Item #3:
Resolution Approving Mitigation Agreement With CN Railroad

VILLAGE OF LONG GROVE

RESOLUTION NO. 2010-R-__

RESOLUTION APPROVING AN AGREEMENT WITH THE GRAND TRUNK CORPORATION RELATING TO TRAIN TRAFFIC MITIGATION

WHEREAS, the Grand Trunk Corporation is the owner of the U.S. rail operating subsidiaries of Canadian National Railway Company ("***GTC***"); and

WHEREAS, the Village of Long Grove has requested that GTC undertake certain measures to mitigate noise and safety issues relating to GTC train traffic within the Village; and

WHEREAS, in response to the Village's request, GTC has prepared a draft Memorandum of Agreement (the "***MOA***") outlining GTC's commitment to provide funding for certain mitigation measures, which draft MOA is attached hereto as Exhibit A ; and

WHEREAS, pursuant to Section B.I.B of the MOA, the Village "shall not make submissions in the STB proceeding or in appellate proceedings without GTC's prior review and approval...," and the Village agrees that it shall not, as the Village of Long Grove, make such submissions in relation to the matters currently pending under Surface Transportation Board (STB) Finance Docket No. 35087; and

WHEREAS, the MOA further provides that it is the intent "that the STB require GTC's compliance with [the MOA] in lieu of any additional or inconsistent mitigation that the STB might otherwise impose regarding environmental impacts in Long Grove" arising out of STB Finance Docket No. 35087; and

WHEREAS, based on the foregoing understandings, the President and Board of Trustees have determined that it is in the best interests of the Village and its residents to enter into the MOA, subject to the conditions set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LONG GROVE, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

Section 1: Recitals. The foregoing recitals are hereby incorporated herein as findings of the Village Board of Trustees.

Section 2: Approval of Memorandum of Agreement. The President and Board of Trustees hereby approve the Memorandum of Agreement attached hereto as Exhibit A, subject to the following:

a. GTC agreeing to a revised timeline for the Village's submission of plans for mitigation measures; and

b. GTC agreeing to a revised timeline for implementation of mitigation measures.

Upon satisfaction of the foregoing conditions, the Village President and Village Clerk are hereby authorized and directed to execute and attest the MOA on behalf of the Village. Further, the Village Manager shall cause such other actions that are necessary or convenient to occur to allow the mitigation measures outlined in the MOA to proceed.

Section 3: Effective Date. This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED THIS ___ DAY OF _____, 2010.

AYES:

NAYS:

ABSENT:

APPROVED THIS ___ DAY OF _____, 2010.

_____
Village President

ATTEST:

_____
Village Clerk

EXHIBIT A

MEMORANDUM OF AGREEMENT

MEMORANDUM OF AGREEMENT

This ***MEMORANDUM OF AGREEMENT*** ("Memorandum") is made and entered into this xxth day of May, 2010, by and between the **Village of Long Grove**, an Illinois municipal corporation ("Long Grove") and **Grand Trunk Corporation**, a wholly owned U.S. subsidiary and owner of the U.S. rail operating subsidiaries of Canadian National Railway Company (collectively, "GTC"), and co-applicant in the filing before the Surface Transportation Board ("STB") in STB Finance Docket No. 35087. This Memorandum sets out certain commitments GTC is prepared to make to address the following issues resolved by the parties related to existing train traffic and changes in train traffic anticipated as a result of the CN/EJ&EW transaction ("Transaction"), authorized by the STB on December 24, 2008 in STB Finance Docket No. 35087, and the corresponding agreement by Long Grove that these commitments by GTC resolve any outstanding concerns Long Grove has related to the Transaction. The specific terms of this Memorandum between GTC and Long Grove are summarized below, and will be effective upon the execution of this Memorandum by duly authorized representatives of Long Grove and GTC.

A.

I Quiet Zones

(A) GTC will fund additional measures required to maintain the existing Quiet Zone designation on the EJ&EW line acquired by GTC within the limits of Long Grove should the retention of the designation be jeopardized by additional train volumes on the line resulting from the transaction. This provision will be limited for a period of 10 years from the date of acquisition by GTC of control of EJ&EW.

II Safety Mitigation

GTC will provide $ 175,000 for and safety/privacy fencing and/or vegetation shields for adjacent residential and park properties within Long Grove. These funds include all costs for the improvements including design and engineering. Long Grove may use these funds for any combination of mitigation elements constructed on non-railroad property, but immediately adjacent to the right of way. In addition, Long Grove may utilize any portion of these funds to administer a mitigation fund for distribution to adjacent property owners. Long Grove or adjacent property owners will be responsible for the construction, ownership and maintenance of all improvements.

Within 180 days from the effective date of this agreement, Long Grove shall submit a specific plan for use of the funds, along with any criteria for disbursement if funds are distributed to individual property owners. GTC will commit to disburse these funds within 90 days of the receipt of the plan that is consistent with this agreement. Long Grove will be responsible for providing a semi annual report to GTC of all expenditures.

III Emergency Response and Training

GTC will provide training at no cost to Long Grove for their designated emergency response provider. All training will be completed within a 3-year span. Some training will be limited to qualified candidates submitted by Long Grove. This does not preclude additional training in subsequent years for new employees and as refresher.

IV Communications

GTC will fund at its sole expense the establishment of a specific emergency protocol and dispatching view capability on behalf of Long Grove at the single most impacted agency dispatching emergency vehicles across the EJ&EW line. GTC shall bear the cost of the hardware, software and communication equipment in order to provide specific emergency protocol and dispatching view capabilities at the appropriate dispatch facility.

B.

CONDITIONS FOR GTC'S OBLIGATIONS UNDER THIS MEMORANDUM OF AGREEMENT

I. The commitments of GTC set forth in this Agreement are conditioned upon the following:

A. Upon execution of this Memorandum, GTC will fulfill its commitments contained in this agreement within a three-year period after the effective date of this agreement, unless otherwise specified herein. Long Grove will accept funds committed for mitigation and complete installation of improvements or distribution of said funds within the same three-year period.

B. Long Grove agrees that it shall not make submissions in the STB proceeding or in appellate proceedings without GTC's prior review and approval except in support of this agreement and/or the STB's decision approving the Transaction.

II. Confidentiality

This negotiated Memorandum and its terms shall be confidential, except to the extent disclosure may be essential for consideration by the Long Grove corporate authorities at a public meeting and as otherwise required by law and only after notice to, and consultation between GTC and Long Grove, and except that it may be submitted to the STB's Section of Environmental Analysis ("SEA"), subject to a request that it be kept confidential by SEA and the STB.

III. Sole Remedy

It is the intent of the parties to this Memorandum that the STB require GTC's compliance with this agreement in lieu of any additional or inconsistent mitigation that the STB might otherwise impose regarding environmental impacts in Long Grove. SEA has asked that CN provide copies

of any formalized agreements between GTC and affected communities, and the parties agree that GTC shall provide a copy of this Memorandum to SEA upon execution.

Agreed To:

GTC

By:

_____
GTC

_____
Title

Date: _____

Agreed To:

Village of Long Grove

By: _____
President

Date: _____

RICHARD J. DURBIN
ILLINOIS

COMMITTEE ON APPROPRIATIONS

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United States Senate

Washington, DC 20510–1304

309 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510–1304
(202) 224–2152
TTY (202) 224–8180

230 SOUTH DEARBORN, 38TH FLOOR
CHICAGO, IL 60604
(312) 353–4952

525 SOUTH EIGHTH STREET
SPRINGFIELD, IL 62703
(217) 492–4062

701 NORTH COURT STREET
MARION, IL 62959
(618) 998–8812

durbin.senate.gov

February 15, 2008

Anne K. Quinlan
Acting Secretary
Surface Transportation Board
Office of the Secretary
395 E Street, N.W.
Washington, D.C. 20423

Dear Ms. Quinlan:

I am writing to express my serious concerns about the impact in Illinois of CN's proposed acquisition of the Elgin, Joliet and Eastern Railway (EJ&E). The proposed sale would have serious implications for Amtrak service in Illinois, the communities along the EJ&E and the proposed Metra New Starts project, the STAR Line. I urge the Surface Transportation Board to expand the scope of its environmental analysis to include the sale's impact on each.

First, consider the impact on Amtrak service. If CN purchases the EJ&E railroad with no conditions, the transaction would effectively eliminate a CN rail line critical to the operation of six daily Amtrak trains. This would put at serious risk Amtrak service to Champaign and Carbondale.

Last year, those routes had the greatest increase in ridership of any Amtrak route in the national system -- a 67.4 percent increase. Compromising these routes would almost certainly jeopardize further Amtrak expansion in Illinois and devastate the Illinois communities along the routes. I am particularly concerned about the impact on Champaign and Carbondale, the two most popular stations along the affected Amtrak routes. The STB should conduct public hearings in the cities along the affected routes to examine the economic loss this essential rail service would have on those communities.

There is a way to minimize the risk to current Amtrak service. Building a new connection between the CN and the Norfolk Southern Railroad at Grand Crossing (near 75th St. in Chicago) would protect Amtrak's southern routes and improve the on-time performance of Amtrak trains. To date, however, CN has declined to make any commitment to this project and has instead left Amtrak's future operations in question.

A second impact to consider is pedestrian and passenger safety. CN's heavier use of the EJ&E would mean many more at-grade crossings and freight train back-ups in the communities along the rail line. Each year in Illinois, at least 50 people are killed and another 50 are injured in rail grade crossing collisions. Increased crossings also would

contribute to local congestion, pollution and emergency response times in many communities. The STB's analysis should include the acquisition's impact on safety, congestion and environmental impact in communities along the rail line.

Lastly, the proposed acquisition raises many questions about the future of Metra's STAR Line New Start project. The proposed STAR Line would serve as Metra's first suburb-to-suburb line. The 55-mile route would utilize a corridor running approximately 36 miles along the EJ&E railroad. The increased freight along this track would likely require Metra to build additional track to operate commuter trains. The STB should require Metra and CN to provide an accounting of the increased costs to the STAR Line as part of any environmental analysis.

Chicago remains the busiest rail gateway in the United States, accounting for one-third of the nation's freight rail traffic. CN's greater use of EJ&E could significantly relieve rail congestion in Northeastern Illinois. Utilizing underused track like the EJ&E would allow goods to move through Illinois quicker and help maintain Chicago's title as the undisputed rail hub of the country.

The STB, however, should not grant those potential benefits at the expense of Amtrak riders and the communities affected by this acquisition. I strongly encourage the STB to take these concerns into account as you undertake your environmental analysis.

Sincerely,

Dick Durbin

Richard J. Durbin
U.S. Senator

PETER J. ROSKAM
6TH DISTRICT, ILLINOIS

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Congress of the United States
House of Representatives
Washington, DC 20515–1306

507 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-4561
(202) 225-1166 FAX

150 S. BLOOMINGDALE ROAD
SUITE 200
BLOOMINGDALE, IL 60108
(630) 893-9670
(630) 893-9735 FAX

www.roskam.house.gov

February 15, 2008

Ms. Phillis Johnson-Ball
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

Re: Environmental Filing, STB Finance Docket No. 35087

Dear Ms. Johnson-Ball,

I am writing today regarding the scoping of the Environmental Impact Statement (EIS) being prepared in connection with the application filed by Canadian National Railway and Grand Trunk Corporation (CN) to acquire the Elgin, Joliet & Eastern Railway (EJ&E). Thank you for this opportunity to comment on the scope of the EIS; I appreciate that the Surface Transportation Board (STB) will be thoroughly assessing the potential environmental impacts that may result from the proposed acquisition.

The EJ&E roughly follows the western border of the Congressional District I represent. Rail infrastructure, the EJ&E and many other lines, has played a tremendous role in the development of the Chicagoland region, and continues to serve the economy of the region today. Indeed, the people of Illinois' 6th Congressional District are served well with a system that offers extensive commuter transportation and the movement of goods produced throughout the communities of the district.

My constituents and I want to maintain the viability of our freight and passenger networks as a key part of the economy and overall transportation system that serves northeastern Illinois. As I support the continued operation of a vibrant rail system in and around the Congressional District I represent, I also write to encourage the STB to consider the following areas in the EIS process:

- Paramount to any consideration should be the impact on public safety, especially given the EJ&E's proximity to homes, schools, parks and businesses. The increased rail activity of the proposed acquisition warrants a thorough examination of the corresponding increased risk of the potential for grade-crossing collisions; increased obstructions of crossings crucial to emergency response by police, fire, and medical personnel; and an increased risk of

derailment and hazardous material spills (taking into account CN's history and record of safety).

- There are varying degrees of acceptance and discontent with the proposed acquisition in my Congressional District, however, there is near universal agreement that any negative impact that this acquisition would have on bringing the STAR Line service to fruition would be detrimental to the region. The STAR Line is a project that has garnered wide support throughout the Chicagoland region because of the new dynamic it would bring to passenger rail, a revolutionary suburb-to-suburb system. I respectfully submit to the STB that the impact on the region's future rail-use plans be carefully considered as the STAR Line would utilize 36 miles of the EJ&E corridor from Hoffman Estates to Joliet.

  While holding the potential to reduce or eliminate current freight conflicts on the North Central line, freeing capacity for increased or better passenger service, the acquisition also has the potential to introduce additional conflicts at points where commuter rail service crosses the EJ&E line, and these require the comprehensive attention of the STB.

- The EIS must also carefully assess the environmental impact of the proposed acquisition on our natural resources. The EJ&E runs along and through the property of many homes, parks and forest preserves. Appropriate air and water quality analysis should be considered in the EIS to assess both immediate and future impacts of the acquisition. This should include analyses of both the water supply (as some rely on wells and ground water for potable water), and the impact on natural and preserved wetlands. We hold dear the remaining area of preserved natural lands, and we have been presented the unique challenge of balancing the ever-growing demand of development in our suburban communities with the preservation of these resources. It is my hope that the STB will be mindful of the continued effort our area has made, and will apply the same discretion in its EIS process. Just as important, we all desire to see an increased quality of environment to pass along to our children. Thus, I urge the STB to consider the air and water quality impacts.

- The Village of Bartlett, in my Congressional District, just implemented a long sought-after quiet zone. It is my hope that this victory will not be short-lived for the village, and so I am further requesting that the STB examine expected increases in noise and vibration. Any consideration of increased rail traffic should include appropriate accommodations to maintain the quality of life my constituents have worked so hard to build and maintain.

- Finally, all of the above encouraged examinations in the EIS require an appropriate view into the future of activity both on the EJ&E and in the larger region. While the rail industry is a dynamic one, so is region and marketplace in which my Congressional District sits. Accordingly, to the extent possible and in order to appropriately assess and provide for long-term mitigation needs and other

previously considered plans and projections for growth in our area, I encourage the STB to not remain content with an analysis that reaches only as far as the immediate future, but which takes into consideration the long-term needs and growth of our communities. Indeed, analysis of road and rail traffic levels cannot merely be restricted to those of current levels, but rather involve future considerations as our area continues to grow and develop and pursue increased quality of life and economic activity.

Thank you for this opportunity to comment on the scope of the EIS for the CN's proposed acquisition of the EJ&E. I look forward to continuing to work together to ensure the continued operation and growth of a vibrant rail system in the Chicagoland region. Should you require any additional information to attend to my above requests, please contact David Mork on my staff at 202-225-4561.

Very truly yours,

Peter J. Roskam
Member of Congress