&W, which is one of the predecessor railroads
here, that was pretty strong, especially through
Barrington and through West Chicago.

Their agreements are pretty clear.

And if you look at some of the sketches, some of
the platting maps that are included with this
agreement, it's very rural, very rustic
communities that -- you know, while EJ&E was
second. You know, I would guess to answer your
question, I think mostly on the railroads that
radiate from the city is where these towns were
originated along those. And then the J came
later.

You can see that pretty clearly in
these written agreements that are roughly about
1909/1910. You know, and they basically govern
how each railroad is going to behave at these
crossing diamonds.

CHAIRMAN NOTTINGHAM: In the --
listening to the history and looking at the
current day situation within Chicago, the
enormous presence of freight rail and passenger rail operations, it just leads me to -- I can't help but conclude that people within the core of Chicago are -- have experienced and continued to experience kind of a, what I'll call, disproportional share of the nation's rail traffic in their neighborhoods.

I mean, sure there are -- I know there are other places that would maybe argue, Houston and a few others that have folks who live near the Port of LA, Long Beach, but it's an enormous burden on the people in that area. And it seems like it has been for decades and decades and decades.

This might be a little bit of a intellectual question that can't -- might be of limited use to us, but I'll ask it anyway, because we think it's just important.

If we were -- if we had no railroad lines in this area today, but we had the communities and the people that currently live in Chicago, close in metropolitan Chicago, and there
were proposals to drop this rail system, so to speak, within the community, to weave it into the community, as it exists today, and applications came and we had new construction applications and we were working that through as a Board following NEPA, of course, and today's law, what are the odds that we could ever get, you know, this kind of system built, permitted, built and through the judicial review process in Chicago as it currently exists today under current law?

Maybe, Ms. Kitay, you might be well positioned. I know it's a little bit of a speculative question.

MS. KITAY: I think it would be really difficult to assemble the rail corridor today, just because of the proximity and the rail line to schools and homes and businesses that have built up around the rail line.

CHAIRMAN NOTTINGHAM: And it is lines, right, I mean?

MS. KITAY: Lines. While there are many, there are five CN Lines and then EJ&E
Lines.

CHAIRMAN NOTTINGHAM: Then you go beyond CN and talk about the whole rail industry's presence, I guess my question was more of a macro one talking about going from--

MS. KITAY: It would be enormously difficult. And we saw that in the DM&E Rail construction case where existing communities that were going to see traffic increase just were up in arms.

CHAIRMAN NOTTINGHAM: And would there not be --

MS. KITAY: We're talking years of litigation.

CHAIRMAN NOTTINGHAM: -- a lot of environmental justice issues?

MS. KITAY: There would be environmental justice issues and other kinds of environmental issues beyond those that have surfaced here, because we're dealing with existing lines. So you don't have the construction impacts that you would have if you
were starting from scratch.

CHAIRMAN NOTTINGHAM: I don't know exactly why I asked the question, but I just-- we have to weigh benefits and dis-benefits, adverse impacts and positive impacts. And I just think it is worth reflecting for a moment just on the sheer burden that the status quo situation imposes on the people of Chicago and close in Chicago.

It's not to say that other people's concerns along the EJ&E Line aren't completely valid and meritorious, but it's -- we have to make a balancing assessment to a certain extent and then make sure we are looking at those benefits and those adverse impacts and try to figure out how to sort through it.

I just have a couple more for the first round and then I'll kick it over to Commissioner Buttrey momentarily.

I think it might have been you, Mr. Morton, who touched on the four alternatives that were considered at the early stage of the
environmental review process. And of course, this goes back in part to Commissioner Buttrey's very helpful reference to the City of Overton Park case, which, of course, is black letter law that is, you know, hammered home in the first year of environmental law and administrative law and a number of other settings.

It's an incredibly important case. One of the big outcomes of that case was was this concept of alternative analysis, and you don't just jam a new interstate through a park because that's the straightest line between two distances and it's where some traffic engineer says it will be efficient. You look at the impact of the resources and look at alternatives.

And here though, I understood -- I head you say -- you said you didn't explore these options. I wrote down and I just want to make sure I understand. There were alternatives. They were looked at, correct? And for various reasons they were put aside. If the team could help me understand, because I want to make sure
we have given adequate focus to the alternatives analysis process.

MR. MORTON: Mr. Chairman, I think your recollection is correct. The team first identified the applicant's purpose and need, you know, that -- for the transaction. And there is really three elements of that purpose and need and to kind of paraphrase them, it's the connect -- there are five lines radiating around and give them a through route without, you know, going through the congestion of the Chicago area.

The second one, and I know Mr. Burgel talked about it in detail, is really to obtain control and access to Kirk Yard and to some extent East Joliet Yard for their car classification activities, so they can move those activities out of the BRC Clearing Yard.

And the third purpose is to develop a relationship with the shippers on the EJ&E.

So each of the alternatives that we looked at, and there are a number of alternatives that were suggested during scoping and throughout
the process, the four that we talked about, really were, you know, one, is to -- full implementation of the Chicago CREATE Project.

The CREATE project is, as certainly the Board knows, a project that is designed to reduce rail congestion in the Chicago area. It is moving forward. They perhaps haven't had the level of funding, you know, that they were anticipating, but they are making progress.

The CREATE Project would, essentially, give CN a through route by connecting, essentially, their, and correct me if I'm wrong, Bill, but essentially, line coming in on the Illinois Central to the Norfolk Southern Rail Line in an area called Grand Crossing.

And in that -- they would make a connection there, allow them to bypass the cumbersome airline, St. Charles Airline route and that would be kind of their through connection. It still would not be a line that they own. They would be on that line under trackage rights.

They would still do their switching
at the BRC Clearing Yard. They would still, you
know, be one of several tenants at the BRC
Clearing Yard, so they wouldn't have their own
facility. And so we did not consider CREATE as
an alternative to the proposed transaction.

The second one, that I think Bill
mentioned, was expanded trackage rights. There
are a lot of Class Is that are currently
operating on the EJ&E under trackage rights
arrangements, including CN. And one option was
to just expand that. But once again, that
wouldn't necessarily solve their car
classification issues and would not give them
control.

Plus, you know, and I think CN's
filing sort of makes this case, there would not
be the incentive for EJ&E to make the investments
into the infrastructure that Canadian National is
proposing, if Canadian National -- if it was
still owned by the EJ&E.

The third alternative was,
especially, an acquisition of a rail line on the
inside in the interior of Chicago, presumably
either, you know, the Belt Railroad or the IHB,
but one of the railroads actually connect them.
The -- we didn't consider that to be an
alternative, because that's, essentially, how
they operate today.

It just would shift the ownership.
Once again, not giving them the access to Kirk
Yard and get them out of the internal congestion
that is Chicago.

And the fourth option, I believe that
we talked about earlier this morning, was there
was suggestions that you could build a new bypass
outside of the EJ&E arc, somewhere in the less
densely populated area. A lot of different
suggestions came. But in each case, it was a new
construction that, and I think as Ms. Kitay, you
know, mentioned, it would be very challenging to
assemble that type of right-of-way and to, you
know, use that option. And so we didn't believe
that that was a viable alternative either.

CHAIRMAN NOTTINGHAM: So we have
received some correspondence. We have received 
all kinds of correspondence. They are all in the 
record on this transaction. But some of the 
correspondence did indicate hey, why not just 
built it further to the west?

Is there a corridor to the west where 
there are no serious environmental issues? I'm 
sensing that Greenfield's new rail line 
construction in a semi-, even if you could find 
a, rural part of Illinois would not be an easy 
thing to get through the process.

MR. MORTON: I might, you know, 
suggest either Vicky or Phillis, who have some 
experience with construction projects.

MS. RUTSON: Mr. Chairman, I think it 
would be very difficult to get through the NEPA 
process for a new line construction. For 
example, in the DM&E case, which Evelyn alluded 
to, construction was proposed and eventually 
permitted through Western South Dakota and 
Eastern Wyoming.

To my untutored eye, those areas
looked quite expansive, not heavily populated, but yet there were tremendous concerns there, potential habitat for the Black Footed Ferret, ranchers who had land that they preferred to keep in tact and not divided. So it's one thing for rural people to say to urban people that perhaps rail lines would less -- would impact you less, because you live in such an urban area.

And then urban people say to rural people, well, there is so little out where you are that you would be impacted less. But the bottom line is through 20 years of experience with NEPA, everyone loves where they live and wants it to stay pretty much as much as they-- in the same way as when they first moved there. And they don't want new rail lines to be built on top of where they live, be it urban or rural.

MR. BURGEL: And I might add that one of the purpose needs for CN is to again classify railcar business that, say for instance, comes in from the Grand Trunk out of say Michigan or out of Toronto, and marry that up with some cars that
come out of Memphis in a yard somewhere in the -- you know, where all the business that would either go to Chicago or be picked up in Chicago and then advanced on some of the other branch lines or main lines, I should say, a line, a bypass on the west side wouldn't, you know, accomplish that unless they somehow knitted all these different arteries together.

Again, they are looking for a yard in the center and Kirk Yard is what they have chosen. Their purpose of using east Joliet Yard is to do what they call block swapping, which is they would take blocks of cars from one train to another and advance them that way.

CHAIRMAN NOTTINGHAM: Certainly, one of the, I'm guessing, more challenging informed judgment calls to make relates to the appropriate level of mitigation that you preliminarily reported on today. If I heard correctly, the preliminary recommendation is that we adopt for purposes of looking at those instances where the recommendation is to see the construction of a
grade separation project, that the applicant railroad, CN, be held responsible for 15 percent of the cost of that project, the preliminary engineering, the right-of-way, the construction, design construction.

And that if I heard correctly, that 15 percent was arrived at by the very extent of analysis of the proportional contribution of this proposed project regionally to the overall degradation of traffic conditions throughout the region of the project. Is that a fair restatement?

MR. MORTON: Yes, sir, it certainly is. And I would like John Lazzara to step back up here just briefly and he could elaborate on the analysis that we did and the discussion and explain that a little bit better for you.

CHAIRMAN NOTTINGHAM: That would be helpful, because I want to make sure -- one of the questions I had when I first heard this was okay, that sounds like a lot of thought went into that, but conditions across a region can get kind
of diffuse. Whereas, conditions at a specific intersection crossing are not so diffuse. They are very specific, very -- you know, much more easily sort of identifiable.

How does that 15 percent relate to these conditions at those locations? We're trying to address the real hot spots where certain locations would likely be sort of disproportionately impacted. We talked about traffic levels and going from D down to F and pre-existing conditions.

But help me understand how we get from 15 percent contribution to regional traffic problems to 15 percent contribution to these particular, what I'll call, hot spots.

MR. LAZZARA: Sure. Chairman and Board Members, we looked at total vehicle delay and when we calculated the total vehicular delay, we looked at the level of -- or the delay caused at the at-grade crossings. When we calculate delay, you can either have delay from roadway levels of service or from the crossing levels of
And the effects from the railroad operations really focuses on that isolated location at the crossings. In the analysis when we looked at total vehicular delay, we calculated what that would be if you added up all the delay for the CN crossings that were affected and then all the EJ&E crossings.

And we compared those systems with the no action system versus the proposed action. And when we looked at that, there was an increase in vehicular delay along the EJ&E lines and a decrease along the CN lines. When we compared the totals, that's when we came up with 356 hours of increased vehicular delay per day on the whole system.

And that represents that the delay is caused at those locations along the crossings. It also affects other roadways, but the roadways also are influenced heavily on the roadway configuration of the number of lanes, the traffic signalization that occurs and the spacing of
different roadways.

Again, trying to figure out what the impact of the transaction would be, we wanted to isolate that impact based on their operational changes. The changes at signalized intersections due to lane configurations really is an existing condition.

So when we calculated that total system delay between the EJ&E and CN systems, pre- and post-transaction, we came up with that 15 percent. And that 15 percent is 15 percent of the total system delay. The 15 percent is the increase related to that. Does that address your concern?

CHAIRMAN NOTTINGHAM: Well, I guess what I'm trying to understand is what -- did you look at the possibility that a specific roadway crossing of the rail line at which you are recommending a grade separation project be built, did you look at the possibility that conditions at any one of those particular locations could be worsened by this project as proposed above and
beyond 15 percent scale?

It could be 15 percent region-wide, but at this one spot, yikes, it's going to be 30 percent worse. And, you know --

MR. LAZZARA: Correct.

CHAIRMAN NOTTINGHAM: -- in that scenario, you could expect that we will hear from, and we have heard in the record, the towns and citizens and the state that they would be expecting something more akin to the actual percentage impact at those locations, I would guess.

MR. LAZZARA: Correct. And when we did the analysis, we did look at each individual crossing itself, calculated that -- those delay figures and determined what the individual effects would be. When we looked towards mitigation, we considered various options, but SEA settled on in the preliminary analysis with the conclusion on a system-wide basis there is benefits and disadvantages.

And if we looked at just isolated
intersections and said that a particular intersection raised the delay at that location by more than, you know, 10 percent, more than 15 percent, it could be as high as 50 percent or more increase in delay at a particular location, but then there is no input for the benefit that is caused in other locations.

So to calculate that percentage that the applicant would be responsible for in -- for the mitigation purposes of a grade separation, those costs were spread out throughout the whole system to determine the net effect.

CHAIRMAN NOTTINGHAM: I may want to loop back to that issue, but let me pause and turn it over to Commissioner Buttrey for questions.

COMMISSIONER BUTTREY: Thank you, Mr. Chairman. I would add my word of thanks to everyone for their very fine presentations today. Mr. Morton, if it's okay, I'm going to sort of direct my questions to you and then you can reach back and get whoever you need to get to come up
and see if they can address this.

MR. MORTON: Yes, sir, that would be fine.

COMMISSIONER BUTTREY: As the line of railroad exists right now today, it's basically one line of track going north and south. Let's say from Joliet all the way north up to the end of the area that we are considering here. And I have heard a lot of talk about double tracking somewhere around 20 or so miles of that.

So they are talking about double tracking about 20 percent of the track that is there just for the freight operations.

MR. MORTON: Yes, sir. The -- Commissioner, the plan is to do about 19 miles of double tracking in about five locations, including on that north/south line from Joliet north, but also there would be some double tracking on the -- you know, when it goes around Joliet and goes east/west towards Indiana, there would -- they would include -- some of the double tracking includes in that area.
I don't have the exact breakdown in terms of the mileage, but that's correct.

COMMISSIONER BUTTREY: I think I heard somebody say about 20, when you add it all up, it would be about 20 miles.

MR. MORTON: That's correct.

COMMISSIONER BUTTREY: And as I recall, when I was there, I was shown an area where they are going to make a high speed turnout of this track to allow them to go onto another track. And it happens to be right smack in the middle of the DuPage County Nature Preserve.

MR. MORTON: Yes, sir. You are absolutely correct. And the high speed turnout that you are referring to is at a location that we have identified as Munger.

COMMISSIONER BUTTREY: Right.

MR. MORTON: Munger is just a station location on the EJ&E and actually doesn't really exist, but it's in the middle of the DuPage County Forest Preserve, the Pratt's Wayne Woods Forest Preserve. The applicants did redesign the
Munger connection in response to concerns raised by the forest preserve to tighten up the connection.

They put in retaining walls to keep it basically on their right-of-way and on the right-of-way of the utility right beside it and actually reduced the speed through that connection. And I believe it is now a 50 mph connection. It's just a 10 mph connection through there now.

So they did redesign it. We have evaluated --

COMMISSIONER BUTTREY: And it will go to a what mile per hour connection?

MR. MORTON: It will stay at a 10 mph connection under the current proposed design.

COMMISSIONER BUTTREY: Okay.

MR. MORTON: They would operate 10 mph.

COMMISSIONER BUTTREY: In the language that I have seen here in the reports that I have seen about this location, the
The terminology that is used is that this is "adjacent" to Pratt's Wayne Woods Preserve. Now, when I was out there, it didn't look like it was "adjacent" to it. It looked like to me it was right in the middle of it.

I mean, geographically, right in the middle of it. And that the track they were talking about goes right through the middle of Pratt's Wayne Woods. It's not adjacent to it, which would lead you to believe it's like a railroad track going down beside a golf course or something. It goes right through the middle.

MR. MORTON: Yes, sir, that's correct.

COMMISSIONER BUTTREY: Okay.

MR. MORTON: That's correct.

COMMISSIONER BUTTREY: Just for the record, because there is not a lot of detail in here about the information I have seen anyway, about people who are commenting on this, about the meets and bounds of this area that we are talking about and basically what it looks like.
The old saying is a picture is worth a thousand words. I wish we had a picture of it. The only thing we have is aerial photos, which don't really tell you the story. But can you or someone describe for the record what this area looks like and how it came to be?

MR. MORTON: I think I would like to ask Fionna Goodson to step up here and talk a little bit about the nature of the forest preserve. I don't know that Fionna would be able to really describe how it came to be, but I think we would ask Rich Christopher maybe to talk about the forest preserve system in Illinois and how they came about. But Fionna can talk about the nature of the Pratt's Wayne Woods, what is there and the concerns that are associated with it.

COMMISSIONER BUTTREY: Thank you.

MR. MORTON: Fionna?

COMMISSIONER BUTTREY: And address if you could how it came to be and that sort of thing.

MR. MORTON: Yes.
MS. GOODSON: Yeah, I don't really have the history on Pratt's Wayne Woods. Maybe Rich Christopher does.

COMMISSIONER BUTTREY: Okay.

MS. GOODSON: As you mentioned, Pratt's Wayne Woods is a pretty important area. It is a large area. There is a lot of habitat there for species.

COMMISSIONER BUTTREY: Large meaning 5,000 acres?

MS. GOODSON: I don't have the specific size of it. I don't know the specific size of it, sorry.

MR. MORTON: We'll have to get back with you. I think --

COMMISSIONER BUTTREY: Okay.

MR. MORTON: -- we identified it in the draft.

COMMISSIONER BUTTREY: Okay.

MS. GOODSON: But DuPage Forest Preserve District has been very involved throughout the process in providing a lot of
information. They provided a lot of information on elements and occurrence records of species that occur within the area. We were able to work with them a lot in terms of what a lot of their concerns were.

A lot of their concerns involved loss of habitat adjacent to the rail line, which partly was addressed by, you know, tightening up the design as it went through the Munger connection. A lot of concerns also addressed or were associated with noise impacts, loss of habitat for aquatic species.

And as such, a lot of the mitigation measures that were developed through the corridor kind of came out of those discussions and some of those were developing crossings for turtles, because there is wetland habitat on either side of the tracks. That certainly isn't an option there to, you know, facilitate movement of Blandings Turtles, Spotted Turtles through that area.

Also, being able to develop this
liaison, the environmental liaison with CN would give the stakeholders, such as the managers of Pratt's Wayne Woods, the opportunity to work with CN to determine what species they should be serving for to see what the impacts are of this project or, you know, if this transaction, if it were to be approved, also to give the opportunity of identifying locations of the habitat that could be improved, because what's the point of necessarily going back in and reclaiming habitat that is impacted immediately adjacent to the rail line if there is opportunities to make -- create better habitat elsewhere or else give the opportunity for species that are mobile to be able to move into that habitat.

I'm trying to think what else there was.

COMMISSIONER BUTTREY: I think this area was created by a Large Estate that was -- existed there at one time. And then that estate was donated to DuPage County or to the regional environmental groups or whatever to create
something that, basically, doesn't exist anywhere around there, especially in an area that is as urban as it is all around it.

    I mean, it's just like an oasis basically, from where I sit anyway. It looks like it's just an oasis in the middle of urban sprawl, if you will, not to be critical of Cook County, DuPage County and Will County, but the whole area of Chicago is moving into this area.

    And right now, my understanding is there is not even so much as a soccer field on this property at the moment and it won't be a soccer field or anything else there until the people who are managing this resource in perpetuity as I understand it say so. Somebody correct me if I'm wrong, but that's my understanding.

    I see a gentleman standing up back here who I spent some time with when I was out in the area surveying all this area and maybe he can shed some light on some of my questions.

    MR. CHRISTOPHER: Thank you,
Commissioner. My name is Rich Christopher. I work for HDR in Chicago. I'm a regulatory specialist for HDR. And to get to your question, Commissioner Buttrey, the forest preserve districts of DuPage County, Will County, Cook County, Kane County, generally acquire property through the sale of bonds which are general obligation bonds backed by property taxes.

So they will raise anywhere from $20 to $150 million at a time to go on acquisition campaigns. My understanding is that Pratt's Wayne Woods was purchased from a couple of families who had large holdings in there. You may be familiar with Morton Salt. The Morton family had owned an awful lot of that property there.

And since they purchased it, oh, the first purchases of Pratt's Wayne Woods were about 40 years ago. Most of it was -- most of the purchasing was done by about 30 years ago. They have been gradually restoring the area. Part of it they actually mined it. It had not been good
farm land and they issued a permit for a fella to take gravel out of it.

Now, that has been reclaimed. The marshes and fens and things like that have just been slowly restored to previous habitat quality.

COMMISSIONER BUTTREY: While I have you up here, sir, could you address the area where the bird sanctuary is where the line runs right through the middle of the bird sanctuary?

MR. CHRISTOPHER: Well, I can tell you, Commissioner, that maybe other people can help. That's a single track line that goes through there now. There is no proposal for any construction through there. We did document in the report and there are findings about what we know about the impacts of noise on the herons that are in there today. But at present, this action has no construction proposed through there.

COMMISSIONER BUTTREY: Okay. And there are estimated to be maybe several thousand nesting pairs in that preserve right now?
MR. CHRISTOPHER: I believe it will probably be about 500. I don't think it's in the thousands.

COMMISSIONER BUTTREY: It looked like a thousand when I was there, but maybe it was only 500.

MR. CHRISTOPHER: It's the largest heron rookery in Illinois, I believe, and it has been a great success.

COMMISSIONER BUTTREY: Right, right. And was there any research done to talk about the breeding and nesting and bird strike issues that are presented by the fact that instead of having three or four trains a day run through there, there might be as many as 25 or 30 or 35 running through there every day.

MR. CHRISTOPHER: I think I might have to defer.

MR. MORTON: Yes, Commissioner. We did do some additional work on that issue. You will see some additional analysis. I would like Fionna to step back up here and talk a little bit...
about our proposal for some adaptive management activities and specifically as it relates to migratory water fowl or migratory birds.

COMMISSIONER BUTTREY: Okay. Thank you. We don't want to wear you out, but I'm glad you're here. Thank you.

MS. GOODSON: I probably don't have as clear of an answer for you as you would like in terms of the number of birds that are being hit by trains along the line. There wasn't a lot of data available. No one has been collecting that kind of data.

COMMISSIONER BUTTREY: Um-hum.

MS. GOODSON: The railroads -- we had requested that in an information request from both CN Rail as well as from the EJ&E. They weren't collecting that kind of data either.

COMMISSIONER BUTTREY: Um-hum.

MS. GOODSON: SEA made the assumption that with increases in rail traffic that there would likely be an increase in collisions with species.
COMMISSIONER BUTTREY: Um-um.

Assuming the birds decide to stay there.

MS. GOODSON: Yeah, and, you know, because there is not a lot of data out there, we are trying to do as much research as we could to be able to determine what the impacts were. And one of the main studies that was available to us was conducted by DeMario in 1993 out at Lake Renwick at the Heron Preserve there.

And it was a really small sample size, so it's not necessarily completely representative, but just took a look at the response of herons in reaction to trains as they went by. And in -- with four trains going by, the birds only flushed one out of the four times, left their nest.

And even at that point, the birds still returned to their nests after the trains had gone by. So they weren't abandoning their nests. They were certainly leaving, but they were coming back afterwards.

MR. MORTON: We do propose a
condition by which the Canadian National would be working with and appoint specifically a liaison to work with the Natural Resource Agencies, including the DuPage County Forest Preserve and others, to identify those issues related to train operation activities and those opportunities for adaptive management.

That is, you know, looking at, you know, trying some sort of management technique and it may be developing some habitat away from the rail lines, so if they do flush, they have some place to go, you know, in working with those agencies to better adapt those techniques to the issues that they are identifying out there.

COMMISSIONER BUTTREY: Does anybody know if that's 10 mile an hour track through there and proposed to be 10 mile an hour track in the future or is it going to be 35 mile an hour track or do we know?

MR. MORTON: Through Lake Renwick,

through Lake Renwick.

MR. BURGEL: Through Lake Renwick,
there is supposed to be no change and it's right now 45 miles an hour.

    COMMISSIONER BUTTREY: 45 miles an hour. Okay.

    MR. BURGEL: On the EJ&E main line.

    COMMISSIONER BUTTREY: Okay.

    MR. BURGEL: There are Munger, CN had initially given us a 25 mile an hour design and they cut that back to 10 miles an hour to stay on their right-of-way.

    COMMISSIONER BUTTREY: Okay. Thank you. Could we talk about train accidents for a moment? That's someone else, I'm sure.

    MR. MORTON: Yes, sir. Depending upon your question, we've got a couple of different specialists.

    COMMISSIONER BUTTREY: Okay.

    MR. MORTON: But I would ask Leif to step up.

    COMMISSIONER BUTTREY: I'm sure if you ask everybody in this room what they thought a train accident was, everybody would give you a
different answer. I'm just curious what is your definition of a train accident? And I'm talking primarily about the difference between a train/automobile type occurrence and a train/pedestrian type occurrence. If you can enlighten us a little bit about what your definition is and how that was used for the calculations?

MR. THORSON: Okay. We talked about two different types of train accidents. One is the trains which involve moving equipment, that was a separate category. We also looked at and talked about crossing accidents. And a crossing accident is defined by the FRA. It's really any incident that happens at a crossing that results in any injury or property damage.

So those crossing accidents include, you know, minor collisions. They include, you know, abandoned vehicles on the crossing. They also include pedestrian injuries or incidents that happen at those crossings, if they happen within the crossing zone.
So the numbers that we looked at and estimated for crossing accidents included any pedestrian incidents that might happen at that crossing.

COMMISSIONER BUTTREY: And I didn't see any breakout anywhere, maybe I just missed it, of how many pedestrian accidents there were within the study period.

MR. THORSON: I don't have those numbers with me. We do have them.

COMMISSIONER BUTTREY: Did you supply those for the record?

MR. THORSON: We do supply those for the record.

COMMISSIONER BUTTREY: Just breakout for the pedestrian numbers?

MR. THORSON: Yeah. And I want to say that -- somewhere that the -- of those accidents that we saw within the last five years, somewhere in the neighborhood of 10 percent of them were probably pedestrians.

COMMISSIONER BUTTREY: Around 10
percent?

MR. THORSON: Yes.

COMMISSIONER BUTTREY: And those wouldn't necessarily be pedestrian accidents at crossings, that might be pedestrian accidents anywhere?

MR. THORSON: A pedestrian accident that does not happen at a crossing is not considered as part of that crossing accident. FRA has classifications for those, looks at those as trespasser accidents.

COMMISSIONER BUTTREY: Accidents, okay.

MR. THORSON: Um-hum.

COMMISSIONER BUTTREY: Okay. Could we talk about public parks and schools? Who could address that?

MR. MORTON: I think Mr. Thorson probably has as good a handle on that as anybody right now.

COMMISSIONER BUTTREY: Okay. You had a huge number, as I recall, of parks that were
pretty close to the railroad tracks. You had it broken out in three different categories, as I recall.

MR. THORSON: Um-hum.

COMMISSIONER BUTTREY: I visited some parks where you step off the railroad tracks and you step onto the park property. There is no separation, there is no fence, there's no nothing. You're just on the park one minute and you're on the railroad right-of-way next. You really can't tell where the railroad right-of-way stops or ends or the park stops or ends. You are just sort of wondering around.

In fact, somebody said don't go over there. So I was already over there at that point in a place where I wasn't supposed to be, according to this person who was with me, and indicated that I was probably a trespasser at that point. So I came back. And I started showing my credentials, but I decided not to do that.

But anyway, there were a large number
of parks that were -- I think one of the measures you used were within 50 feet of the tracks.

MR. THORSON: Um-hum.

COMMISSIONER BUTTREY: And you came up with a number of how many parks are within 50 feet of the tracks.

MR. THORSON: I'm sorry, Commissioner, I don't have that number, but would be more than happy to provide it for the record. But there, as you mentioned, are a large number of parks and natural areas adjacent to the rail line. And in fact, many of the comments that we received on the draft EIS identified even other ones for us that either weren't part of the database that we, you know, assembled from Indiana or Illinois DNR or other databases.

So we have added to those numbers since the draft EIS.

COMMISSIONER BUTTREY: Right. The ones that I personally observed, you could almost putt a golf ball from the swing sets and the teeter totters over to the railroad right-of-way
from where I was. And that was-- I don't like 50
foot putts, but you could pretty much do that if
you wanted to, if you were so inclined to do so.

That's how close they were. And then
we went by some schools that were literally,
looked like to me, just backed up to the railroad
right-of-way. See, I don't -- I can't understand
why anybody would allow construction of a school
that close to a railroad.

But just to give you an idea -- this
room is 75 feet long, from that wall to that wall
back there. From about the front of this desk
right here where you are sitting to that back
wall is about 50 feet. That's the distance we
are talking about, from the front of this desk to
that wall back there. Okay, just so we have a
frame of reference here when we're talking about
50 feet.

MS. KITAY: There is fencing
mitigation recommended in the final EIS, both
voluntary mitigation and some additional
mitigation that SEA has developed. There is also
mitigation for schools and there is a lot of
analysis in the final EIS about steps that
communities can take to encourage safety in, you
know, school buses and in pedestrians getting to
the school.

So I think that this issue, as was
mentioned this morning, was a major issue in the
comments on the EIS and there has been an awful
lot of analysis of that issue and the development
of appropriate mitigation to minimize those
effects.

COMMISSIONER BUTTREY: Right. I
remember when I was there, there was one school
we went to where there was -- it was a double
track railroad crossing 25 feet from the corner
of the school building. And there were school
crossings on both sides for kids to walk through
with crossing guards, if you would. The sign
said that there were crossing guards. Should be
a crossing guard anyway.

But down where the railroad was,
there was no sign about any kind of crossing
guard or assistance getting across the railroad tracks or anything. There were lights and there were crossing arms and so forth, so they were there.

There was a good bit of discussion about the Star Line and what the plans are for the Star Line, which interested me tremendously, and especially the conclusion that the Star Line and the railroad, the freight railroad are going to be able to use a single line of track without any kind of degradation of service on either party.

I found that to be very interesting, because presumably there are going to be trains going northbound. There are going to be trains going southbound. There are going to be freight trains. There may be passenger trains. And they are all going north and south on one railroad.

That sounds like a very interesting situation to me. You know, having watched Nascar a little bit, you know, when you get that much activity on a limited infrastructure, sometimes
bad things happen, people start swapping paint
and all that sort of thing.

I'm just curious. I'm having trouble
kind of understanding how that is going to
happen, how you are going to have freight trains
going north and south and passenger trains going
north and south on one railroad track, on one
line of track, and you are saying you're only
going to double track 19 miles.

And presumably CN is not double
tracking this line for the benefit of the
passenger carrier.

MR. MORTON: Right.

COMMISSIONER BUTTREY: CN is double
tracking this line for its own benefit, which I
would certainly expect them to do. And I'm just
curious about how you could come to that
conclusion that you are going to be able to get
all that traffic on that line especially if you
have got 30 or 35 trains a day, presumably day
and night going up and down that railroad track.

I just can't -- I don't understand
MR. MORTON: Absolutely. I appreciate the opportunity to clarify. I'm sorry that -- we probably went through that a little too fast earlier this morning and we could have done a better job.

COMMISSIONER BUTTREY: That's why we're going through it again now.

MR. MORTON: Yes. We are -- there was never an intent by either Metra, you know, in their Star Line proposal to operate on a single track main. Metra had, you know -- proposal included extensive amounts of double tracking, you know, on that segment from, essentially, Hoffman Estates down to just, you know, south of the Plainfield area.

So they recognized that on a single track main, you know, they would not be able to implement the type of commuter service that they were proposing even before the transaction. What we looked at is the amount of infrastructure that Metra had proposed to put in place, that is the
second main line.

We then looked at the type of infrastructure that CN was proposing to put in place and that's, as you mentioned, the several sections of their double tracking where they are connecting sidings and where they will have a second main line.

In some cases, we developed -- well, what we did is we developed four different scenarios. Since the Star Line really isn't designed yet, we had no real basis to start from, so we developed operating scenarios. How could you operate both the Star Line service and the EJ&E and the CN proposed operations on that rail line track? What type of infrastructure would you need to put in place?

The first scenario is essentially -- well, actually, it might be easier for me to let Mr. Burgel explain each one of those scenarios, so that I don't get them wrong. Bill, would you?

MR. BURGEL: We dug into them pretty deep, Commissioner, and to answer your first
question about if we were to superimpose all the CN traffic onto what we understood would be Metra's design, we put it into this RTC, this dispatch simulation model, and lo and behold it didn't work.

So your point is well-taken about what could and would and should happen in terms of the volume of CN traffic. Plus, Metra plans to run 30 minute service. It roughly works out to about 52 trains between Hoffman Estates and down to Joliet. Prior to that, that was Scenario 1B.

Scenario 1A, we actually tried to do it without the CN traffic and based on what Metra had in mind, it actually worked quite well. So, you know, that part is true. We added the CN traffic and it didn't work.

COMMISSIONER BUTTREY: And that traffic, that north and south bound traffic --

MR. BURGEL: Um-hum.

COMMISSIONER BUTTREY: -- going both directions, could intersect along the way, along
this arc, if you will --

    MR. BURGEL: Um-hum.

    COMMISSIONER BUTTREY: -- the traffic going east and west in and out of the city?

    MR. BURGEL: Correct, yeah.

    COMMISSIONER BUTTREY: At certain points along the line?

    MR. BURGEL: We took a hard look at these crossing diamonds. Metra in their report, their most recent report said they didn't believe that they would be able to cross the West Chicago diamond at-grade, so at their suggestion, we put in a fly over at West Chicago. And that's the only place, that's where we had lunch. And that's the only place that we put a fly over on the first three scenarios.

    So we did -- we basically avoided the project -- problem with a fly over at West Chicago.

    MR. MORTON: And that would be the case under any of the operating scenarios. That's what Metra would more or less need to do
today to operate through there is put a fly over there at West Chicago and avoid that crossing diamond.

MR. BURGEL: We like flowers.

COMMISSIONER BUTTREY: Well, let me ask one more question and then I'll turn it over to my colleague, Mr. Mulvey, Vice Chairman Mulvey. Was there an analysis on how much of the traffic moving along, this new traffic that we are talking about, this line is actually O&D traffic Chicago or is it -- or my impression is very little of this traffic is supposed to be moving over this line. It's going to be O&D Chicago traffic -- O or D traffic -- Chicago traffic.

A lot of this traffic or maybe the vast majority of this traffic is going to be pass through traffic going from a place not in Chicago to a place not in Chicago.

MR. BURGEL: Well, this goes back to when this team worked on the Conrail, as my information was based on that. But CN and CP,
both have transcontinental routes that go across Canada. And for the Chicago market, they divert a number of their trains to Chicago, because of the O&D pairs they pick up here.

So I didn't get a percentage of that number, Mr. Commissioner, but there is a fair amount or they could continue across the transcontinental routes through Canada.

COMMISSIONER BUTTREY: Um-hum.

MR. BURGEL: But if they do it for the Chicago market, then certainly the Detroit market as well.

COMMISSIONER BUTTREY: Some of the comments seem to indicate that this proposed action would benefit traffic coming in through Prince Rupert going to places in the southeastern United States, which would be basically remote traffic coming in from some place down through across Canada down through Chicago across this line and down into the old -- what used to the old Illinois Central territory. Is that your understanding as well?
MR. BURGEL: That's my understanding, yes.

MR. MORTON: Yes, that's correct. And we did have a number of comments, as I'm sure you are aware, on Prince Rupert and expressing concern about the traffic levels from Prince Rupert. Prince Rupert, for the benefit of those listening, is a, you know, port on the Canadian West Coast.

It currently is developed for about 500 TEUs or 20 foot equivalent units. There is a proposal to expand the Prince Rupert to about 2 million TEUs, that's under environmental review and the permitting process right now in Canada.

COMMISSIONER BUTTREY: And I don't know how many days it takes the traffic to get to Prince Rupert from where it is originating from, but I'm thinking somewhere between probably 18 and 25 days. I don't know for sure, so don't quote me on that. But the -- some of the information I saw said that -- indicated that if you were in the mid-south, for instance, and the
traffic was coming through from Asia over this
route, that it would cut a whole day off the
transit time. Is that the information you have?

MR. MORTON: Yes, sir. Prince Rupert
is closer to the Asian markets than like the Port
of LA and Long Beach would be, that's correct.

COMMISSIONER BUTTREY: So instead of
getting to its destination in 28 days or 29 days
or 30 days, it would get there one day sooner?

MR. MORTON: Yes, sir, I believe that
is correct. We can verify that.

COMMISSIONER BUTTREY: I have some
more questions, Mr. Chairman.

CHAIRMAN NOTTINGHAM: Certainly.
Thank you, Commissioner Buttrey. I expect we
will have multiple rounds and it's now my
pleasure to turn it over to Vice Chairman Mulvey.

VICE CHAIRMAN MULVEY: Thank you very
much, Mr. Chairman. I agree with Doug, it's
going to cut a day off, but I think it maybe be
less of a total. I think it's about 8 days from
China to Prince Rupert and one day off and the
four days on the east coast. So percentage wise, it's probably a larger impact.

I would like to ask about in terms of safety, and that is people who are killed, pedestrians who are killed. The majority of people who are killed by railroads today are not in highway grade crossing accidents or are they pedestrians crossing at crossings. But rather they are the category called trespassers.

About four or five years ago, trespassers overtook people killed at highway grade crossing accidents. Did you look at the impact on trespassers, because like it or not, trespassing will happen?

MR. THORSON: In our analysis, we did not look at and attempt to quantify the trespasser implications. You are correct in that a few years back the number of trespasser fatalities overtook the number of grade crossing fatalities. Another alarming statistic that the FRA is seeing is that there is an inordinate increase in the number of what appear to be
suicides as well at those trespasser locations.

VICE CHAIRMAN MULVEY: Those are not included in the trespasser statistics. The suicides are exempt from those numbers, but anyway.

MR. THORSON: Our analysis when we looked at it, we were looking at legitimate crossings of the track. We zeroed in on the sidewalks, the trail crossings.

VICE CHAIRMAN MULVEY: Then that's true, but illegitimate crossing still happens and the people who are killed trespassing are still dead, even if they are illegitimately crossing the track. Was it possible simply to extrapolate from some of the other estimates as to what the likelihood of accidents would be, therefore, extrapolating what the trespassing rate would be?

Because you can correlate the density of traffic and density of population with trespassing fatalities. I was wondering if you have been able to do that?

MR. THORSON: As I said, we did not.
VICE CHAIRMAN MULVEY: Okay.

MR. THORSON: We did not do that. If I could interject though, we do have in our analysis, however, a number of issues and discussions that address people, primarily children, on railroad properties not at designated or appropriate locations and mitigation that the applicants have provided for some of those.

MR. MORTON: I think that's an important point and if I could, Vice Chairman, just -- we did not, as Mr. Thorson identified, evaluate that and try to quantify it, but it doesn't mean that the mitigation isn't sensitive to that. There is voluntary mitigation that the Canadian National has proposed where they would work with the communities to provide fencing in appropriate areas near schools and near parks and those areas where trespassing occurs.

And there is also a real commitment in the mitigation to expand the operation lifesaver training and the education and the
awareness to reduce, you know, those trespasser events.

VICE CHAIRMAN MULVEY: Just speaking to an observation about the mitigation, about the voluntary mitigation and as well as the Board mitigation, there is, approximately, 170 mitigations that are called for. And yet, if I look at it very, very carefully, I find less than half a dozen that I would actually call mitigation in the sense that you are requiring the railroad to do something that otherwise it would not do.

All the railroads work with Operation Lifesaver. All the railroads work with communities, because they have to. And many of the mitigations that I read about here simply say you will obey the law. You will obey existing regulations. You will live up to the commitments that you have already made.

The mitigations that I see are the ones that relate to what the railroads have to spend on the grade crossings, the 15 percent to
install grade separations. The installation of cameras at certain crossings, so that emergency response vehicles can see what is happening and respond more quickly is another true mitigation.

I was happy to see the turtles are being protected. I considered that to be a mitigation. They would not have done that on their own. But it strikes me that virtually everything else that we call mitigation are things that the railroads would likely have done anyway.

I'm not being especially critical. I understand that these are things that need to be looked at and then perhaps put in writing, but do you want to comment on that, that these mitigations are kind of soft, if you like? I'm trying to just get your response to what the communities are going to say about some of these.

MS. RUTSON: Some of them may appear soft, for example, the liaison, the CN required liaison to work with Illinois Natural Resource and Water Resource Stakeholder Group. Now, that
condition may, on its face, not say much, but that condition, the team feels strongly, is going to be very powerful.

CN is required to work with Pratt's Wayne Woods and a number of other natural and resource stakeholders, interested agencies with special expertise in the areas of natural resource and water resource. They are going to work with CN when CN needs to spray pesticides to maintain the right-of-way.

But rather than having to say to CN, you will comply with EPA regulations on spraying pesticides, CN will work with the Natural and Water Resource Groups to figure out what is going on in the environment at the time when CN needs to spray. Perhaps spraying doesn't -- isn't necessary at a certain time. Perhaps it can be limited to a certain area.

Well, we can't put that out in a final EIS now. We're not the Natural and Water Resource experts. The people who manage those lands are. So they need to work with CN and CN
needs to work with them, more importantly, to
know exactly what needs to be done to maintain
those properties.

   It is simply not effective for us to
say CN you shall not spray on February 15th
through March. I mean, that's meaningless. So
it needs to be tailored.

   VICE CHAIRMAN MULVEY: I suppose my
view is that when I was writing it I would say
you shall consult with and you shall follow the
directions of that particular group about the
spraying as opposed to simply saying consult,
because I'm not sure how we can enforce them
doing anything beyond consulting.

   You have a consultation where you
have the "coordination," but if they elect not to
follow-up, what is our response to make sure that
they do, in fact, do what we are hoping that they
would do?

   MS. RUTSON: Well, we are
recommending reporting requirements, quarterly
reporting requirements that would continue for
several years. And the Board therefore, if circumstances warranted, could take appropriate action and that would be true if there were significantly changed circumstances from what existed at the time the proposed action were approved, assuming that it is approved.

VICE CHAIRMAN MULVEY: And that appropriate action could include fines, for example?

MS. RUTSON: For additional mitigation or modifying the mitigation that the Board imposes.

VICE CHAIRMAN MULVEY: Well, let me get to another one of my concerns or questions. And that is that we have mitigations based upon what we assume to is going to be true up to 2015 and projecting to 2015 is not so easy. I just read a study the other day about waterways and the traffic shifts between modes of transportation, given higher fuel costs, and this was very good study. However, it is a little bit dated now, though it came out in October of this
year, and I had three levels of possible fuel costs: high $150 a barrel, medium expected $90 a barrel and low, $60 a barrel, all in 2008 dollars. A week after the report is out, it is at $56 a barrel. So it's very, very difficult to predict the future.

My question is what if we are not correct on, say for example, these ADTs? And in fact, that fuel prices fall down to $30 or $40 a barrel, $20 a barrel, what have you, and traffic in these areas continue to grow and traffic problems are much worse. There are many, many more EMS delays and people suffering negative consequences, that euphemism for deaths, because EMS vehicles could not get through, et cetera.

Is there any way that we can have tranches of mitigation that we can monitor things and say that well, if delays reach a certain level, they will trigger us to go back and look at further mitigation, so we can require it? Is that a possibility? Because it seems to me -- I know we're monitoring for five years, that over
that five year period, things could be worse than expected. Can we have tranches of mitigations depending upon what actually happens?

MS. KITAY: Well, there is a condition now that says that if a party comes in and argues that there are significantly changed circumstances, that the Board could review the continuing applicability of the final mitigation. So I think that is the reason for this remonitoring and enforcement conditions that were in the draft EIS and are also in the proposed final EIS.

And that happened after the Conrail transaction. We had similar provisions and there were some adjustments to the mitigation, I believe, as that case went forward. So I think the same thing could be true here.

MS. RUTSON: And to add, NEPA requires us to take a snapshot of what is reasonably foreseeable. They don't expect us to be Gods. In Conrail, Evelyn, of course, is correct. We looked at a number of segments. NS,
in particular, had proposed rather dramatic increases in rail traffic in southern Virginia.

Those rail increases never materialized for whatever reason. But did we go back in and say well, all this mitigation we are requiring of you, NS, is no longer applicable? No, we did not. NS still had to meet that rather expensive mitigation requirements.

But your question is, of course, an excellent one. And EPA made the point to us during the commenting period, EPA suggested to us why don't you have tiered mitigation, so that if the train traffic, and that's what everyone was really wondering about, the numbers of trains that CN was forecasting, being people who were concerned about their homes and families and lives, they were very worried that there would be more trains than anybody projected.

So that's why we, as my consultants so aptly say, drilled into the numbers. And that's why we did all of that modeling and checking and probing and pushing and asking and
demanding to figure out if those numbers were right. And we are pretty damn confident that we are right with those train numbers. And that's why we think that our mitigation with the train numbers is right.

But you are raising a very good point. What is the vehicular traffic should change? Life as we know now more than ever can be so uncertain and things happen that no one can predict, even very, very smart people. So NEPA is requiring us to look to the best extent that we can at what is reasonably foreseeable, so that's what we are doing.

VICE CHAIRMAN MULVEY: Well, that leads me to these train numbers, for example. I look at the map and it shows parts of the route where trains increase and other parts where trains decrease. And I notice that there are really only five places where you have a significant reduction in the number of trains. Where it's a large number, like from 15 to 2.

Yet, I find, I think there are 19
places where the increases are very, very large, much larger than the reductions in any place. There are places where you go from 2 trains a day to 25, 30 to 40. There has been 43.5 trains per day. These are enormous increases.

It does seem that the way the analysis has been done, it's sort of well, there is benefit here, but there are setting off losses here, losses there, benefits there. And we sort of trade these things on an even basis.

It's kind of like the old economics argument about the constant marginal utility of money. Is the utility of another dollar the same for a rich person--is an extra dollar the same for a rich person and a poor person? With respect to the environment, there is a difference between reducing a negative externality in a place that already experiences a lot of it and benefit to that community and the cost of introducing the same externality to a place that has relatively few of them and now all of a sudden, we have a lot of it.
I think that is generally perceived

as not the same thing. That it is actually worse
to introduce a negative externality into a place
that was previously relatively pristine, than
reducing it when there is this overall
background. Can you comment on that? Is it a
fair tradeoff to say well, we're reducing
pollution here, and we're increasing it there and
so it's an offset? Even if it's the same kinds
of pollutants or even if it's the same LDN
numbers, because of the places and because of the
history and the background, they really can't be
treated the same.

MS. RUTSON: I think some of the
areas, you are exactly right, are not the same.
Fionna Goodson explained to us that the
environmental quality of the lands along,
adjacent to or through which the railroad does
run, on the EJ&E are of a very high quality. And
the environmental areas, natural areas, within
the arc less so.

So if you looked at an acre to acre
comparison of impacts, it seems that a scientific and rational person would conclude that the impacts would be greater to the high quality natural areas rather than the less high quality natural areas.

But then you come to the numbers that really do speak volumes. When Leif Thorson was talking about the numbers of schools in the additional analysis that we did, 900-some within 50 feet, I believe? We'll have to get Leif back.

VICE CHAIRMAN MULVEY: 2 miles.

MS. RUTSON: 2 miles. 2 miles along the CN five lines feeding into Chicago, 900-some, and yet 300-some on the EJ&E Line. To my mind, those numbers, those discrete numbers are quite comparable.

Now, would you ask are the children who live with trains perhaps on a more daily basis inside the arc, are they more savvy than children who live on the EJ&E? I don't know.

What I do know is that even today along the J, even during the time that we were
working on this EIS, two children met their deaths on the J. One a tragic trespassing incident in which the child was playing with her brother and her sister and the other two children made it across the line, but the young child did not. And another incident in which a young man passed away, again hit by a train.

It's very difficult, I think, to compare those situations. And I certainly don't have the wisdom to be able to comment on the degree of impact to children inside the arc and on the arc. But we have looked at the hard numbers to make that comparison.

MR. MORTON: If I could just briefly, I think you are absolutely correct that in a lot of cases we tried to quantify both the impacts on the EJ&E where, you know, traffic would increase, as well as the impacts on the CN Rail Line. In some cases, and Mr. Lazzara mentioned it, we did a regional analysis and compared those two.

You know, there is a total of 356 hours of delay increase when you look at all the
increases and all the decreases. Some resources like air quality where you really are dealing with a regional sort of phenomena, it does make sense to quantify it and add it all up and net it out and say, you know, are we -- you know, we are adding some pollution, you know, some missions over here. We are taking them off here. What are we doing to the region?

And that's a good approach. I think what we tried to do, and I hope you find it this way, is we tried to present the facts as, you know, we identified them and quantified them.

The real offset, does this balance this versus this? It is actually -- you know, and I know I'm speaking out of turn, it's sort of the role of the decision maker and it's really your -- I mean, that's why hopefully we are giving you the information that you can look at and try to make that decision in that balance.

MS. KITAY: And even when you did look at things on a regional basis, you also went and looked at every school within --
MR. MORTON: Yes.

MS. KITAY: -- 2 miles of the line or whatever, 50 feet, every emergency service response --

MR. MORTON: Right.

MS. KITAY: -- person along in every single community. So even though there are some balancing, it's not as if SEA and HDR have not done a real individualized environmental analysis.

VICE CHAIRMAN MULVEY: One more question and I'll move on to the next round. There are also issues of environmental justice, and I notice that it's addressed in the report, but it's not really delved into all that much. But isn't it the case that -- I recall I asked Ms. Rutson when we first saw an early draft about the numbers of people who are affected, we didn't have information on the total numbers who were affected. As I recall, there are far more people benefitting in the city of Chicago than
who are dis-benefitted in the suburbs. And isn't there some question about the relative economic well-being of the people who are benefitting and the people who are dis-benefiting?

MR. MORTON: Yes, sir.

VICE CHAIRMAN MULVEY: In other words -- yeah.

MR. MORTON: Yeah. I would like to perhaps ask Rich Christopher to just step back up here real quick. He did the details and I think the Vice Chairman's question really is related to, you know, the number of people on the interior versus the number and the demographics of those two populations.

MR. CHRISTOPHER: Well, first of all, when we did our environmental justice analysis just to compare the effects on people along the EJ&E, we didn't do it based on total numbers of people. We did it based on census block groups. And some census block groups are quite a bit larger than other ones.

We selected that unit of measurement,
because that's the lowest unit of measurement for income distribution. The census block level probably would have been a more accurate level for effects, but you can't get income data at that level.

So we compared numbers of census block groups, low-income versus non-low-income, minority versus non-minority. We also tried to describe the number of census block groups that would be benefitted with less delay and safety problems and less noise.

So -- but we did not try to do a total number of people analysis. Now, in other parts of the document, we used census block groups and total numbers of people to calculate, for instance, who was going to experience a slightly increased risk of exposure to hazardous materials and who would get a slightly lower number.

And when we did that analysis, we had about 900,000 people with a slightly lower risk and about 330,000 people with a slightly higher
risk. So those were not based on income or minority demographics. Those were just total numbers of people.

VICE CHAIRMAN MULVEY: But if you look at income and minority demographics, is it true that income, low-income and minority individuals are more likely to benefit from these environmental changes?

MR. CHRISTOPHER: When we did our analysis, Vice Chairman, that wasn't necessarily true. Just from looking at the census block groups and the way that they were distributed, the number of census block groups of non-minority or non-low-income is actually much higher inside the arc than you would expect. And that's because the arc is so far out.

VICE CHAIRMAN MULVEY: Um-hum.

MR. CHRISTOPHER: I mean, it's what a good 30 plus miles from the center of the city.

VICE CHAIRMAN MULVEY: How large are the census block groups, in general, in terms of acres or square miles or what have you?
MR. CHRISTOPHER: Well, it depends on population density.

VICE CHAIRMAN MULVEY: Right.

MR. CHRISTOPHER: We had some that were very small, that probably had a population of less than 1,000. And then we had one that was actually 13,000 people. So it was all kind of a community determination made by the census. It wasn't anything we had anything to do with.

VICE CHAIRMAN MULVEY: That's all for this round from me. Thank you.

CHAIRMAN NOTTINGHAM: Thank you, Vice Chairman. Just to follow-up on this trespassing concern. Is it fair to say that there currently is trespassing that happens under the system, both on the EJ&E today, but also on the CN system in Chicago?

MS. RUTSON: Absolutely, sir.

CHAIRMAN NOTTINGHAM: Any reason to believe that there would be more trespassing problems if the traffic were to largely relocate from Chicago to the EJ&E Line, if this
transaction were approved?

MS. RUTSON: No reason to believe that at all.

CHAIRMAN NOTTINGHAM: Okay. So really trespassing is one more example that weighing where you may have -- certainly may have a little more in some locations, but probably have less in others post-transaction, if it were approved?

MS. RUTSON: That's exactly right, Mr. Chairman. And there is voluntary mitigation from the applicants and SEA's preliminary proposed mitigation that addresses fencing and working with communities, parks to try and make the rail line as safe as possible.

CHAIRMAN NOTTINGHAM: When we as a group visited the area, we didn't spend quite as much time looking at the existing CN system in Chicago as we did looking at the EJ&E arc. We have had some reference this afternoon to proximity of the EJ&E Line to housing, schools, park resources, etcetera.
Can someone give us a snapshot of what, on the benefit side, the picture looks like on the existing CN Lines within Chicago? I assume, I've seen some of it, but you're talking about lines --

MR. MORTON: Right.

CHAIRMAN NOTTINGHAM: -- that are near housing, lines near public housing, lines near schools, lines near streets and cumulatively that sheer number of people in a densely populated megatropolis, such as Chicago, that would, I'm guessing, be -- would far out number those that are impacted, if this transaction were approved in the outer suburbs.

MR. MORTON: That's correct, Mr. Chairman. I believe and I think Rich just mentioned it is that there is, approximately, 900,000 people that live along the five CN Rail Lines that, you know, inside the EJ&E arc and about 300,000 or 400,000 people that live along the EJ&E Rail Line. So it is -- the CN Lines run through more densely populated areas.
I think that, in general, the lines have been there, you know, for quite some time. You know, the population has grown up around them. There is a lot of housing near them in some areas. There is a lot of businesses near them in some areas.

You know, so I think it's a little difficult to just characterize them, you know, in whole, but they do run through more densely populated areas. That's correct.

CHAIRMAN NOTTINGHAM: Thank you.

There has been a lot of discussion, as there should be, about pre-existing conditions and the status quo as exists today along the EJ&E Lines and the communities adjacent to the EJ&E Lines. It struck me, when we had a chance to recently visit the area, that certainly there was significant traffic congestion and some safety concerns in and around the track location currently.

I didn't notice and this is not scientific whatsoever, so I'm not going to make a
decision based on this at all, but I didn't notice a lot of highway improvement construction projects. We didn't -- we weren't delayed by -- we were there during summer months. We didn't see a lot of cones, a lot of equipment and things, as a former State Highway Department had I know easily how to recognize, nor did I even notice a lot of evidence of recent sort of new looking turn lanes or newer looking intersection improvements.

But help me understand someone the history. I got the impression, and I want to hear from folks who have spent more time and have more facts on this than my, you know, impressions that I was getting, that there hasn't been a sustained effort to keep traffic moving freely for whatever reason in much of the EJ&E corridor.

I just -- is that -- am I accurate there? Did you pick up -- are there plans that show projects? We're talking about communities that have a lot of Ds and some Fs on traffic flow. Are there projects in the pipeline that
the metropolitan planning divisions have to address that?

I mean, this project could disappear tomorrow, I mean, with the financial situation, the economy, I mean, so this is a question really that goes beyond just whether this project happens or not or happens with mitigation. I mean, this -- you are talking about communities that are facing some serious challenges. But I didn't -- I was worried that not a lot of action to address it.

MR. MORTON: I'm going to turn it over to Rich in just a second, but I think that issue was certainly identified during the scoping process where we -- where SEA received a lot of comments/concerns about existing congestion and existing traffic problems and would this proposed transaction exacerbate those?

That's one of the reasons in the draft EIS that we actually identified the level of service on the roadway. As you know, typically SEA would look at a level of service
analysis at an individual railroad crossing. And certainly, they did so this time. But because of the regional concerns and some of the mobility issues that you see, that's one of the reasons why we also looked at the -- you know, and quantified the total delay and looked at those at-grade crossings where you had more than 40 hours of delay and also the queue length, because that certainly has a potential to impact other regional issues.

And so that's one of the reasons why we looked at those two factors was to try to accommodate the regional issues. With that, I would like to turn it over to Rich to kind of give you a little bit of a feel for the history of that. Rich, would you mind kind of giving a little bit of your background, so they know, you know, from where you are speaking?

MR. CHRISTOPHER: Okay. First of all, my background. I was with the Illinois DOT for about 26 years. I worked for the State of Illinois for about 30. And for the-- during most
of those 26 years, I was the counsel to the planning organization as well, because it was tied very closely to the Illinois DOT.

So some of the stuff I would like to say today is what I learned, but it's also what I learned from the people that had been there before I got there.

First of all, we have two metropolitan planning organizations in the project area. One in northwest Indiana and one in northeast Illinois. And most people in Chicago that want to go back to the like how did we get into this and where did all these improvements come from, the benchmark we usually turn to is 1962 Plan.

It was kind of a pioneering plan. It was the first one of its kind in the United States, because it was long-range. It was regional. And it combined highway and transit. The only long-range plan that had been done before that was in Detroit and it was limited to highway improvements.
Now, the 1962 Plan called for extending transit, finishing the radial expressway system, which is pretty much the interstate highway system in the Chicago area, and planning for future concentric rings that would move around the Chicago area, much like the EJ&E does.

The first ring would be about 3 or 4 miles outside the city limits. That ring was already built in 1962 and it is still there today. The second ring would be about another 7 miles out. That ring is about half built today. And the third ring would be pretty close to the EJ&E. That ring that starts and stops in the planning process and there currently isn't really a long-range highway planned in that corridor.

There are individual pieces that are planned, but not a long continuous route. There is a fourth ring, which is another 7 or 8 miles further out west where there is actually work being done and construction being done to move traffic north and south.
Now, there is a lot of reasons why that, you know, has happened at certain places and hasn't happened in others. Since 1962, a lot of things have changed. NEPA got passed along the way. It's a lot harder to do an improvement now than it used to be. The planning rules have changed. And now the long-range transportation plans have to be consistent with air quality planning and that's a real constraint on how these things get done.

Also, the planning agencies don't just do transportation any more. They try to integrate land use planning, natural resource planning, air quality planning and all these things into one mix. Now, that might make for a plan that is responsive to an awful lot more needs, but it also makes it much more difficult to get significant transportation improvements.

Now, and of course, the biggest constraint to any of this is finances. The finances for highway and transit improvements are actually the public finances, which are much less
today than they were in 1962. The gas tax is just -- as you know, it hasn't turned out to be what we all thought it would be.

Now, that doesn't mean that there isn't still progress being made, that there aren't still improvements going in. As I said, most of that second ring is -- about half of it is built, about half toll facility, about half non-toll facility.

The first ring around the Chicago area is about 90 percent tolled. The transit now, the transit system goes much further out than it ever did before and ridership is much, much higher on transit than it once was. And of course, recently, there has been a tremendous surge with the fuel prices, as you were talking about, Mr. Vice Chairman.

There are also local projects. Now, some of the projects that are local in nature go through the metropolitan planning process, so that they are eligible for federal funds. Some of them don't have to. And we listed, to the
extent we could find them, ever local improvement, that we knew of, that was going through the county highway departments where they just come up with their own program, publish it and go on their way.

We looked for the ones that were as close to the EJ&E as possible. We found -- and then even when we thought we had a good list, we got into the comment period and found out we had missed a bunch. So we have got just about every single one we could find are listed in the final EIS.

There are some that are -- have been initiated by the communities immediately around the grade crossing, other ones initiated by the county highway departments, as I said. And we have got them all listed in the final document.

MR. MORTON: Did that answer your question, Mr. Chairman?

CHAIRMAN NOTTINGHAM: That was helpful. The sense I got that I want to bounce this off knowledgeable sources that we have here
today, it seemed that there weren't a lot of lane
additions that had been undertaken in some of the
major arterials that were running kind of
east/west through some of the communities that
have generated a lot of correspondence to it on
this transaction, turn lanes, widened shoulders
and whatnot.

And I got the sense that perhaps, and
I have seen this, this is certainly a common
phenomena around the country, that perhaps
communities consciously decided not to seek
funding and push projects ahead for fear that
they would become more of a conduit for cut
through traffic so to speak from the outer
suburbs to the west in and effort not to become
that thoroughfare, that, you know, speed bump in
between a job center like Chicago in the western
suburbs.

The consciously said no, we don't
have any plans. But is that a situation -- I've
seen that situation many other places. I don't
want to assume that's the situation along the
EJ&E Line. But do you have any information that
would speak to that one way or the other?

MR. CHRISTOPHER: Well --

CHAIRMAN NOTTINGHAM: And if so, has
that been a successful strategy? Has it actually
resulted in less traffic problems?

MR. CHRISTOPHER: Well, first of all,
because of the modern planning process, which
includes the NEPA process and context sensitive
solutions to transportation problems, things like
add lanes projects don't get built unless
communities want them.

I mean, there has to be a community
consensus find, a major investment with
disruptions and right-of-way takes and everything
else, otherwise, you're not going to do it. And
we found a couple of examples, when I was working
at that, where communities knew that they needed
something, but they were having a horrible time
figuring out what it was, because they didn't
like any of the choices.

And in some of those cases, it does
put off getting the improvement that you need, because you just can't agree on what it is you ought to do. There have been communities who have decided that the best way for them to live on the way that they want to live on is to avoid any significant transportation improvement.

And it's tough to generalize, but that usually doesn't work. If traffic is headed your way, it is headed your way. And if you don't do anything about it, you're probably going to get it anyway. Would you get more traffic if you had a bigger road going through the middle of town? I don't know. That's an argument that is a tough one for anybody to win, I think.

CHAIRMAN NOTTINGHAM: Thank you. Some of the comments we have received indicate that many stakeholders, many interested parties are comfortable with the current levels of rail traffic that exists now, very concerned about increases, of course, for all the obvious reasons and suggested that if we were to approve this transaction, we do so with strict limits to
disallow traffic increases, unless agreements are reached with the local governments involved about the terms and conditions under which traffic increases might be able to go forward.

You have been, all of you have been, working and spending quality time in these communities. Some of your careers it sounds like, Mr. Christopher, what are the chances that -- I worry that if we were to go that route, there may be other reasons to have problems with this transaction and certainly other mitigation discussion items, but if we were to focus too much on that, we would basically be putting localities in charge of Interstate Commerce and the chance that any locality would actually allow increases in traffic, I think, I mean, would be pretty minimal.

But can you speak to that? You know, how would that be -- how would that work? Just a suggestion to go forward.

MR. MORTON: Well, there is a couple of things and I think you put your finger on an
issue that, you know, has been a concern for a
number of the stakeholders from the very start.
And that is, you know, what assurance do they
have that the number of trains that CN has
proposed and that were evaluated in the EIS is
going to remain the number?

And of course, you know, we certainly
understand that railroads, you know, respond to
market forces. They, you know, increase the
number of trains. They decrease the number of
trains. But what we did do, and I think Mr.
Burgel explained a couple of those things earlier
this morning, but we looked at the train numbers
from, basically, five different ways.

And I think we discussed these in the
draft EIS, but first, we looked at it from a
capacity standpoint and we did three analyses to
look at capacity. And one was the bottleneck
analysis. And we looked at the Joliet area as
one bottleneck, not necessarily the only
bottleneck, that the railroad would have to
approve.
And our conclusion with that is that there -- really their operating plan sets the maximum number of trains. One of the things that EPA asked and, you know, they probe very hard on the bottleneck analysis and one is, you know, well, is there an easy fix?

Let's say they add a second track to the bridge, could they all of a sudden put 50 more trains on it? And so we started looking at that and the EPA kind of used the analogy of an onion. You know, if you peel back this layer, you know, you get a quantum increase in capacity or there is just more layers of the onion to go through.

And so we did look at that under the bottleneck analysis. And there is certainly a fix that you can do here that gives incremental additional, you know, improvement and then another fix and another fix. But there wasn't anything that looked to us that gave them just this quantum leap in capacity. And so that was one analysis.
As Mr. Burgel explained, we also did the line occupancy analysis in the RTC modeling, a much more robust analysis. Then the other two things we did were from the demand side. We looked at -- you know, we did an economic analysis that looked at general freight trains with, you know, capacity unconstrained and how those economic factors would influence, you know, how traffic may be driven by economic factors.

And once again, you know, for 2015, we came up that this is -- you know, that the train traffic levels that we are using in the EIS are within that reasonable range of what we would expect to see, based upon just, you know, global or national sort of economic trends.

CHAIRMAN NOTTINGHAM: Mr. Morton, let me -- I hate to cut you off, but I want to respect time for others. I think everything you are saying is interesting to me, but I want to maybe rephrase my question.

Pick your favorite or pick a community that has submitted a lot of letters to
the Board. I'm not going to name one, just pick
-- in opposition to this transaction. And then
play out with me just quickly a little
hypothetical exercise. We approve this
transaction under the condition that there will
be no increase in traffic through community X,
who has written a lot of letters, citizen letters
opposing this project, unless that community
approves of the terms and conditions under which
increased traffic were to take place.

What are the chances that our -- we
would ever see an increase in traffic? In other
words, is this just a matter of the parties not
being able to agree on a couple million dollars
so far in mitigation and the informal, you know,
private voluntary mitigation dialogue or are we
miles apart?

And so what I'm sensing the letters
and the intent is we are miles apart. Now, there
is no scenario whereby -- and for understandable
reasons, which I think is why we have something
called the Interstate Commerce Act and something
called the Surface Transportation Board and we don't have a system in our country where, God bless them, the wonderful people who do some of the hardest work in Government, and I mean this in our country, which is local government work.

I used to work for a distinguished Member of Congress who said without doubt the toughest job he has ever been exposed to was school board, local school board duty.

MR. MORTON: Right.

CHAIRMAN NOTTINGHAM: And everything else is easy compared to that. And you know, you can work it on up. But how -- help me out. I mean, would such a scenario likely result in a kind of real compromise where you would see some increase in traffic with some additional benefits flowing to the communities or would this just be the end of the story, as far as traffic?

MR. MORTON: My sense, you know, Mr. Chairman, is that it is mixed, that there are communities out there that it would be very difficult to negotiate with and come up with some
sort of traffic increases that would be palatable. There are some communities out there that I think it would be much easier to work with and strike some deals or, you know, identify a number that they could live with, I think.

CHAIRMAN NOTTINGHAM: And in reality, all it takes is one community, right, to stop increase in traffic for the whole line.

MR. MORTON: Yes, that's correct.

CHAIRMAN NOTTINGHAM: And so I would suggest if that -- if we were to support such a hypothetical, it would probably be more honest just to vote against the transaction than to say oh, we're voting for it, but we're just going to let the locals work it out with the railroad. I think that would be shirking our responsibility, in my personal humble opinion.

And so I'm going to -- you know, whatever we do, I think I'm going to make sure its the Board's action that we're held accountable and that we don't pass it off for decades of in fighting amongst other parties. So
I appreciate your response.

We had some reference, I referenced it myself, Commissioner Buttrey referenced the Overton Park decision. And, Ms. Kitay, I might ask you, you are our most knowledgeable environmental attorney, and I'm sure you have cited the Overton Park case more than once in your career. It is a black letter law and a really important case, as Commission Buttrey referenced.

A beautiful park resource targeted for disruption by a major interstate, a new construction project during the interstate construction era and the Supreme Court weighed in very clearly on the type of informed judgment and alternatives analysis and avoidance of environmental harms type of analysis.

I don't see -- as important as Overton Park is, I don't see this case -- Lord knows this case will raise and we will see it play out in the courts no matter what we do. A number of interesting legal issues, I'm sure.
But I don't see it as an Overton Park case where we have the green fields situation where all of a sudden a new massive new construction is being plowed through.

We have an existing line of railroad. We have an applicant wanting to come in and route more traffic over that line could raise serious issues that we have been hearing, but not -- I don't see it as an Overton Park factual case, what's your sense on that?

MS. KITAY: I would agree with you, Mr. Chairman. I think that there is a big difference between constructing a new line in which case you might really have a number of alternatives and using an existing railroad right-of-way, which is what we are doing here, I think that there can be environmentally preferable alternatives. And certainly for some of the connections that CN proposes, we are recommending environmentally preferable alternatives.

But essentially, you have an existing
rail line and there really are no alternatives, other than using that existing rail line. And as we have discussed earlier today, the alternatives that have been proposed throughout this proceeding, like the CREATE Line or increased trackage rights would not allow the applicants to meet the purpose and the need of the project.

And the courts have found that if you're looking at alternatives, they have to be reasonable and feasible alternatives that would allow the applicant to meet its purpose and need. So in mergers and acquisitions, we don't do the same kind of alternatives analysis that you would do in a new construction.

CHAIRMAN NOTTINGHAM: Thank you. Now, turning back to the mitigation and assuming if we were to conditionally approve this transaction, if we were to with mitigation, and almost all the transactions I have heard about that have been approved in recent years, the Board came with mitigation conditions, help me understand the mechanics of that.
Some period, let's say we mandate 4 or 6 or some number of above grade, grade separation project improvements and they get designed and built at different stages in the future. How does the -- how would the money flow? You were suggesting earlier 15 percent would be an appropriate number. Does there need to be any kind of mechanism set up to make sure that -- how do we enforce that?

And who, under your preliminary scenario, would the State DOTs largely be in the driver's seat on that process of sort of marginally working with the locals and the railroad, so that no one party can just sort of stall or frustrate the intent of any such mitigation plans?

MR. MORTON: The -- Mr. Chairman, I think the -- clearly the -- there needs to be a partnership developed and on both of those roads, Ogden Avenue and Lincoln Highway, they are both state routes and we would envision that the State DOT would be the driver of that partnership.
Both Indiana and Illinois have processes in place for grade separation projects. And those processes do include partnerships that they developed, you know, between the locals, the state and the railroad. And we would envision that you would work through the existing process that they have to do that. That is correct.

MS. KITAY: They would also be reporting, as we have said earlier, so we would be kept apprised of the railroad's progress --

CHAIRMAN NOTTINGHAM: So if the state says --

MS. KITAY: -- in implementing.

CHAIRMAN NOTTINGHAM: -- we're about to let a contract for preliminary engineering, CN send in your percentage contribution, that's going to either happen or if it doesn't happen, we hear about it or we're able to do something about it?

MS. KITAY: Yes. We would hear about it in the quarterly reports that the railroads would be required to file.
CHAIRMAN NOTTINGHAM: But you are not proposing, if I understand, that we hold on to some kind of working capital fund or something where we hold onto the railroad's money until the state asks for it?

MR. MORTON: There was -- one of the eight suggestions, you know, concepts that we published in the draft EIS, one of them did include a traffic impact mitigation fund. And we specifically asked the public to comment on, you know, who would hold the capital. You know, how such a fund would work. And we did get some comments on that, but you know, that is not what we would be proposing on -- in this. That's correct.

CHAIRMAN NOTTINGHAM: And whatever that percentage of mitigation responsibility for those new construction projects that we hold the railroad accountable for, whether it is 15 percent or something higher, that doesn't actually guarantee those projects get built, right, realistically? You're still going to have
to -- you're still going to need the state and
the localities to agree on a project, agree on
the need, come up with their share of the
resources.

So we could actually mandate
something recognizing a very serious traffic and
safety problem and look back 10 years later and
see that nothing happened, because of just lack
of financial or willpower or leadership or
whatever it is.

MS. KITAY: Well, that's true. And
it is also -- it could lead to negotiated
agreements that could result in more favorable
mitigation for a community that really doesn't
want a grade separation.

CHAIRMAN NOTTINGHAM: Okay. That's a
good point. In my experience, grade separations
may be very desirable from a safety and
engineering perspective and a traffic flow
perspective, but when you superimpose them on the
realities of the community and you look at the
distances and the spaces and the footprint of a
modern day grade separation project, it can be very difficult to weave that into the context of an existing community in a way that is popular, frankly.

The -- jumping around here a little bit, there was some reference I saw in some of the correspondence we received on some of the environmental issues about the concerns about possible hazmat spills and suggestions to different ways to mitigate and a mitigation strategy referenced as an impermeable membrane surface.

And is this something that -- my understanding is this would be some kind of fabric like material that would be laid -- in-laid beneath the soil surface adjacent to railroad right-of-way that would hopefully almost act as a sponge, in effect, in the event of a hazmat spill, you would contain the runoff into waterways and water resources, etcetera. Is that a fair description?

MR. MORTON: There were certainly a
number of commenters who were concerned about hazardous materials spills and specifically the potential for a hazardous material spill to leach into the groundwater and, you know, contaminate the shallow source aquifer that a number of communities use as their drinking water source.

It was -- we didn't get a lot of comments, you know, really, you know, designing it or specifying it. The concept, and I'll let Kevin talk about it in a second, has generally been some sort of impermeable membrane or clay lens or something like that that would serve as a catchment basin.

And I don't know, Kevin, if you wanted to?

MR. KELLER: Sure. Hazmat is a very, very well-regulated area, as we all know. There are state regulations. There is federal regulations. Often times with storm water, there is local regulations. The rail industry has really, really stepped up in terms of responding to hazmat incidents, in terms of spills and
releases into the environment.

We were talking with U.S. EPA about this containment, this barrier type system. And in their eyes, you know, if such a barrier or containment system can be installed near areas of vulnerable and susceptible water areas, like a groundwater, a well protection area, a surface water body, a creek, a fen, a wetlands, a ditch, then that would be a good idea.

And in fact, railroads in their yards, in fixed facilities use certain things like that. They have track pads, which are containment structures for any kind of a fueling, for example, overfill or something like that situation.

What happens is that is extremely problematic in the real environment. What happens is sometimes that can cause more damage than it can prevent, because if you have a catch basin type situation, what if there is a big rain event? There is already that contaminate, that material in there and it overflows, now, you have
just created a bigger problem than what you
originally had.

The best solution we think is still
in terms of pollution prevention an immediate
response to any kind of a spill or release. So
we are not going to recommend a barrier or
containment system in our mitigation measures,
but instead what we are making sure and that we
want to ensure is that the applicant supplies all
local emergency responders with the appropriately
trained people, they have the right equipment,
they have had the right materials to respond
immediately and effectively to any kind of a
release.

CHAIRMAN NOTTINGHAM: What I think
I'm hearing is this suggestion of an impermeable
membrane type strategy is not a best practice
that has been widely deployed along the rail
corridors that has worked well.

MR. KELLER: That's correct, Mr.
Chairman. It has been deemed actually to be
technically impractical at most places. It is
not a regulatory requirement in any state or any federal agency. And we just don't think it would be feasible, at this point.

CHAIRMAN NOTTINGHAM: Okay. I want to move to Commissioner Buttrey momentarily. Thank you for your patience, colleagues. Two quick questions, maybe not so quick, but hopefully they will be quick.

One of the ironies of this application, this project is while we -- while $20 plus million has been spent on the very, I think, thorough environmental analysis and thousands of hours have been spent by hundreds of different -- thousands of different stakeholders thinking about this project and hearing the Board try to figure out how to comply with our legal responsibility and to thoughtfully handle this application, while we are giving this all this thought, there is nothing that occurs to me, there is nothing that would prevent the rail, current rail owner, from running more traffic over this line.
They currently -- my understanding is, the EJ&E already does have other railroads running traffic over this line, correct?

MS. RUTSON: That's correct, Mr. Chairman.

CHAIRMAN NOTTINGHAM: And if they decided to add a few trains each year or every other year for the next five years, would we have -- would they require our permission to do that?

MS. RUTSON: Perhaps a trackage rights application, but that, under our environmental rules, requires no environmental review.

MS. KITAY: Unless there was enough potential for environmental impacts.

CHAIRMAN NOTTINGHAM: So if they hit a certain threshold perhaps they would?

MS. KITAY: We could, theoretically, do an environmental review of trackage rights if there was enough potential for environmental impacts.

CHAIRMAN NOTTINGHAM: Have we ever
done that before?

    MS. RUTSON: Never.

    MS. KITAY: No.

    MS. RUTSON: Never.

    MS. KITAY: No.

    CHAIRMAN NOTTINGHAM: I would have to say this Board has been shown the willingness to go where no Board has gone before on other occasions. So that's not -- but it is worth noting.

    MS. KITAY: But I think that the trackage rights clearly could happen and the thing is that they would not allow the applicants to totally satisfy the purpose and need of the project.

    CHAIRMAN NOTTINGHAM: Right. Now, looping back to this 15 percent mitigation number. I understand the data and the analysis about the region-wide sort of contribution to the -- or exacerbation if I should call it, let's call it the exacerbation of traffic congestion factor. It is 15 percent region-wide, if this
The transaction would exacerbate or worsen traffic conditions region-wide to the tune of 15 percent, that's what I understand. Then we look at the actual locations where there are preliminary recommendations to do grade separation construction and projects.

I want to know if we have it, what is -- location by location, what is that exacerbation factor? Do we have data or can we get out a number there? Because whether it is 2 percent or 18, I'm more comfortable, frankly, just being location-specific, because those are the locations we are saying the situation is so serious that something very dramatic needs to happen.

We are not quite as concerned, with all due respect, with the 15 percent out there that don't trigger the Level of Service F, etcetera. So that's why I don't want to be overly hung up on that 15 percent if that's not what -- the exacerbation factor, to make up a
MR. MORTON: For each of the 88 grade crossings, at-grade crossings on the EJ&E, we calculated exactly that information and it is presented in -- it will be presented in the final EIS. And that is we calculated, you know, under a no action scenario what the current delay would be and for each one of them, we calculated under the proposed action what the expected delay would be and calculated the difference.

So that information certainly is available for each one of those.

CHAIRMAN NOTTINGHAM: Good. Did you put it in percentage terms? I know Dr. Mulvey would have no problem crunching the numbers, but the poor lawyers over here might still struggle with that. So if you could put it in percentages?

MR. MORTON: We would be more than happy to put it in percentage.

CHAIRMAN NOTTINGHAM: All right.

MR. MORTON: Yes, absolutely.
CHAIRMAN NOTTINGHAM:  Thank you.

Now, last question, I promise. We have this at two locations where we -- two seriously degraded intersections where there is actually a voluntary mitigation agreement already in place. If that voluntary agreement, in my understanding, had not been reached, the same rationale that results in the preliminary recommendation for grade separation projects at a couple other locations would have applied at those locations.

Just quickly walk through that, because I want to make sure I'm comfortable intellectually with the consistency of mandating grade separation one place but not in other places when the same levels, same numbers have been hit.

MR. MORTON:  Okay.

CHAIRMAN NOTTINGHAM:  And I say that with all great respect for voluntary mitigation. We applaud it. We encourage it. I will point out for the record there is still time for folks who are watching or here in person to undertake
voluntary mitigation plans and agreements, that's much better than a Government-imposed solution, in my mind.

But at the same time, I want to be sure we're being consistent in how we approach it, recognizing in almost any scenario that I think is realistic, if we were to approve this transaction, it would be with conditions and it would require significant state and local contributions, so there's no actual mandate that something is going to get built. It's going to take a team effort.

MR. MORTON: Yes, sir. The -- I think the -- if you go back in the discussions that we had earlier this morning, both Mr. Thorson and Mr. Lazzara, on the safety side we evaluated the change in safety, the change in the risk at all the at-grade crossings. And there were four at-grade crossings that we identified in the draft EIS that had a substantial risk profile change.

Those are two in Griffith, you know,
Lake Street and Miller Street, which we have voluntary mitigation for. There is one that has already been upgraded, so, in fact, the mitigation has already taken place for that. And then the fourth one was Woodruff Avenue in Joliet, Illinois. And Woodruff Avenue is at sort of the west end of the East Joliet Yard.

The analysis of -- on the traffic side, when we looked at the change in the level of service at the various at-grade crossings, there were only -- in that -- that's historically the analysis that SEA has used on most cases is the change in level of service. There are only two that changed from a Level of Service D or better to a Level of Service D or worse after the transaction and that's Washington Street, also in Joliet, Illinois, and Woodruff Avenue that we just talked about in Joliet.

So those two crossings are crossings that SEA would historically call impacted under, you know, any sort of analysis or the analysis they did. We then did the -- you know, expanded
that analysis to look at the regional transportation impact and that's why we did the -- both the 40 hour delay and the queue length.

But you are absolutely right. Washington Street and Woodruff Avenue absent a Joliet agreement are certainly two crossings that I think we would look very seriously at the type of mitigation, what might be appropriate at those two crossings, because they both would warrant it under SEA's, you know, analysis.

CHAIRMAN NOTTINGHAM: My understanding is that preliminarily, the staff is not inclined to mandate a percentage contribution for a grade separation project there, because a voluntary mitigation agreement has already been entered into. But the Board, presumably, has some discretion to actually look at it and say well, if you apply the actual numbers and the data, the metrics, these two are impacted just as badly as the others.

And we want to require that the railroad be responsible in the event that the
locals and state put together a plan to actually address that. Now, if some side agreement prevents the localities and state from deciding to go forward with the plan, so be it. We respect agreements and mitigation agreements. We don't want to micromanage the priority setting of the community that may very well at Joliet have decided that it's much more important than to straighten out that yard and advance some of the other goals they were able to achieve in their mitigation plan.

But I just float that as food for thought. Again, as long as it is based on the data, I think we would be in strong territory there. No, we can't just make this stuff up, obviously, at some free flowing sense of equity. I mean, but you are talking about data analysis that would have led to a certain outcome, but for a side agreement that was reached. That's all I have. Commissioner Buttrey?

COMMISSIONER BUTTREY: Thank you, Mr. Chairman. I don't want to let the opportunity go
by to address the noise issue, but I think our
noise expert just left the room. So hopefully he
will be returning soon.

When we talk about hazmat, in the
meantime, if the hazmat expert can come back up?

MR. MORTON: Kevin?

MR. KELLER: Yes, sir?

COMMISSIONER BUTTREY: I would like
to ask you a question, which you probably will
not want to answer, but it seems to me that if
you have hazardous materials going through, a
line of track going, a populated area at 10 miles
an hour, the chances of something untoward
happening is probably less than if you have a
hazmat -- several cars of hazmat moving through a
populated area at 45 miles an hour. The chances
are that if that occurrence, God forbid that ever
happened, the chances are more of a catastrophic
spill would take place if the train was going 45
miles an hour, rather than going 10 miles an
hour. Is that within the realm of feasibility?

MR. KELLER: That's true. And the
models can work both ways though realize. It's, you know, if the train is moving slower and if there is a release, the exposure time is longer, therefore, the probability of any kind of harm or injury to the general population could be longer and worse.

COMMISSIONER BUTTREY: Um-hum.

MR. KELLER: If it is going quicker and if there is some kind of a catastrophic event, obviously, the release could be a lot worse in magnitude, but if it's moving, obviously, it would be less exposure in terms of time durations. There is a balance there that the FRA tries to regulate.

COMMISSIONER BUTTREY: Okay. Thank you very much. Our noise expert is back. I had asked the staff to try to set up a noise demonstration in the room here. And they said they would give that a shot. And I understand they did give it a shot. But that the noise expert said that there was really no way of doing a noise demonstration inside this room, because
doing a noise demonstration inside of a closed room is not the same as the noise event would be if you were outside standing nearby the track.

You presumably put noise monitoring devices out near the tracks to measure the single event noise, if you will, and then use that calculation to extrapolate some type of value that you have used to present here in the report. Is that correct?

MR. CASEY: Yes, sir.

COMMISSIONER BUTTREY: So you didn't take somebody else's data, if you will, about what kind of noise a locomotive makes going through Naperville. You actually went out and measured it somehow in that location?

MR. CASEY: We did. We found an area that was grass covered, free from -- I should say not in close proximity to other noise sources, so it was away from grade crossings. And we were able to, using two sound level meters, measure the noise associated with the locomotive pass-by. You turn that meter off and you turn the other
meter on when the railcars go by.

And you can post process that monitoring data and arrive at a noise emissions term for a single locomotive and a single railcar. We did that for 25 train pass-bys and some of them did, in fact, include the locomotive horn noise. So we have three, you know, distinct noise emissions terms in our data set.

COMMISSIONER BUTTREY: And what was the average value that you came up with about the single event? The LDN level.

MR. CASEY: Well, there are two different things and your question actually kind of interweaves two unrelated things. The SEL values that we measured for locomotives, locomotive horns and railcars are in the draft EIS. And forgive me, I don't have that information off the top of my head.

We did use a conservatively high value for the locomotive horns, which I think was 103, instead of 100 for our locomotive horn noise model and we used the FRA model. So we,
essentially, over-predicted the locomotive horn noise at every grade crossing in the project area by just a conservative amount.

MR. MORTON: And when you said 103, that means 103 decibels?

MR. CASEY: Decibels, yeah.

MR. MORTON: Yeah.

COMMISSIONER BUTTREY: Since we can't do a noise demonstration here in the room that makes any sense, can you compare what 103 decibel level event would be that we might be more familiar with than a locomotive going by? And I'm thinking about maybe Redskins stadium when it is 3rd and 1 or something like a rock concert on Row 10 or maybe an airplane, you know, Indy-11 or something. No, not an Indy-11. A 727 taking off from an airport.

Can you compare some of those values, so we sort of get an idea of what this noise sounds like? Not that -- we have all heard a railroad locomotive go by, but I'm just comparing the numbers. Sometimes numbers turn out to be
just numbers. And unless you can compare them to something, you really don't -- it's kind of like you really don't know what you are talking about. I mean, you know what you are talking about, but you can't compare it to anything.

MR. CASEY: There is numerous examples of common noise events, indoors and outdoors. I have just a few of them here in front of me. A gas lawn mower at 3 feet is representative of somewhere in the upper -- the mid to 90s, maybe upper 90s. So a common one at about 3 feet.

A jet flyover at 1,000 feet would be maybe at 110. I do have a rock band listed on this. This comes from a document that was published by the Government a few decades ago. A rock band is at 110 decibels. I have been told that in some circumstances, the control consul, the mixing board for some concerts, they like to have the sound pressure level come from the stage, you know, between 95 and maybe 100 decibels, but that varies by band and that varies
You know, so 103 is very -- it's a high noise level. We're talking about locomotive horn noise, so it's just, you know, briefly used. It's a very intermittent source.

COMMISSIONER BUTTREY: Now, you talked about the -- sort of a multiplier that you used to calculate the noise level, the difference between daytime noise and nighttime noise. Could you run through that again one more time for me?

MR. CASEY: When we -- when I tried to explain what an LDN is, I mentioned that it takes -- in a calculation of an LDN, you start with 24 consecutive hourly average noise levels. And to the 9 hours between 10:00 p.m. and 7:00 a.m., you add 10 decibels to each of those average hourly noise levels.

And then you perform a mathematical function that compresses them, all them, into a single, you know, number. It's a logarithmic number. And so the significance of that is that events that happen in nighttime are 10 times
louder than they would be if they happened during the daytime.

COMMISSIONER BUTTREY: 10 times?

MR. CASEY: 10 times louder.

COMMISSIONER BUTTREY: The perception -- the perceived noise level is 10 times more irritating if it happens at night than if it happens during the daytime?

MR. CASEY: No, no.

COMMISSIONER BUTTREY: Is that what you're saying? It's what it sounds like you are saying. But I get -- are you sure -- is that what you are saying?

MR. CASEY: No, sir, that's not what I'm saying. I'm saying in the calculation of an LDN, a nighttime noise event is given 10 times more the energy than it would as if it happened during the daytime where it would not have received that penalty.

Now, the purpose of the penalty is to kind of recognize that people sometimes do or generally do consider nighttime noise events to
be more intrusive or annoying or at least that's
the assumption.

VICE CHAIRMAN MULVEY: Aren't you
saying that it's exponential and therefore you
give it 10 decibels and that's the equivalent of
being 10 times higher?

MR. CASEY: Essentially, yes.

VICE CHAIRMAN MULVEY: Thank you.

MR. CASEY: Thank you.

CHAIRMAN NOTTINGHAM: So it's akin to
dropping a pebble into a placid pond versus a
stormy sea, as far as the energy, noticeable
energy it emits or is that a terrible analogy?
I'm just trying to help Commissioner Buttrey
understand.

COMMISSIONER BUTTREY: I think that's
a terrible analogy.

CHAIRMAN NOTTINGHAM: Well, the
concert thing wasn't working for me, because Dr.
Mulvey and I were -- you know, it's a concert, we
don't know if we're talking about Commissioner
Mulvey's big band or Dr. Mulvey's Grateful Dead
MR. CASEY: I think I can share a little insight that might clarify some of the concepts we are discussing. It is generally recognized that 3 decibels is -- it is generally considered the threshold of perception. That term refers to the fact that if you increase a sound level by 3 decibels or if you decrease it by 3 decibels, you may or may not perceive a change.

If you have ever gone to an audiologist, that's one of the things they do. They see where is your threshold of perception. A 5 decibel increment, a change or a decrease, an increase or a decrease is clearly perceivable. A 10 decibel increase is perceived as a doubling. It is twice as loud.

Now, in reality, if you have two identical noise sources and you turn them both on, the resulting noise level is going to be 3 decibels higher. It's not actually twice as loud, it's only 3 decibels louder.
COMMISSIONER BUTTREY: Now, how far away were these instruments when you measured the -- on a single event basis, how far away from the noise source were they?

MR. CASEY: When we did our pass-by measurements, the instruments ranged in distance from the center line or maybe the nearest rail. I want to say from about 40 at the closest to maybe 60 at the farthest. The instruction and the monitoring plan was to get them at 50 feet. And so they were all mathematically normalized to 50 feet.

COMMISSIONER BUTTREY: Um-hum. And again, 50 feet is like from the front of this desk to the wall back there.

MR. CASEY: Yes, sir.

MS. KITAY: There is also a lot of noise mitigation in the final EIS, including pretty extensive voluntary mitigation that was proposed by applicants. So we are not talking about 103 decibels here. That's before mitigation, right?
MR. CASEY: Well, this 103 decibels is the, I believe it is, sound pressure level that we inserted into the FRA locomotive horn noise model to represent the horn noise. And it is not all that far off from what it is in reality.

MS. KITAY: But what would it be with mitigation? I mean, if the mitigation --

MR. CASEY: Well, mitigation for a horn noise would be a quiet zone and so you would, under normal circumstances, no longer have that sound in a typical operating scenario. You would be left with just the wayside noise, which is the locomotive noise and the steel wheel/rail interaction, you know, of the train rolling by.

MS. KITAY: And there is mitigation for that also, wheel squeal?

MR. CASEY: Well, in sections of curved track, there is mitigation for that wheel flange squeal noise on sections of curved track.

COMMISSIONER BUTTREY: Now, right now today, there is no horn noise quiet zone in
Joliet, correct?

MR. CASEY: Mr. Thorson?

MR. THORSON: That's correct.

MR. CASEY: That's correct, sir.

COMMISSIONER BUTTREY: The only other -- the only -- excuse me, not the only other.

The only quiet zone along this line of track is Barrington. Is that correct?

MS. KITAY: No.

COMMISSIONER BUTTREY: That's not correct? What is correct?

MS. KITAY: 7, 8, something?

MR. THORSON: There are five quiet zones along the existing EJ&E Rail Lines. And I apologize, I don't have the exact limits of those, but there is a Lake Zurich Quiet Zone. There is a Barrington Quiet Zone. There is a Warrenville Quiet Zone, which includes the communities of Aurora and Naperville.

And the reason those are combined is that a quiet zone by establishment of the FRA must have a single sponsoring community that
establishes them. It can run, you know, miles
and miles and include many communities and
districts, but one must take the lead for it.

There is -- Plainfield has a quiet
zone as well. And I'm trying to think if there
are quiet zones east of Joliet. I can't think of
any that come to mind right now.

COMMISSIONER BUTTREY: And we are
assuming that all those will stay in effect?

MR. THORSON: Yeah, yeah. Oh, I'm
sorry, Mundelein has a quiet zone as well.

COMMISSIONER BUTTREY: Okay. Thank
you very much. Mr. Chairman, I think that
concludes my questions. I will have a closing
statement at the end.

CHAIRMAN NOTTINGHAM: Thank you,
Commissioner Buttrey and didn't mean -- hope I
didn't offend with my reference to the big band.
I know you are a man of all -- multiple and
varied tastes and culture, so we will --

COMMISSIONER BUTTREY: And my hearing
is bad, because I was nearby too many big band
stages, I think. That and shotguns and chainsaws.

VICE CHAIRMAN MULVEY: That was Tommy and Jimmy Dorsey, but anyway.

CHAIRMAN NOTTINGHAM: Let me -- I do have just a couple of questions, if I could. Are you -- oh, it's your turn?

VICE CHAIRMAN MULVEY: It's my turn.

CHAIRMAN NOTTINGHAM: Let me turn over the questions. Excuse me, Vice Chairman Mulvey. I was going to ask about the quiet zone situation --

VICE CHAIRMAN MULVEY: Well, I --

CHAIRMAN NOTTINGHAM: -- in Barrington, but go ahead.

VICE CHAIRMAN MULVEY: Well, I have a question, too, about quiet zone, but it's not particular the Barrington situation.

I did a lot of work on the quiet zone issue when I was on the Hill and at the IG's office, as a matter of fact. And one of the problems with quiet zones or with the,
establishment of them, is that a lot of people do
get killed in these zones, unless they are
properly protected.

Theoretically, you are supposed to
have in place mitigation factors that give you
the same level of safety as blowing the train
horn. However, our experience has been it's
very, very difficult to achieve. One of the ways
you can achieve it, however, and from what I have
read from studies in North Carolina and
elsewhere, is that if you have barriers in the
center line, you have a situation where you have
a quiet zone and have two quadrant gates, which
is what is typical. Otherwise, people often
drive around the gates.

Research in North Carolina has shown
that if you put flexible barriers in the middle,
it prevents people from going around the gates
and driving in front of trains and getting
killed.

Have you looked into that? Is that
something that you have suggested as part of your
mitigation to establish these center line barriers to prevent people from driving around two quadrant gates in quiet zones?

MR. THORSON: Yes, you are absolutely right about quiet zones. That a quiet zone, you know, must -- every crossing within a quiet zone must have gates, flashers and constant warning time circuitry and then a combination of what they call supplemental safety measure or alternative safety measures, which the FRA has given credit or waiting to that says it offers an additional safety measure when you add those up, average them out, you show that the risks for that corridor with those devices in place is less than the risk with horns.

VICE CHAIRMAN MULVEY: But if they are not physical and one of the ones the FRA calls for is education.

MR. THORSON: Yes.

VICE CHAIRMAN MULVEY: Community education. Well, that's a nice thing to say, but I think the physical barriers are much more
effective than somebody going into a classroom and saying don't drive around closed gates.

MR. THORSON: Yeah, yeah. Education is not what the FRA calls a supplemental. It's what they call an alternative.

VICE CHAIRMAN MULVEY: Right.

MR. THORSON: And meeting the threshold for a quiet zone with using alternative safety measures is very difficult, because you have to set up some sort of a monitoring system and show that.

What the applicants have offered in their voluntary mitigation is that communities wishing to establish quiet zones, they will identify where median barriers are required and I think even fund those median barriers.

VICE CHAIRMAN MULVEY: The communities will fund them?

MR. THORSON: No.

VICE CHAIRMAN MULVEY: CN will fund them?

MR. THORSON: CN will fund them.
VICE CHAIRMAN MULVEY: Okay. Good.

I want to talk about property values for a moment. I read with great care the draft EIS on property values. And I was taken back by the estimated impact on property values. It struck me as low, so I went and dug into the research that lay behind it. There was the evidence from Cleveland and the Conrail breakup and there were a few European studies that were done.

You mentioned that you have gone on and done further research and gotten more data to support the original finding of the roughly $5,000 maximum impact and differential impact on large and low valued homes.

Can you expound a little bit on what the additional research encompassed?

MR. MORTON: There were a number of studies that, you know, either commenters suggested or there was actually one study that was done, you know, and presented to the -- to CS as part of their -- you know, of the comments by a couple of researchers from the University of
Chicago.

We didn't really find anything additional studies that were really on target. They were, you know, studies related to train noise. In some cases, they were related to airport noise that we used to sort of go back and look at that and see how that related to property values.

So I think that the study that we used in the draft EIS, our conclusion is that that is probably the most on target, in terms of what the issue is out there.

VICE CHAIRMAN MULVEY: Yeah. I had suggested that perhaps there were other kinds of activities that could be deemed as detrimental to a neighborhood and how proximity to those might have an impact. It doesn't have to simply be trains or even transportation. It could be landfills, for example, or other kinds of noisome activities, which may have an impact on property values.

And I was wondering if any of those
were looked at?

MR. MORTON: I think a lot of those suggestions were made. And, Mr. Vice Chairman, I don't know off the top of my head whether we -- how much we looked at those sort of companion type studies, no.

VICE CHAIRMAN MULVEY: There was some discussion of the trackage rights and the EJ&E could grant trackage rights. And that may or may not trigger an investigation by the STB depending upon the amount of track involved. But there are also haulage rights agreements. And if there was a haulage agreement, then the STB would have no authority whatsoever, I understand.

If it's haulage rights, we just turn it over. I noticed there is an awful lot of concern about the purpose of the project for the CN and this centers very much around the control over the Kirk Yard.

Wouldn't it be possible for the CN and the EJ&E to do a haulage agreement and simultaneously CN and EJ&E enter into a Meridian
Speedway type agreement for the joint operation of the Kirk Yard? Would that be possible? And could it bypass our processes entirely if they were to do that?

MS. KITAY: I think the haulage agreement would not require approval from the Board and there would, therefore, not be any possibility of environmental review.

VICE CHAIRMAN MULVEY: What about the Kirk Yard? I mean, it comes back to this all the time that all the proposals, all the alternatives that Doug mentioned, etcetera, and that we all talked about looking at. It seems to always focus on the purpose of the acquisition is to get control of the Kirk Yard.

Couldn't they get control or largely run Kirk Yard under an agreement with EJ&E, which again would not require approval from the Board?

MS. KITAY: The only time we look at yards is if they are linked to proposals that do require authority from the Board. So part of the construction proposal or as here part of the
acquisition proposal relates to --

VICE CHAIRMAN MULVEY: And this

haulage agreement --

MS. KITAY: -- a particular --

VICE CHAIRMAN MULVEY: And the

haulage would be neither of those, so they could,
in fact, do that if they wanted to?

MS. KITAY: I believe so.

VICE CHAIRMAN MULVEY: Hum. Vicky, do you have a --

MS. RUTSON: I was only thinking how
different my life would be right now if that, in
fact, had been what had happened, haulage, but
that's all.

VICE CHAIRMAN MULVEY: You would have

had a lot more time with your family, I would
guess. One of the concerns about this project is

that there is going to ultimately be an impact on

CREATE. Now, all the six major U.S. Railroads

use Chicago and the largest of the railroads in

Chicago is the CN.

And for whatever you think about the
distribution of cost responsibilities, amongst
the railroads, the CN has the largest cost
responsibility. We know for various reasons that
CN has had some question about its real need to
be part of CREATE for some time. With the
acquisition of the Wisconsin Central in the past
and now this, etcetera, CN has been sort of
looking at CREATE and saying well, maybe we don't
need to be as involved in CREATE.

Doesn't this, in fact, allow CN to
pretty much withdraw from the CREATE Project and
then wouldn't that complicate, therefore, that
project going forward?

MS. RUTSON: The only evidence that
we have on the record is that CN has indicated
that it continues to support CREATE and has no
short-term plans for withdrawing from CREATE. So
we are taking that information for face value and
just moving on with the environmental review
process.

VICE CHAIRMAN MULVEY: One hopes that
that is still true. But we have had a lot of
comments both pro and con and a lot of members came up there. We had 9,500 and 13,500, etcetera, comments in total. And I know that in terms of raw numbers, there were people opposed to this project or demanding more environmental mitigation than here supportive.

Do you have a rough percentage breakdown as to the percentage for and the percentage against?

MS. RUTSON: A very rough breakdown including the form letters and the petitions puts those in favor of the proposal at about 1/3 and those who are opposed to the proposal at about 2/3.

VICE CHAIRMAN MULVEY: What about commercial interests, businesses, etcetera? Very often a business comes in and it's a single business, but that single business may employ 500 or 1,000 employees. Did you get many responses from commercial interest? And did those break out similarly or were those much more in support of the project?
MS. RUTSON: Not so much during the comment period on the draft EIS. But during scoping and then in a continual, I wouldn't say a flood, but it's a solid stream of commercial letters coming in in support explaining how important the CN proposal was to the particular interest, business interest writing the letter. Yes, we got many of those letters.

VICE CHAIRMAN MULVEY: But it's difficult to weigh those. You sort of have to weigh them one letter from a company employing 1,000 people would have the same value as a single property owner who feels there might be delay at the added crossing. Is that correct?

MS. RUTSON: Well, and I'm not sure if this response of mine is responsive to your question. But I have been thinking a lot about this issue. And in the end, the best I can think is that NEPA is important for public outreach, but it is not an election. I mean, if it had been, I suspect everyone here would be much better rested than we are.
I do think every comment is important. Are some more important than others? I hope not. I hope not. We try to treat them all equally.

VICE CHAIRMAN MULVEY: Okay. The EJ&E accident numbers seemed high, many, many times higher than the CN accident rates. But are we comparing apples and oranges there? How does the EJ&E compare to similarly situated railroads? In other words, other railroads operating in densely populated areas of the country?

MS. RUTSON: Bill Burgel has an explanation for this, as he has for most things.

VICE CHAIRMAN MULVEY: Bill?

MS. RUTSON: He explained, and Bill will talk about this, that the type of railroad that EJ&E is is part of the reason why the accident rate is -- seems quite high.

MR. BURGEL: I'll defer to Kevin.

VICE CHAIRMAN MULVEY: So it's not necessarily the nature of their carelessness or nature of operations, but rather it's the nature
of the environment in which they are operating in? Is that right?

MR. KELLER: That's correct. It's a switching railroad. There is a lot more car movements, a lot more interchanges, a lot more yard operations and that's generally where a lot of the accidents take place. And so if you compare that against other switching railroads, it's right in the norm.

VICE CHAIRMAN MULVEY: That's what I was also going to point out. A breakdown of the accidents, given FRA's kind of crazy $8400 number, I have a car. If I scratch the bumper, I'm out almost that much money. So today almost any accident that the railroad has at all is going to cost $8,400. So it's very, very difficult to distinguish minor accidents from serious accidents. And I think that breaking those numbers out and getting a better sense of serious accidents and comparing serious accidents on that railroad versus other railroads similarly situated might be more helpful and
somewhat less misleading.

With regard to hazmat movements, are you going to be distinguishing between PIH and TIH movements from general hazmats? Because, I mean, they are very, very different, especially with health concerns. And you do plume analysis to look at the impact if something happens. We all heard ad nauseam, I suppose in more ways than one, that if there was an accident here in Washington, D.C. that the plume from an anhydrous car, I guess, could kill 100,000 people. Have you looked at that sort of analyses in your assessment?

MR. KELLER: We -- the first part of the question is we have broken down the hazmats into the various categories, i.e., if they are PIH, TIH or flammable gas or a corrosive liquid, those type of general categories.

We do have specific information from CN, like I said earlier, but because of the secure nature of that information, we can't release that.
VICE CHAIRMAN MULVEY: Okay. But you --

MR. KELLER: And then --

VICE CHAIRMAN MULVEY: -- have considered it, even though you can't release it?

MR. KELLER: Yes, sir. Yes, sir, we have looked at that. The second part of the question, have we done any faint and transport modeling in terms of the worst case scenario? NEPA tells you you do not do a worst case analysis. So we have not done that. But what we have done is for certain scenarios of hazardous material releases, we have kind of walked through what happens and how you would take care of it.

VICE CHAIRMAN MULVEY: Okay. Applicant's construction-related equipment may not cross residential properties without permission, according to some of the voluntary mitigations. They agree not to run their trucks across somebody's front lawn.

How many incidents of crossings do you believe will be needed and what happens if a
property owner withholds permission and the railroad says I need to get across your property and the property owner says you're not getting -- you're not running your truck or your equipment over my property. What can be done? Can the property owner be forced to accommodate it or is it some sort of eminent domain activity or what?

MR. MORTON: This is a voluntary mitigation measure that --

VICE CHAIRMAN MULVEY: Okay.

MR. MORTON: -- the applicants have proposed.

VICE CHAIRMAN MULVEY: Um-hum.

MR. MORTON: You know, in most cases, they actually can and do have access along their own right-of-way. I guess our supposition is that if they are unable to obtain, you know, private property access to get their construction equipment across, that they either have alternative ways to access or a backup strategy, because they proposed the condition themselves.

VICE CHAIRMAN MULVEY: Okay. If you
go out to the SEA recommendations on railroad
operations in regard to blocked crossings and
reporting of incidents of 10 minutes or greater
duration, what is the significance of the 10
minute threshold? Is that FRA Regulation?

MR. MORTON: It is. I think if --
you know, I need one of the operations guys, but
I believe that that threshold comes from their
U.S. Rule Book.

Vice Chairman Mulvey: Yeah.

MR. BURGEL: CN has their own U.S.
set of rules that -- it's Rule 526. They say any
time they anticipate blocking a crossing for 10
minutes, they will cut the crossing.

Vice Chairman Mulvey: They will cut
the train and let people go through?

MR. BURGEL: Right.

Vice Chairman Mulvey: Okay. Did I
miss cameras being mentioned? Aren't cameras one
of the voluntary mitigations? To put cameras at
all the critical crossings and CN would be paying
for that. And then people in the fire stations
or emergency medical centers will have TV sets or monitors, so they can see what's going on. Is that true?

MS. KITAY: Yeah, but I don't think it is voluntary.

MR. MORTON: That's correct.

VICE CHAIRMAN MULVEY: It's a recommendation. No it's not voluntary, that's an SEA mitigation.

MR. MORTON: That's correct.

VICE CHAIRMAN MULVEY: Do you know how much that is going to cost? Any estimate of the cost of that?

MR. MORTON: We did cost out those mitigation items and if you give me just a second, I'll be able to, you know, give you a ballpark feel. Our estimate, you know, dependent upon the location, would be $25,000 to $35,000 per location.

VICE CHAIRMAN MULVEY: And how many locations would that be, approximately?

MR. MORTON: About 25 or 30.
VICE CHAIRMAN MULVEY: About 25 or 30. So it's about $625,000 to $825,000? Is that right?

MR. MORTON: That's correct. I'm sorry, we're trying to do the mental math here and you beat us to it.

CHAIRMAN NOTTINGHAM: Vice Chairman Mulvey, I think we can --

VICE CHAIRMAN MULVEY: I think that's all I have.

CHAIRMAN NOTTINGHAM: -- we might want to consider retaining sort of franchise rights on those -- that footage. I mean, some people thought the weather channel would be a big bore when it was unveiled and it's now the hottest channel out there. So in case we create a tidalwave of viewership of the intersections, we want to retain those royalties.

MR. THORSON: Inside knowledge.

CHAIRMAN NOTTINGHAM: And work with the FCC on that maybe.

VICE CHAIRMAN MULVEY: With that, I
will end my questions for the time being and turn it back over to the Chairman.

CHAIRMAN NOTTINGHAM: Seriously though, the quiet zone issue is important. My understanding is there is just only one community that would actually see -- that currently has a quiet zone, that if this proposal application were approved would be at serious risk of losing, falling out of conformity with the quiet zone requirements and that's Barrington.

We have -- staff is, as I understand it, preliminarily proposing a mandatory mitigation that would reference the quiet zone in Barrington and its future. Help me understand how that would work, because, of course, we're talking about a sister agency, the FRA over whom which we don't have control. And so I want to make sure I understand what we would be under this scenario.

What would we be promising the people of Barrington and what we can't promise, because it is in someone else's germane.
MR. MORTON: Okay. I'll ask Leif to sort of expand upon that for you.

MR. THORSON: What the -- you know, what the FRA does is they have a clear rule and a risk calculator that works for the establishment of quiet zones and also for the maintenance of quiet zones. Now, when a quiet zone falls out of compliance, there is a notification and then they have, I believe it is, three years to bring it back, otherwise the horns will need to be sounded.

So when we looked at what our analysis did with the Barrington Quiet Zone, although we looked at all the quiet zones, we ran the 2015 numbers and using the 2008 FRA calculator, if you will, and those 2015 numbers, the Barrington Quiet Zone no longer complied with the requirements.

So what, in effect, the applicant would be required to do is to take those trains under their operating plan, put it in there and see what combination of supplemental safety
measures would be required within that corridor that would bring it back into compliance and allow for continuation of that quiet zone.

So we don't prescribe median barriers at this location or four quadrant gates here. There is clearly sort of a negotiation between the parties or a best fit in that corridor for those measures that will allow the quiet zone to continue.

CHAIRMAN NOTTINGHAM: And help me understand the FRA process or precedent here. If we make this mandatory and if CN goes to the FRA and says we have got a problem, we need your help, we need you to tell us, FRA tell us, CN, what we need to do to keep this quiet zone in operation. And what would FRA likely say? What would they look at and how much chance is the FRA says you are out of luck, you know, it's a safety problem and we're going to make -- you know, you're obligated to sound the horns.

MR. THORSON: Yeah, well, right now the FRA Rules clearly allow them to apply
supplemental safety measures, which do have a
defined benefit that they apply to the risk. And
if they meet that FRA requirement, then the quiet
zone is approved.

Now, the FRA being the FRA does have
the authority at any time to change their own
rules, to make it -- to lower the thresholds or
to raise the thresholds, if you will. I think
the way it is working now, at least my experience
with quiet zones, is that there is -- the
communities themselves generally look at the
supplemental safety measures that work best.

Median barriers are usually the
preferred option, as long as they have a narrow
enough footprint that they don't require
additional right-of-way. If that's not the case,
then often times they jump to maybe a four
quadrant gate or, you know, one way pairs or
something like that.

CHAIRMAN NOTTINGHAM: I should add
that this Agency, the Board has a very strong and
longstanding working relationship with the FRA
and, of course, if we were to mandate such an outcome, we would have -- we would not just sit back and hope that the parties work it out. We would be -- I can certainly say if I had anything to do with it, we would be leaning forward working with FRA and urging FRA to make sure they are as flexible as they can be to honor the mitigation requirement that you posed.

And my experience with working with FRA staff as well is they are extremely helpful in this regard. Although, they are somewhat reluctant to them specify what is a better supplemental safety measure. They usually leave that to the community and to the railroad. But their staff is extremely helpful, yes.

CHAIRMAN NOTTINGHAM: I have to ask a question about turtle crossings. It's not every day we get a turtle crossing issue before us. I'm reminded very much of a project in Virginia, a much needed highway widening where there was actually a documented presence of black bears and threatened black bears that were known to cross
the highway and not make it across. And the concern was if we four lane the two lane road, that -- and we put in bear crossings.

I'll ask the same question I asked the Army Corps at the time though, how do -- I'm assuming we're not talking bridges or rope swings. We are talking tunnels. Is that a fair assumption?

MS. GOODSON: Yeah, they are, essentially, kind of pipes and culverts and tunnels and fairly easy to install when new construction is going on.

CHAIRMAN NOTTINGHAM: And is there some research, I assume, that indicates that turtles are able to make their way to these? I mean, these crossings. I mean, how do they --

MS. GOODSON: Well, they certainly get installed in areas where there is existing habitat and in areas where there is a reason for them to be moving. So they are not just going to be -- they will be going to habitat, which occurs
on the other side of the rail line. And, you know, there is designs that are in place. And partly, you have kind of almost funnel like systems that will kind of allow the turtles to find those areas.

The mitigation for the turtle crossings came out of discussions with the natural resource stakeholders as well as the Fish and Wildlife Service. It was something they had requested in terms of being a good opportunity to improve the -- what's -- you know, to improve mortality, I guess, of turtles out there now.

CHAIRMAN NOTTINGHAM: Thank you.

COMMISSIONER BUTTREY: It's like salmon stairs.

CHAIRMAN NOTTINGHAM: Right.

COMMISSIONER BUTTREY: Glad to hear the state of the practice has improved from when I was doing a highway lighting, because at that time, the Resource Agency said that signage would help the bears get across. And that still puzzles me to this day.
VICE CHAIRMAN MULVEY: That was Virginia, right?

VICE CHAIRMAN MULVEY: That was and it was a federal agency, a sister federal agency I will keep nameless to protect their reputation, but thank you for that explanation.

CHAIRMAN NOTTINGHAM: I have no further questions. I do want to offer colleagues one last chance.

VICE CHAIRMAN MULVEY: I have one observation about noise and that is with the LDN, the day/night noise level. You know, it's also true with say an airplane. An airplane flying over at 8:00 in the evening and one flying over the same distance at 3:00 in the morning are two very different things.

And one of the problems with the railroads is railroads are 24/7 operations. Airports very often will have curfews and so no flights will be coming out especially around here after 11:00 at night or they will reroute planes to minimize the impact on neighborhoods, often at
the behest of the neighborhoods.

And again, railroads can't do that.

So it is very, very difficult to apply the typical LDN measure to railroads, because their operations are so different. Do you have a comment on that?

MR. CASEY: I try to avoid discussing aviation noise in the context of a railroad noise project for a couple of reasons. Not to be flippant, but for a couple of reasons. No. 1, that planes are over your head and their noise travels, you know, great distances. It affects a great number of people. Whereas trains, you know, they only go one way or the other in this corridor.

VICE CHAIRMAN MULVEY: Right. And on the ground and so all the people on both sides over that whole period are affected. So I'm not sure the numbers are all that much different, depending on population density, how high the plane is and at least we know the train is on the ground.
The other thing is back to this Pratt's Woods, which we talked about a long time ago, Pratt's Wayne Woods Forest Preserve. The voluntary mitigation says that "Where possible, the applicant shall maintain access to any construction activities involving Pratt's Woods."

Who determines what is possible? And what is the process for resolving any dispute over the decision as to whether or not it is possible or whether or not construction activities are going to cut off access? Is that the railroad's or is that the community's responsibility?

MR. CASEY: I believe there is a voluntary mitigation measure.

VICE CHAIRMAN MULVEY: It is a voluntary mitigation, but who discerns what -- who decides what is possible?

MR. MORTON: This was a condition that actually the manager of the Oli Olafsson with the DuPage Forest Preserve actually specifically requested. In this particular case,
the rail line, I think, you know, as Commissioner Buttrey mentioned goes through the middle of the forest preserve.

There is an underpass and the concern that the forest industry had was they would close that underpass, because the construction was going to be close to that. I don't think CN has finished their design effort and didn't exactly know, but they worked with the forest preserve to come up with the specific language of that voluntary mitigation measure that demonstrates they are going to try to keep that open.

But if for safety reasons, they need to work above it, then they may be forced to close it for short periods of time.

VICE CHAIRMAN MULVEY: With that, I thank you. My questions are finished. It has only been seven hours, so thank you.

CHAIRMAN NOTTINGHAM: Vice Chairman Mulvey, do you care at all for any closing comments?

VICE CHAIRMAN MULVEY: No, just to
once again extend my thanks to everyone who has been a part of this. I know it has been long and a lot of very, very tough questions, which I think you have all handled in an excellent and intelligent and information manner. And I want to thank you all for your very, very good work and look forward to working with you all again.

Thank you.

CHAIRMAN NOTTINGHAM: Commissioner Buttrey, you indicated you might have some comments?

COMMISSIONER BUTTREY: Thank you, Mr. Chairman. In closing, I would like to compliment the staff and the environmental consultants for a thorough and meticulous job. I know that they worked hard to get ready for today's presentation. And the staff and consultants have arguably identified those areas of concern that must be addressed.

But now that I have listened to the presentation, my perception is that there is still a huge chasm that exists between the
tentative recommendations that have been
presented here today and what the state and local
interests and affected individuals are saying
must be done to adequately address the expected
environmental effects of this proposed
transaction.

It concerns me greatly that we would
presume to substitute our judgment for that of
the state and local interests. I understand that
applicants have so far reached a negotiated
agreement with Joliet. I would prefer that we
would find a way to keep all the stakeholders
focused on working out private resolutions for
all the environmental issues that have been
raised.

I understand that our discussions --
that other discussions have occurred, but have
not yet come to fruition. I would not want our
resolution of this case to remove the incentive
for applicants to reach mutually agreeable
resolution with all of the other affected
entities. Thank you, Mr. Chairman.
CHAIRMAN NOTTINGHAM: Thank you, Commissioner Buttrey. I do also want to thank the STB staff and the consultant, third-party consultant staff for just an enormous effort here. I'm sure there will be aspects of your work that one or more Board Members will not completely endorse when push comes to shove, but I know you won't take that personally.

We all have responsibilities and a job to do. I do want to assure all the stakeholders and interested parties who might be observing here today and via the web link that this Board takes its responsibilities and situations, such as this and in all of our work, extremely seriously.

We are completely impartial. If you look at who is suing us and challenging us at any given time, you will find every possible type and stripe of stakeholder from the biggest railroads to the biggest shippers to the small shippers and small railroads, and that's because we don't put our finger up in the air and try to guess how
many people we can make happy on Wednesday or Thursday and vote based on that.

We take our obligations seriously. In many situations, this is one, there is not—probably not a win-win where we are going to make a decision that will leave every stakeholder happy. I wish there was. And I'm the eternal optimist on such things.

But it has always been my approach in dealing with matters like this to try my best to get as close as possible to leaving -- handling matters such as this in a way that leaves all of the impacted communities better off after our work is done, than they were beforehand.

That's a stronger test than perhaps NEPA and the law requires, but that has always been my personal goal and I'll continue to try to strive towards that in my efforts here. If we can't reach that goal, I want to get as close to it as reasonably possible.

And I want to assure the communities who may not deal with the STB on a regular basis
and for whom this might be their first experience dealing with the STB, that we take the letters, the comments, what we have heard at the many public hearings and meetings, we take those to heart. We give them serious consideration.

We all live in communities. Many of us know what it is like to have lived near and adjacent to rail tracks or to have to handle and make decisions regarding major projects that have, on occasion, "winners" and, you know, "non-winners" in the short-term.

So, please, know that we expect, obviously, to be challenged no matter what we do on this important proceeding. And we will be ready for those challenges. But we hope that when folks look back in -- after an appropriate time has gone by, they will look back and say this was a Board that was thoughtful, that took its obligations very seriously and followed the law and the facts where those two important considerations led us.

With that, we will be adjourned.
(Whereupon, the meeting was concluded at 4:37 p.m.)