



Surface Transportation Board
Washington, D.C. 20423-0001

*Office of Public Assistance, Governmental Affairs,
and Compliance*

November 17, 2009

Ms. Karen Darch
Co-Chair
TRAC

Mr. Tom Weisner
Co-Chair
TRAC

Dear Ms. Darch & Mr. Weisner:

Thank you for meeting with Chairman Elliott and Board staff on November 4, 2009. We greatly appreciate the time you spent with us and valued the opportunity to visit various locations and railroad crossings in your communities. Those meetings and site visits provide a unique perspective into each of your communities. I hope we can continue such exchanges in the future throughout the five-year oversight and monitoring period. In addition, your comments on CN's monthly operations and quarterly environmental reports help inform the Board of concerns and potential issues that may not be captured in the reports themselves.

I would like to take this opportunity to respond to your TRAC letter of October 14, 2009, which reflects many of the same concerns discussed during our recent meetings with you. It is quite evident that citizens in your communities and other communities along the former EJ&E line continue to have concerns about CN's operations and such issues as the accuracy and completeness of CN's reporting, noise and vibration caused by train movements, and potential disruptions to emergency response and fire protection agencies when a train is present. I want to assure you that throughout the oversight period, the Board will continue to actively monitor the implementation of all of the conditions imposed in Decision No. 16 of STB Finance Docket No. 35087, Canadian National Ry. and Grand Trunk Corp. - Control - EJ&E West Co., and to take appropriate action if those conditions are not being met. The Board will also make every effort to make our staff directly available to you, and to make the ongoing oversight process as transparent and accessible as possible.

As part of that effort, the Board has decided to ask our independent third-party contractor, which has staff in Chicagoland and substantial expertise in all of these issues, to independently verify and file a timely report to me on CN's representations made in its

latest quarterly environmental report and monthly operations report (and in CN's reply to TRAC's October 14, 2009 letter). Specifically, we are asking the third-party contractor to provide the Board with independent information on the status of such things as appropriate signage at crossings and implementation of quiet zones. In addition, the third-party contractor will investigate train volume data reported by CN; assess CN's information on train crossing delays and traffic congestion delays caused by CN trains; confirm CN's communication and consultation with communities' emergency response and fire protection agencies; verify that communities are receiving hazardous materials training, as required by the Board's conditions; and assure that CN is implementing all of its voluntary mitigation agreements negotiated with communities in a reasonable and timely manner. In addition, the Board has asked our independent third-party contractor to take an independent comprehensive review of all derailments that have occurred inside and along the EJ&E arc since CN acquired the EJ&E line.

The Board will post the third-party contractor's report on the Board's oversight and monitoring website (www.stbfinancedocket35087.com). Depending on what the third-party contractor's report and CN's future quarterly environmental reports and monthly operations reports show, the Board may ask the third-party contractor for further periodic updates, when appropriate, as part of the five-year oversight process. Where warranted, agency staff may be directed to accompany the third-party contractor on future site visits.

At the same time, it is worth noting that some of the concerns identified in your latest correspondence fall beyond the scope of the conditions imposed in Decision No. 16 and the Board's statutory authority. For example, the establishment of quiet zones and CN's safety record primarily involve the Federal Railroad Administration (FRA), rather than the Board. (If you would find it useful, Board staff will help you work with FRA to address these concerns.) Other potential concerns raised in your letter appear to be part of normal railroad operations. For many of these concerns communication with CN's (Board-ordered) community liaison may be the most expeditious and effective way to address these issues. The Board also will continue to bring to CN's and FRA's attention any potential safety issues brought to its attention. We will work with you to help facilitate and establish an effective line of communication with CN.

Finally, the Board will work with you and the surrounding communities, and our independent third-party contractor to initiate an appropriate noise and vibration monitoring system to identify if the acquisition has resulted in unanticipated train horn noise, pass-by train noise, and train idling occurrences. Our independent third-party contractor has expertise in this area and has a team of acousticians skilled in analyzing this type of data. The Board will contact you as soon as possible for inputs to implement the system.

Again, it was a pleasure to meet with you in your communities. I assure you that the Board will continue to actively monitor and review CN's monthly reports and all comments in response to those reports. If you have any additional questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'MTW', with a long horizontal flourish extending to the right.

Matthew T. Wallen
Director