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February 27, 2023

**VIA EMAIL**

Ms. Danielle Gosselin  
Director, Office of Environmental Analysis  
Surface Transportation Board  
395 E Street, N.W.  
Washington, D.C. 20423

RE: STB Finance Docket No. 36500, *Canadian Pacific Ry., et al. – Control*  
*– Kansas City Southern, et al.*

Dear Ms. Gosselin:

Attached for inclusion in the record associated with the Final Environmental Impact Statement (FEIS) for the proposed rail merger covered by the captioned proceeding is a brief response by the Coalition to Stop CPKC to the criticisms of the Office of Environmental Analysis to the Rail Crossing Delay Analysis prepared and submitted by the Coalition's experts. This document identifies several critical mistakes and oversights in OEA's critique that OEA should correct, and thereafter revise its recommendations to the Board about the measures Applicants must take to mitigate the harm of their proposed merger to the communities making up the Coalition.

The Coalition reserves all of its rights concerning the sufficiency of the FEIS and the final decision when it is issued by the Board. Please don't hesitate to contact me if you have any questions.

Respectfully submitted,

*Attorney for the Coalition to Stop CPKC*

Cc: Public Docket No. FD 36500  
All Parties of Record on the Official Service List for Docket No. FD 36500

Village of Bartlett  
Village of Bensenville  
City of Elgin  
Village of Hanover Park



[www.StopCPKC.com](http://www.StopCPKC.com)

Village of Itasca  
Village of Roselle  
Village of Schaumburg  
Village of Wood Dale  
DuPage County

**Response to the Final Environmental Impact Statement by Surface Transportation  
Board's Office of Environmental Analysis regarding the Time Delay Study  
Submitted by the Coalition to Stop CPKC**

**February 27, 2023**

**Docket No. 36500, *Canadian Pacific Ry., et al. – Control – Kansas City Southern, et al.***

The Coalition to Stop CPKC (“Coalition”) appreciates the Office of Environmental Analysis (“OEA”) conducting a detailed review of the Coalition’s Rail Crossing Delay Analysis (“Time-Delay Analysis”) and publishing the results of its review in the Final Environmental Impact Statement (“FEIS”) in Docket No. FD 36500. Nevertheless, we believe several criticisms of our study were mischaracterizations of the Coalition’s analysis or were, frankly, entirely wrong. The Coalition is reserving all its rights to seek review of the FEIS and the final decision of the Surface Transportation Board (“STB”) on the proposed merger, but we are compelled to raise several major items prior to issuance of the final decision with a request that OEA reconsider its conclusions that certain mitigation measures should not be implemented in the Coalition communities. In the following narrative, page numbers reference the Final EIS, unless noted otherwise.

**1. Train Frequency and Lengths**

OEA criticized the frequency and length of the additional freight trains post-merger used in our Time-Delay Analysis. Respectfully, these criticisms are simultaneously invalid and misleading. While OEA disputed the Coalition’s analysis scenario that evaluated 14 additional daily trains (S-146 and S-147), the Coalition evaluated two different scenarios for train frequency: eight additional trains per day as included in the Applicants’ merger application and 14 additional trains per day. OEA focused its critique of the Coalition’s analysis on the additional 14 train scenario and largely ignored and remained silent on the eight additional train scenario, which the Coalition submits is valid and probative. This analysis demonstrated that OEA’s conclusions about the lack of impacts post-merger are incorrect.

Regarding the length of trains post-merger, the Applicants projection is for eight additional *freight trains*. The Applicants’ own statements reference new 10,000-foot freight trains (Railroad Control Application, 2021). This 10,000-foot freight train length also appears throughout the EIS (Pages S-13 [*Summary Section*], 3.3-9, 3.3-10, 3.3-29, H-336, H-337, Table H.2-2, S-165, S-167, S-208, S-217, S-218, and S-225). We found no other new freight train lengths stated in the EIS. Accordingly, the Coalition evaluated the operation impacts of the Proposed Action based on eight additional freight trains per day, each 10,000 feet long. Inexplicably OEA stated “this is an inaccurate characterization of the Proposed Acquisition.” (Page S 204).

Moreover, in the FEIS OEA states average new train length will be 6,817.2 feet (Page S-204). OEA goes on to report an average train length as 1,418 feet (No Action) and 1,960 feet (Proposed Action) in Table H2-4 (Pages H-450 to H-452). OEA apparently arrived at this length – on which it based its entire analysis of potential train delays - by averaging all train lengths (existing commuter, existing freight, and new additional trains). This is simply wrong, misleading and it marginalizes the impact of adding eight new 10,000-foot freight trains per day. In reality, the addition of eight freight trains will have a tremendous negative impact on the quality of life in the Coalition communities. Regardless of how the average is calculated, eight additional 10,000-foot trains represent an additional 15.1 miles of freight train length and associated delay and disruption each day. OEA must reconsider its use of the 6,817.2 feet average and revise its proposed mitigation measures accordingly.

Further as to train length, on Page S-231 OEA responds to the Coalition’s concern about multiple simultaneously blocked crossings by stating that this is an “existing condition.” It is true that multiple crossings are blocked simultaneously in Coalition communities on a daily basis by the three freight trains that traverse the line, on average. Indeed, there are typically more than three such events each day. The merger will indisputably exacerbate this “existing condition” by adding at least eight more 10,000-foot freight trains each day. The concern over this scenario was noted by OEA on Page S-13 of the Summary, where OEA identified 115 grade crossings where alternative routes “could be blocked simultaneously by the same 10,000-foot train” and stated that “were that to occur, emergency services could be seriously affected.” However, despite including an entire new section in the FEIS discussing delays, OEA simply dismissed the Coalition’s concern as an “existing condition,” and recommended no action for our communities. OEA was wrong to ignore that the existing impacts from blocked crossings will indisputably be worsened by the merger, and to dismiss the Coalition’s analysis of the community and life safety impacts.

## **2. Confusion and Misinterpretation Resulting from OEA’s Widespread Use of Averages and Aggregates**

OEA’s extensive use of averages and aggregated system data in the FEIS to analyze the impacts to the Coalition communities dilutes the actual *incremental* impact of the Proposed Action by spreading the performance measures, such as delay and stopped vehicles, across all the freight and passenger trains present on the line throughout the day. The Coalition has been consistent in evaluating the incremental impacts of the Proposed Action on our communities. We did not consider the existing Metra train operations, which OEA criticized. This omission was appropriately intentional since the Metra trains exist today and are expected to have the same impact on traffic and communities in both the existing conditions and the Proposed Action scenario. The Coalition’s analysis properly focused on the incremental delays and other impacts caused by the addition of eight freight trains per day.

In addition, OEA’s use of averages and system data has the effect of attributing additional delay to Metra trains, while lowering the average delay for the existing freight trains and projecting an artificially low delay resulting from the proposed additional eight freight trains per day. However, all things being equal, the delay to vehicles stopped by a Metra train should not increase unless a new freight train is on a Metra line and blocking its service. Similarly, all things being equal, the delay to vehicles stopped by existing freight trains should not change as a result of the merger

unless the addition of new freight trains cause congestion that holds up freight trains more than usual. Consequently, all the incremental vehicle delay will be attributable to the new freight trains. This delay can only be properly understood as absolute added delay calculated per train (as analyzed by the Coalition) or as an average applied to the projected eight new trains only. But this is not the average that OEA calculated. Instead, OEA calculated the average delay across all the trains (existing and Proposed Action) present on the line. The Coalition believes this analysis understates the delays post-merger, and that OEA should revise its analysis to adopt the Coalition's methodology and amend its conclusions and proposed mitigation measures accordingly.

### **3. OEA's Criticism of the Coalition's Data Quality**

The OEA unfairly impeached the Coalition's data, which was actual field-observed data and published data obtained from multiple sources. Specifically, the Coalition's data was not "anecdotal" (Page S-146). The word "anecdotal" is defined as "based on or considering reports or observations of usually unscientific observers." (Merriam-Webster). The correct term to describe the Coalition's data is "empirical," which is defined as "originating in or based on observation or experience." (Merriam-Webster). All of our data was collected directly from actual observations conducted in the field by trained observers or it was obtained from established published sources. Such empirical data is the preferred resource for engineering and scientific studies when the condition can be observed and measured.

OEA also dismissed the Coalition's data because of its small sample size. However, while we acknowledge that data was collected over a small number of actual observations, it is nevertheless unbiased, actual data. This is still far superior to dated and self-reported data. The criticism of the Coalition using actual data was also inconsistent with other areas of the FEIS such as the following statement on page H-2 of the Final FEIS:

*In one case, OEA's field visit identified a discrepancy between the estimated and actual traffic volume. Specifically, OEA observed very low traffic volumes at the grade crossing for Ripley Street in Davenport, Iowa (Crossing ID 865653R). The historical traffic volume from 1975 was 10,000 vehicles per day, which is inconsistent with OEA's observations and the characteristics of the roadway and adjacent land use. Ripley Street terminates in a parking lot with approximately 100 parking spaces immediately south of the grade crossing. To the north of the grade crossing, Ripley Street is a two-lane road functionally classified as "local" with a posted speed limit of 20 mph. The next street to the east, and adjacent grade crossing, is Harrison Street, which terminates in the same parking lot. Harrison Street is very similar to Ripley Street; a two-lane road functionally classified as "local" with a posted speed limit of 20 mph. The most recent traffic volume for Harrison Street is 700 vehicles per day based on data from 2018. Based on these data and OEA's field observations at the Ripley Street grade crossing, it was hypothesized that the 1975 traffic volume of 10,000 vehicles per day was likely a data entry error such as an extra '0' typed during data entry. As such, OEA adjusted the 1975 traffic volume for Ripley Street to 1,000 vehicles per day and then proceeded with the forecasting procedure described above.*

It is hard to reconcile OEA's pointed criticism of our 2022 observed data in light of its decision to use 50-year-old data and arbitrarily remove a zero from the number to produce a still 50-year-old baseline number that OEA then used to forecast Proposed Action traffic volume. This was not a minor adjustment, but rather a decrease in the data by a factor of 10; an arbitrary decrease in the traffic volume of 90% based on a "hypothesized" condition. If this is acceptable for OEA to make such a significant change without any actual basis, the Coalition's field collected, and well-sourced data certainly deserves full consideration without caveat or condition.

OEA further criticized the Coalition data over the distribution of trains and vehicular traffic throughout the day. Pages S-146 and S-147. Regarding the trains, the Coalition distributed the eight additional trains throughout a 24-hour period on the assumption that the Applicant would operate its trains at times that would have the least adverse impact on the Bensenville Yard, mainline operations, and Metra peak operating schedules. Nevertheless, OEA stated "train traffic is spread through the day." (Page S-156). This indicates OEA misunderstood the study's assumptions.

Further, OEA wrongly criticized our analysis for utilizing hourly traffic volumes for an entire 24-hour period to determine daily distribution of traffic. This enabled the Coalition to accurately estimate the proportion of cars during each hour of the day at each crossing. The obvious intent was to reasonably distribute the cars during the hours each freight train was assumed to arrive to get the most realistic delay estimate. For example, while there might be 500 vehicles during the 5PM hour, there may only be 50 vehicles during the 11PM hour and five vehicles during the 2AM hour. This method allowed us to use actual data to make reasonable assumptions and produce a realistic delay calculation.

We believe OEA erred in rejecting this analysis, stating instead that its methodology is to use "a factor of 0.1 to convert" daily traffic to hourly traffic to estimate the peak hour volume (Page S-156). The Coalition agrees that, in the absence of actual data, this is a generally acceptable traffic engineering heuristic or "rule of thumb" method for approximating the portion of traffic during the peak hour. However, practicing traffic engineers would never use a rough factor to convert Average Daily Traffic ("ADT") data when actual hourly traffic volumes can be obtained for the locale. Further, using this factor does not provide any basis for estimating volumes during the other non-peak hours throughout the day.

OEA also admitted that "train traffic does not necessarily coincide with peak vehicle traffic" and it is "spread throughout the day," (Page S-156) but OEA did not offer an alternative method to establish a reasonable traffic volume during those hours; instead OEA stated only that it "average[d] the delay over the 24-hour period." It is unclear how converting an average volume (ADT) to an hourly volume and then re-averaging the data without making any further interim calculations provides a "more accurate...vehicle delay" estimate than using actual hourly traffic volumes.

In summary, OEA wrongly rejected the Coalition's analysis based on actual field-observed data, and as a result, the potential delays and resulting harms to the Coalition communities were significantly understated. OEA must reconsider its rejection of the Coalition's proposed measures

to mitigate the harms that will result from increased traffic delays caused by adding at least eight freight trains to the line each day.

#### **4. FHWA Criteria for Grade Separations**

Finally, OEA summarily dismissed the grade separations the Coalition has stated are necessary to mitigate the post-merger harm to their communities based on FHWA criteria discussed on Page S-143. However, it appears that the OEA again incorrectly considered only the *average* vehicle delay. Further, the FHWA criteria cited in the FEIS states the criteria as a *total delay* value rather than average: "...vehicle delay exceeds 30 vehicle hours per day." The Coalition analysis clearly indicates that the total Proposed Action delay of eight additional freight trains is anticipated to be in excess of 30-hours of daily vehicle delay at six crossing locations, as shown in Table 2 of the Coalition Time-Delay Study: Rohlwing Road (IL Route 53), Wood Dale Road, Irving Park Road (IL Route 19), Church Road, Addison Road, and York Road. These results, which were not disputed by OEA, clearly satisfy the FHWA's criteria, and OEA must therefore reconsider its rejection of the grade separations requested by the Coalition at these locations.

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of February, 2023 a copy of the foregoing was served on each Party of Record listed on the official Service List for Docket No. FD 36500.

*Thomas W. Wilup*

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