

Village President  
*Jim Holland*

Village Clerk  
*Kate Romani*

Village Administrator  
*Jerald P. Duca*

February 27, 2008

Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20243

Attention: Phillis Johnson-Ball  
Environmental Filing  
**STB Finance Docket No. 35087**

**SUBJECT:** Additional Comments on the Scope of Study for the Draft Environmental Impact Statement for the Proposed Canadian National Railway Company Acquisition of the Elgin, Joliet and Eastern Railway Company

Dear Ms. Johnson-Ball:

This addendum is submitted in light of Decision No. 8 in the above-captioned proceeding, served February 22, 2008.

I recently submitted the Village of Frankfort's comments on the draft scope of the environmental impact statements that the Section on Environmental Analysis is to prepare in connection with the proceeding. I made a number of points but one of the most important is that the draft EIS and the final EIS will not provide an accurate picture of environmental effects unless they are based upon realistic rail and auto traffic projections, covering a reasonable period of time.

Canadian National's ("CN") application limits its projections of rail traffic to *existing* shipments diverted from *elsewhere* on the CN or Elgin, Joliet & Eastern ("EJ&E") rail lines. Moreover, although the application is far from clear on the point, it appears to project such traffic only through the end of 2010.

My letter urged that the SEA should take into consideration not only CN's projections for diversion of existing traffic but also CN's projections for other traffic, and for a period of at least ten years rather than the very brief period suggested by the application. I also observed that the projections in the application are extremely conservative and unrealistic, and that CN's own statements call into question the sufficiency of the application's projections:

CN asserts that there will be "[n]o *quantifiable* traffic gains from trucks or rail traffic not presently handled in part by CN, EJ&E or both carriers."<sup>1</sup> In refusing to provide rail traffic projections sought by Frankfort in discovery, CN said that it had "not made *definitive* projections or estimates for time periods after those addressed

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<sup>1</sup> Application at 209 (emphasis added).

[on page 247 of the Application].”<sup>2</sup> The use of qualifiers like “quantifiable” and “definitive” suggests that CN at least has expectations of additional traffic. These expectations should be factored into the environmental review process.

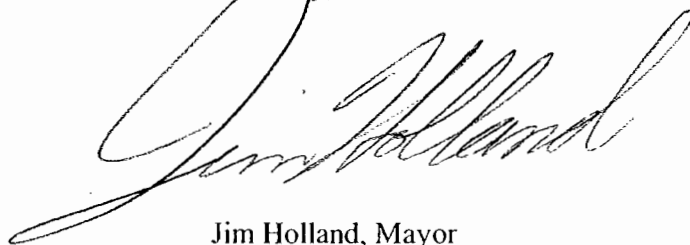
CN plans to spend substantially more than \$400 million to acquire the EJ&E. Of that sum, \$300 million is for the purchase of the EJ&E and \$100 million is for construction of six connections with existing CN lines and double-tracking portions of the EJ&E. CN also is likely to spend a substantial additional amount on environmental mitigation. Given the size of these expenditures, CN’s claim that it anticipates no additional traffic seems somewhat strained.

In an effort to ascertain CN’s expectations of rail traffic, Frankfort sought discovery from CN about its rail traffic projections. CN resolutely opposed surrendering this information. Because the discovery was sought in connection with the environmental aspects of the proceeding, the Board has ruled in Decision No. 8 that the discovery is not appropriate.<sup>3</sup> Importantly, however, Decision No. 8 says that “[t]he discovery responses sought by Frankfort and Will County pertain to the same issues that can *and will* be explored and addressed in the EIS.”<sup>4</sup> The decision also states that SEA “can ask applicants for additional information on the planned operations, as appropriate, to permit the Board to take the requisite ‘hard look’ at environmental issues required by NEPA.”<sup>5</sup>

Fairly read, the quoted portions of Decision No. 8 express the Board’s expectation, if not its direction, that SEA will seek additional information from CN about rail traffic projections and that the draft EIS will take into such projections fully into account. On behalf of the Village of Frankfort, I urge that SEA insist on receiving and considering *all* such information, even if CN views it as not “quantifiable” or not “definitive,” for a period of at least ten years from the completion of the construction contemplated by the application.

Thank you for your work on ensuring that the “hard look” contemplated by NEPA is taken in this case. Should you desire additional information about the effect of the proposed acquisition on Frankfort, I will be happy to provide it.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Holland", written in a cursive style.

Jim Holland, Mayor  
Village of Frankfort

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<sup>2</sup> Exh. 3 to Motion to Compel Discovery from Applicants (FRKF-3) (filed Jan. 25, 2008).

<sup>3</sup> Decision No. 8, served Feb. 22, 2008.

<sup>4</sup> Decision No. 8, at p. 4 (emphasis added).

<sup>5</sup> Decision No. 8, at p. 3.