

SURFACE TRANSPORTATION BOARD APPROVES CANADIAN NATIONAL RAILWAY'S ACQUISITION OF ELGIN, JOLIET & EASTERN RAILWAY

The Surface Transportation Board today unanimously approved the Canadian National Railway Company and Grand Trunk Corporation application to acquire control of the Elgin, Joliet & Eastern Railway Company (EJ&E), subject to a number of Board-imposed conditions.

In announcing the decision, Board Chairman Charles D. Nottingham stated:

"Approval of this important railroad merger, with the conditions we have imposed, marks a significant step forward in our nation's efforts to alleviate rail and highway congestion. I am pleased that the Board agreed, in a bipartisan and unanimous manner, after an unprecedented public involvement process, to grant the relief that this merger will provide to the many Chicago neighborhoods that have been disproportionately burdened for many decades with severe rail traffic-related roadway congestion."

In reaching its decision, the Board considered both the transportation-related aspects of the transaction and the potential environmental impacts. In considering the transportation aspects, the Board found that the transaction will not result in a substantial lessening of competition, the creation of a monopoly, or a restraint of trade in freight surface transportation in any region of the United States. The Board also found that any minor anticompetitive effects that may result will be outweighed by the overall transportation benefits of the transaction.

In considering the environmental aspects of the transaction, the Board found that, although the transaction will result in environmental benefits to those living in and near Chicago, it will have adverse environmental impacts on communities along the EJ&E rail line. The Board undertook an extensive evaluation of the environmental aspects of the applicants' proposal, hosting 22 public meetings over an 8-month period in the Chicago area. A Draft Environment Impact Statement (DEIS) was issued and widely circulated in that region, and the Board received more than 9,500 public comments in response to the DEIS. The Board issued a Final Environmental Impact Statement on December 5, 2008.

After carefully considering the results of the environmental analysis and the comments raised—both pro and con—the Board imposed substantial environmental mitigation to minimize potential adverse environmental impacts of the transaction. The mitigation includes:

--Two highway-rail grade separation projects (and requires applicants to bear 67 percent of the cost of one and 78.5 percent of the cost of the other);

--Cameras to monitor highway-rail crossings to assist in the timely response of emergency providers;

--School and pedestrian safety measures;

--Noise reduction measures; and

--A 5-year environmental reporting requirement mandating applicants to file quarterly reports on the implementation of the Board-imposed environmental mitigation.

In addition, the Board imposed a 5-year, formal oversight period, with applicants required to submit monthly operational reports to the Board. Finally, the Board's decision also requires applicants to comply with mandatory labor protection, with their extensive voluntary environmental mitigation, and with the negotiated agreements that they have entered into with Amtrak and communities in Illinois and Indiana containing tailored mitigation that applicants have agreed to provide.

Chairman Nottingham added:

"I commend the approximately 10,000 citizens who submitted comments to the Board, and I thank the Board's dedicated environmental and legal staff, for ensuring that this decision was made in an informed, balanced and expeditious manner."

The Board issued its decision approving, with conditions, the applicants' acquisition of EJ&E today, December 24, 2008, in [Canadian National Ry. and Grand Trunk Corp.—Control—EJ&E West Co., STB Finance Docket No. 35087](#). That decision will be published in the *Federal Register* and is available for viewing and downloading on the Board's Web site at <http://www.stb.dot.gov>, under "E-LIBRARY" on the home page, then under "**Decisions & Notices**," beneath the date "12/24/08."

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