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April 29, 2010

BY E-FILING

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

Re: ***Canadian National Ry. – Control – EJ&E West Co.,***
STB Finance Docket No. 35087

Dear Ms. Brown:

At the hearing held yesterday before the Board in the above-referenced proceeding, CN offered, and Chairman Elliott accepted into the hearing record, the written statement of CN witness Gordon Trafton. After the hearing, CN provided a hard copy of the statement (with attachment) to Mr. Herzig, the presiding clerk at the hearing. With this letter, CN is also providing you an electronic copy of the statement, including its attachment (a chart) as a separate file.

Very truly yours,

Paul A. Cunningham
David A. Hirsh

Counsel for Canadian National Railway
Company and Grand Trunk Corporation

Enclosures

STB Finance Docket No. 35087

Statement
Of
Gordon T. Trafton, II

STB Hearing
April 26, 2010

Good afternoon. My name is Gordon T. Trafton, II. I am Special Advisor to the CN Leadership Team. I have nearly 32 years of railroad experience, including nearly 14 years at Illinois Central Railroad and then CN, where I served as Senior Vice President Southern Region, in charge of most of CN's U.S. operations, and, most recently, as the Senior Vice President Strategic Acquisitions and Integration, leading the integration of the CN and EJ&E.

Our President and CEO, Claude Mongeau, regrets that he could not be here for this important hearing. Like the rest of us at CN, he wants to be sure that we directly address the concerns expressed in your order regarding the nature of our oversight reporting and our sharing of data related to grade crossing blockages.

The CN team has dedicated thousands of hours to our effort to provide you with the information you have requested to perform your oversight of the EJ&E integration. In that effort, we have sought to collect and report promptly the information we believed that the Board required of us and otherwise to comply fully with the Board's orders.

As you know, since acquiring the EJ&E, CN has been responsible for complying with 108 voluntary mitigation conditions proposed by CN and 74 mitigation conditions added by the Board. It has expended enormous amounts of time, effort, and money doing so. And although the HDR audit of those efforts recommends clarifications by the STB and improved

communication between communities and CN in some areas, we believe that overall the audit validates CN's compliance efforts.

CN fully understands that lengthy grade crossing blockages, whether from stopped or moving trains, are a significant public concern. We know that the Board has made clear through statements and inquiries that it takes that concern very seriously. And we have worked hard to address this concern. Indeed, the available data suggest our operation of EJ&E may have caused fewer significant grade crossing blockages that were caused before the CN/EJ&EW Transaction. With respect to the data at issue here, we freely shared with HDR the fact that, in order to help prepare our monthly report to the Board of grade crossing blockages by stopped trains, CN had begun using automated crossing warning device (or ACWD) activation notices generated by Cellular Remote Terminal Units (or RTUs) located at EJ&E's automated grade crossings. HDR did not have to dig to determine that fact, we volunteered it. When HDR asked us for the actual RTU data we had used for the two audit months, we provided it without delay or objection, and when HDR also suggested it wanted historical data for comparison purposes, we immediately went back to the vendor who stores the data and had it retrieved for HDR.

Questions have now arisen about why CN did not volunteer this RTU data prior to the audit. The answer is straightforward. We believed we were meeting the Board's reporting requirements. With respect to blocked crossings, we had a good faith understanding that the Board's expectation was for reports on blockages caused by stopped trains and we diligently worked to meet that expectation. The Board has now ordered CN to report all known occurrences of street crossing blockages of 10 minutes or more, as reflected in RTU-data or any other source of information available to CN, as well as all historical data regarding such occurrences. We understand and will comply with that order.

We regret that, as a result of our understanding of our reporting obligation, which has been the basis of our blocked crossing reports for the past year, we did not provide the Board all of the information it believes it requires to perform its oversight functions. We hope that the extensive data we provided on Monday and the data we will be filing in the future will provide that information.

A. CN's COMPLIANCE WITH THE BOARD'S CROSSING BLOCKAGE REPORTING REQUIREMENTS

Before we began filing our various oversight reports, as required by the Board's order (*see* Decision No. 16 at 26), we consulted with Board personnel concerning the content and format of those reports. We suggested that we comply with the Board's request for blocked crossing information by reporting crossing blockages of 10 minutes or more due to stopped trains. We thought this approach made sense for several reasons.

First, these are the events that we must respond to immediately to provide relief and assure that they will not likely happen again.

Second, lengthy ACWD activations caused by moving trains occur on all railroads operating in heavily developed areas like that around the EJ&E. Some moving train delays are an unavoidable element of providing service to customers. For example, the fact that gates may be down at a crossing for ten minutes or more due to a slow moving train entering a shipper facility would not ordinarily be a noteworthy event in terms of rail operations or regulatory oversight. To the extent that moving train delays can be remedied, they are generally best addressed not as individual events requiring immediate particularized attention but in the course of making systemic improvements to operations.

Third, blockages due to stopped trains are the types of blockages addressed in other mitigation conditions related to blockages.

- VM 31 provides that "Applicants shall install power switches along EJ&EW where Applicants determine that manual switches could cause stopped trains to block grade crossings for excessive periods of time and that power switches would increase the speed of rail traffic and reduce the likelihood of such blockages."
- VM 32 provides that "In order to minimize the number of trains being stopped by operators at locations that block grade crossings on the EJ&EW system, Applicants shall work with other railroads to establish reasonable and effective policies and procedures to prevent other railroads' trains from interfering with Applicants' trains on EJ&EW."
- VM 42 requires notification to Emergency Services Dispatching Centers "of all crossings blocked by trains that are stopped and may be unable to move for a significant period of time."
- VM 35 requires that CN not block crossings for longer than 10 minutes unless it cannot be avoided, and provides for cutting the train if a blockage is likely to exceed that time. These references are clearly to stopped trains, as one cannot cut a moving train, and it would make no sense to stop a train just to cut it. In fact, the Illinois state law concerning railroad crossing blockages of more than 10 minutes provides an exception for moving trains.

We recognize that a motorist is equally inconvenienced whether a blockage is from a stopped or a moving train. As railroad operators, however, it made sense to us to suggest that we report crossing blockages caused by trains stopped ten minutes or more. Thereafter, following consultation with Board personnel, we made our reports on that basis.

The fact that we were reporting crossings blocked by trains stopped ten minutes or more was well publicized and well understood. The cover letter for every report has noted that we were reporting crossings blocked by trains stopped ten minutes or more. For example, the cover letter to our very first report, filed April 13, 2009, stated (at page 2) that the street crossing blockages "report provides data concerning each instance where a crossing was blocked by a stopped train for 10 or more minutes." Likewise, the title of each crossing blockage report made it clear that the report was limited to blockages caused by stopped trains. This limitation was also noted and commented on by opponents of the Transaction.

B. EJ&E'S RTUs AND THE DATA THEY GENERATE

The Board's hearing notice focused on the data collected by the RTUs that are deployed at grade crossings on the EJ&E that are equipped with ACWDs (that is, devices such as gates, flashers, and bells, not simply passive devices such as crossbucks). These are units that were installed at these grade crossings under an agreement with the Illinois Commerce Commission (or ICC). That agreement is publically available on the ICC website.

As the ICC noted in its agreement with EJ&E concerning the installation of the RTUs, EJ&E's undertaking with respect to the RTUs was a limited one: to initiate "health check messages" for the ACWD system in order "to confirm the integrity of the system" (ICC-EJ&E Agreement, April 8, 2002). They are not primarily intended or used to monitor delay to vehicles at crossings. The RTUs generate messages that are received by EJ&E as faxes or emails concerning such things as gate irregularities (stuck up or down), power failures, or jumpers in use (which generally means the ACWD is undergoing maintenance). The data generated by the

RTUs are also stored in digital form on servers maintained by an independent vendor for a total of 33 months.

The RTUs' capacity to communicate warnings of possible crossing equipment irregularities can be programmed to provide notifications when ACWDs have been activated, for any reason, longer than a specific period of time. The EJ&E RTUs were programmed to provide such notices after 10 minutes.

C. ACWD ACTIVATIONS LASTING 10 MINUTES OR MORE ARE AN INEVITABLE FACT OF RAILROADING IN METROPOLITAN AREAS

ACWD activations of 10 minutes or more are not a new phenomenon on the EJ&E. In fact, the available data show that the number of reported instances of ACWDs being activated 10 or more minutes on the EJ&E has generally dropped under CN control. The HDR report showed that for the two audit months (November and December, 2009) there were 1,457 such reports on the former EJ&E's Eastern and Western subdivisions (now CN's Leithton and Matteson subdivisions). By comparison, for November/December, 2008, before CN controlled EJ&E, the number reported was 1,658. In order to expand the scope of the comparison, I am submitting with my statement a table comparing the RTU data across the full 33 months for which it is available. Even accounting for a potential range of error, the data demonstrate that significant numbers of ACWD activations of 10 minutes or more are neither new nor unusual on the EJ&E. And, based on my experience, they are typical of railroad operations in metropolitan areas.

ACWD activations for extended periods often occur as trains are required to stop and restart or slow for a variety of reasons, including: a train picking up or dropping off cars at a rail-served industry, a train pulling into or out of a siding, a train waiting to enter or exit another railroad's lines, or a train waiting for an Amtrak or commuter train to pass. Although less

common, extended ACWD activations may also occur due to signal failures, speed restrictions, maintenance, accidents, mechanical breakdowns, or employee error.

We work hard to keep our trains moving as safely, efficiently and quickly as possible. That is the best way to serve our customers and run an efficient railroad. However, especially in the Chicago area, the only place in the U.S. where six Class I railroads meet, delays and slow trains are, unfortunately, often unavoidable.

This does not mean that CN passively accepts lengthy crossing blockages. We are continuing to make investments and improve operations in ways that not only benefit our customers, but also reduce extended ACWD activations. For example, improved line maintenance by CN has already reduced the number of slow orders, improved train speeds, and reduced crossing delays. In addition, as recognized by the Board's FEIS, many of the locations where frequent blockages occur due to slow moving trains will experience fewer blockages once CN's planned infrastructure upgrades are complete.

Some of these blockages are due to trains either entering or exiting EJ&E, or moving between EJ&E's main line and its branch lines or sidings. CN's investment in upgraded connections at places such as Leithton (Mundelein) (allowing trains to travel at 25 mph instead of 10 mph) and Matteson (15 mph instead of 5 mph) should allow trains to move faster through those connections, thereby reducing blockages at IL Route 60/83 and Diamond Lake Road (Mundelein), at Main Street (Matteson), and at Western Ave. (Park Forest). Similarly, projects to add a power switch to the Illinois River Line at IL Route 26, to the connection at Munger (Bartlett), and to the north switch at Sutton Siding (Hoffman Estates) have reduced or will reduce ACWD activation on nearby roadways. Other blockages have significantly increased as a result

of the very projects that we are engaged in to enhance long term fluidity. Once these projects, such as the Joliet Yard project, are complete, we expect these temporary increases to end.

At other locations, CN is trying to address unnecessary blockages through improved operating practices. These primarily involve existing slow movements for trains that are connecting with other carriers, or serving a particular customer. It may not be possible to completely eliminate delays due to these movements, but CN's constant efforts to improve train speed will help to reduce them as much as practicable.

D. CN's SUBMISSION ON MONDAY, APRIL 26, 2010

In response to the Board's order in Decision No. 23, on Monday we filed the following three items:

(1) summary sheets and complete raw RTU data relating to notifications of ACWDs activated for 10 minutes or more for the entire EJ&E line and for the full period for which such data has been retained (July 20, 2007 to April 9, 2010);

(2) all prior blocked crossing reports (February 2009 to March 2010) restated to include added RTU data drawn from the raw data; and

(3) CN's dispatcher spreadsheets from April 2009, when CN first began to use those spreadsheets to prepare monitoring reports, through its last report, covering March 2010, which show RTU information reviewed by CN in preparing its monthly report of crossing blockages caused by trains stopped 10 minutes or more.

As noted in our cover letter to that filing, the data we filed differ from the RTU data summarized by HDR because our data cover the entire EJ&E, whereas HDR's data were limited to the former EJ&E Eastern Subdivision and Western Subdivision. Once you have reviewed the

data and our updated reports, we will of course be available to work with you in answering any questions you may have.

E. THE LIMITATIONS AND LIKELY FUTURE USES OF THE RTU DATA

With respect to historical RTU information, CN is largely dependent upon the vendor for the RTUs – Progress Rail – which archives the RTU data. For purposes of responding to HDR's data request and Decision No. 23, Progress Rail agreed to extract and present reports from the data. The vendor is in transition because Progress Rail purchased the RTU business from GE less than two months ago. Moreover, the extraction of relevant data from the full RTU database, which is stored in an old proprietary format that is well understood by only a few programmers, is a difficult process that has required a team of programmers and the development of custom algorithms.

The Board should also understand that all RTU data have certain limitations. For example, because the RTUs rely on cellular technology to transmit information, the duration of ACWD activations of 10 minutes or more can be overstated. Similarly, because of the limits of the communication system through which the RTUs report, a single ACWD activation may be reported as multiple activations. Moreover, the 10-minute notices only identify the fact that an ACWD is activated; they do not distinguish among causes, such as moving trains or stopped trains. Nor do these notices distinguish which railroad's train caused the ACWD activation (for example, whether it was a trackage rights train of another carrier). In some cases, ACWDs are interconnected so that RTUs on the EJ&E pick up traffic moving on the adjacent tracks of other carriers. And the RTUs can only be installed at crossings with ACWDs; they provide no information where ACWDs have not been installed.

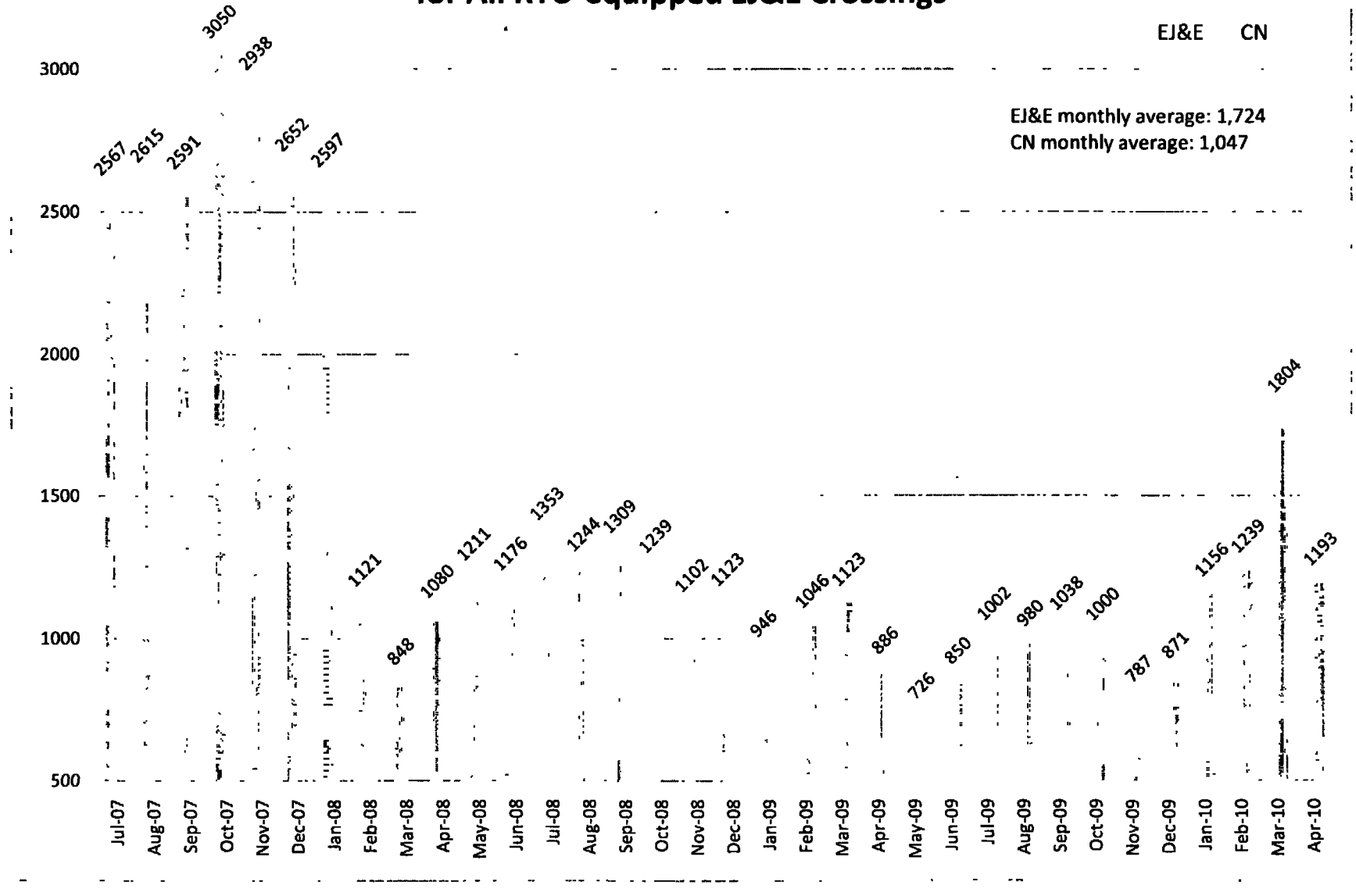
It appears, however, that some of these inherent limitations can be overcome by systematic review of the RTU data in the context of other information. CN has recently begun using an improved data collection process that should allow it more reliably to capture and more easily integrate blocked crossing notices provided by the RTUs with information provided by train crews and dispatchers. Accordingly, CN expects that future crossing blockage reports based on RTU data and other information may be less difficult to develop. more reliable, and more useful.

CONCLUSION

Ultimately, our challenge as a railroad is to reduce extended blocked crossings on the EJ&E without penalizing customers by reducing the efficiency of our rail operations. We focus immediate initiatives specifically on blockages from stopped trains. We minimize moving-train delays by constantly improving our railroad so that it operates in the safest and most efficient possible way. Through both approaches, we seek to maximize benefits for our customers and our shareholders, while minimizing adverse impacts on our stakeholder communities.

Thank you again for the opportunity to be here today. I would be glad to respond to any questions or comments you may have.

Automated Crossing Warning Device Activations of 10 Minutes or More for All RTU-equipped EJ&E Crossings



Notes: Jul. 2007 & Apr. 2010 estimated based on daily average of partial month data that was available. Only partial readings were taken in Mar. 2008, and possibly Feb. & Apr. 2008, as RTUs were transitioned from analog to digital.