Date: October 3, 2008

R-19J

Victoria J. Rutson
Chief
Section of Environmental Analysis
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423

Re: Comment on the Surface Transportation Board Draft Environmental Impact Statement for the Canadian National Railway Company Proposed Acquisition of the Elgin, Joliet and Eastern Railway.
CEQ #20080290

Dear Ms. Rutson:

In accordance with U.S. Environmental Protection Agency responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act (CAA), we have reviewed the Draft Environmental Impact Statement (DEIS) for the Canadian National Railway Company's (CN) proposed acquisition of the Elgin, Joliet and Eastern Railway Company (EJ&E) ("the proposal"). EJ&E operates approximately 200 miles of railroad that forms an arc around metropolitan Chicago from Waukegan, Illinois to Gary, Indiana.

The proposed acquisition would serve three purposes and needs:
1) improve CN operations in and beyond the Chicago area by providing a continuous rail route around the congested city center, a route that would be under their sole ownership and would connect with CN's five rail lines radiating from Chicago;
2) reduce CN dependency on purchasing use of the Belt Railway Company Clearing Yard in the city center and provide the Kirk (Gary, Indiana) and Joliet Yards and smaller rail facilities for train and railcar classification work and handling; and
3) provide CN a new business relationship with approximately 100 industrial and utility companies serviced by EJ&E, plus additional companies serving those industries.

EPA participated in a number of early public and agency scoping meetings and, on February 15, 2008, submitted comments on the Surface Transportation Board's (STB) Notice of Intent to Prepare an Environmental Impact Statement. EPA project staff toured the project area with STB's consultants in March 2008. We submitted detailed scoping comments on April 24, 2008. Our scoping comments

discussed surface waters and stormwater run-off, air quality, environmental justice, railroad and highway crossings, coordination with other freight and passenger rail operations in the Chicago area, and cumulative impacts. Our scoping comments also requested that proposed mitigation actions be presented in the DEIS in detail, including measures to evaluate their success.

The following comments outline our major concerns. These comments are discussed in greater detail in the enclosed Detailed Comments on the Draft Environmental Impact Statement for the Proposed Canadian National Railway Acquisition of the Elgin, Joliet & Eastern Railway (detailed comments), which also comments on other issues, such as noise, climate change science, surface water, wetlands, stormwater run-off, floodplains, threatened and endangered species, invasive species / railway maintenance, cumulative / indirect impacts, and cultural resources. Based on these comments, we have rated the DEIS as "Environmental Concerns – Insufficient Information" (EC-2).

RAIL OPERATIONS

Because the projected level of rail operations will determine the level of all potential impacts, the Final Environmental Impact Statement (FEIS) should provide additional information to support the rail traffic projections put forth in the proposal. We commend the STB for providing three special analyses addressing this concern, i.e., a bottleneck assessment, a maximum capacity analysis, and Rail Traffic Controller modeling. The proposal clearly shows that rail operations on the EJ&E arc will be at capacity immediately if the proposal is implemented, with most of CN's traffic diverted from CN's existing lines. The capacity of the EJ&E arc may change if key bottlenecks are reduced. Future CN traffic growth in the Chicago area would either revert to the existing CN lines and/or be accommodated on the EJ&E arc if bottlenecks are reduced. We acknowledge the difficulty of forecasting long-term changes in traffic. Nonetheless, EPA recommends that the STB project traffic growth on the existing CN lines and on the EJ&E arc if its capacity changes due to bottleneck reductions. Please discuss in the FEIS the direct, indirect, and cumulative impacts of this potential future traffic growth.

The DEIS notes that most hazardous materials transported following this proposal, would move in "key trains" and that all EJ&E segments will be designated as "key routes" under Federal Railroad Administration regulations. These trains will move at mandated reduced speeds. Rail operations, capacity, and efficiency modeling for this proposal should consider these slower speeds in projecting traffic capacity on the EJ&E tracks, and how much traffic might need to remain on the existing CN lines through the City of Chicago and inner ring suburbs.

We recommend the STB include in the FEIS and Record of Decision (ROD) a requirement that if the proposal is approved, CN or its successors would initiate an adaptive management (AM) program. This AM program would stipulate that if any segment of the proposed rail system sustains an increase of some pre-specified number of average daily trains for a pre-designated period of time, then the applicant or its successors would re-evaluate the impacts of that increased traffic volume and provide mitigations as appropriate. These mitigation measures should be acceptable to the STB and compliant with any regulatory requirements applicable to specific impacts, as determined by the relevant regulatory agency. We concur with the STB proposal to establish a public/private mitigation fund, and suggest it be part of the AM with an annual contribution by CN or its successors adequate to sustain needed mitigation measures. This fund would appropriately be managed by a state or regional

planning agency for the project area, and provide for possible receipt of other contributions as might be provided by federal, state, and/or local governments.

Further explanation is needed in the FEIS regarding how existing and future Metra and Amtrak passenger rail services will be accommodated under the proposal. The DEIS contains assurances that the planned Metra STAR line will be accommodated within the parameters of the proposal, but no specifics are provided. This is a concern, given that the EJ&E arc, which would host a portion of the STAR line, will operate at capacity as soon as the proposal is implemented.

The proposal calls for enhancing the existing rail-to-rail connection at Munger in DuPage County, Illinois. The DEIS indicates that this enhancement will provide little operational improvement, but would impact wetlands, biota, and a county forest preserve. We conclude that the hydrological impacts are potentially greater than described in the DEIS. Therefore, we recommend that the Munger connection enhancement component of the proposal be dropped from further consideration in the FEIS.

HAZARDOUS MATERIAL TRANSPORT AND RAIL SAFETY

The DEIS states that the railroad industry has a low risk of accidents and spills, and that should an accident or spill occur, rapid emergency response involving containment and clean-up would follow, led by local governments as first responders. These assurances apply to both public safety and natural resource impacts, including spills to water, when potential impacts could spread quickly. We note that all segments of the proposed project will be designated as hazardous key routes. Both CN and EJ&E have a history of higher incident rates than the railroad industry as a whole. The higher incident records for both railroads involved are not adequately explained in the DEIS. CN's corporate rail safety record, both in the United States and Canada, as well as EJ&E's, warrant further explanation in the FEIS. No installation of containment measures or preventative measures are proposed in the DEIS. We recommend the FEIS include procedures for spill prevention for CN's operations in the Chicago area and installation of containment measures near sensitive water resources (e.g., Cuba Marsh, the heron rookery near Plainfield, the Des Plaines River, and the Grand and Little Calumet Rivers).

The FEIS should provide a list of significant, geographically vulnerable natural areas that need special planning and possible structural measures for spill protection. This should be compiled in consultation with the U.S. Fish and Wildlife Service offices, the Departments of Natural Resources in Illinois and Indiana, and the STB convened Illinois Natural and Water Resources Stakeholder Group. A management plan for responders and any structural mitigation measures should be developed in consultation with hazardous waste programs at EPA, Illinois EPA and the Indiana Department of Environmental Management. This plan should be available for emergency use and incorporated into broader emergency planning at the local and regional levels.

AIR QUALITY

We appreciate that the DEIS includes a general conformity analysis and an air toxics assessment. However, diesel particulates were not included in the air toxics analysis, and should be added in the FEIS. Both the conformity analysis and the air toxics "hot spot" analysis should include

projected emissions for the Kirk and Joliet yards, which will experience significantly increased operations if the proposal is implemented. We recommend that the three at-grade crossings where the hot spot analysis shows that EPA reference levels will be exceeded be considered high priorities for grade separation mitigation. We commend CN for proposing voluntary air mitigation to include diesel emission reduction strategies, such as low-emission switching engines in the yards and anti-idling measures.

ENVIRONMENTAL JUSTICE

EPA recommends that STB provide clearer explanations in the FEIS of the methods used to evaluate potential for disproportionate impacts and use updated census data if available and appropriate. Impacts should be consistently evaluated across the entire project study area, including potential environmental justice communities.

We appreciate the opportunity to comment on the DEIS for this proposal. We welcome the opportunity to work with STB to address our comments prior to issuance of the FEIS. If you have questions regarding these comments, please contact me or my staff member, Norm West by phone at 312-353-5692, or at west.norman@epa.gov.

Sincerely,

/ S /

Lynn Buhl
Regional Administrator

Enclosures:
1. Summary of Ratings Definitions and Follow-up Actions
2. Detailed Comments on the Draft Environmental Impact Statement for the Proposed Canadian National Railway Acquisition of the Elgin, Joliet & Eastern Railway

SUMMARY OF RATING DEFINITIONS AND FOLLOW UP ACTION*

Environmental Impact of the Action

LO-Lack of Objections
The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC-Environmental Concerns
The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impacts. EPA would like to work with the lead agency to reduce these impacts.

EO-Environmental Objections
The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU-Environmentally Unsatisfactory
The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS sate, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1-Adequate
The EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alterative and those of the alternatives reasonably available to the project or action. No further analysis or data collecting is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2-Insufficient Information
The draft EIS does not contain sufficient information for the EPA to fully assess the environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3-Inadequate
EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640 Policy and Procedures for the Review of the Federal Actions Impacting the Environment

Detailed Comments on the Draft Environmental Impact Statement for the Proposed Canadian National Railway (CN) Acquisition of the Elgin, Joliet & Elgin Railway (EJ&E)

The following detailed comments are provided by the U.S. Environmental Protection Agency (EPA) on the Surface Transportation Board (STB) draft Environmental Impact Statement (DEIS) published in the Federal Register under CEQ #20080290. We acknowledge the extensive mitigations proposed both voluntarily by the applicant and recommended by STB. Voluntary mitigation (VM) measures referenced in our comments are proposed by CN.

We commend STB for responding to EPA scoping comments on many issues, specifically including:

- Considerations of alternatives to improve train storage and train speed and reduce impacts are incorporated into the DEIS.
- The DEIS evaluates at-grade crossings and identifies crossings for various mitigations.
- The DEIS considers land use impacts and compliance with Indiana's Coastal Zone Management Act.
- The DEIS considers climate change impacts and greenhouse gas emissions.
- Some air quality hot spot analysis is provided, and VM is proposed to refit rail yard locomotives with EPA-recommended idling control systems.
- STB undertook an extensive analysis of existing and proposed project noise. Several VMs address these noise issues, including construction noise, wayside noise, and noise at rail-to-rail crossings and switches. Appropriate assessments for vibration impacts were included.
- VM #31 and VM #68 propose the use of native plant materials to cover construction site disruptions in consultation with local conservation offices.

The following discussion presents our detailed concerns, which should be addressed in the FEIS. These issues include some general observations regarding the DEIS sections on Purpose and Need, Alternatives, and Mitigation, and then specific details concerning hazardous materials transportation, rail and community safety, air emissions, environmental justice, noise, surface waters, wetlands, stormwater run-off, floodplains, threatened and endangered species, invasive species, cumulative and indirect impacts, and cultural resources.

Purpose and Need, Alternatives, and Mitigation

The Purpose and Need section essentially reiterates the proposed action. The FEIS should provide analyses and a clear explanation as to why the alternatives that were dismissed without detailed study fail to meet the purpose and need.

Our avoidance, minimization, and mitigation scoping comments requested delineation of all avoidance and minimization efforts, for the overall project, for project components, and for individual or specific impacts. We acknowledge the mitigation measures proposed; however, the DEIS mainly focuses on proposed mitigation measures and does not provide much explanation of other options for avoidance, minimization and mitigation that may have been considered but not selected. Our scoping

comments requested mitigation measures be presented in detail with follow-up measures for maintaining and evaluating mitigation success. These were typically not provided in the DEIS, and should be addressed in the FEIS.

Hazardous Materials Transport

Please include hazardous materials transport in the Rail Safety section of the FEIS for clearer understanding. The DEIS should be revised to reflect the Federal Railroad Administration's (FRA) June 1, 2008 guidance on "key routes" and "key trains." That guidance supersedes the DEIS statement, "Neither the number of daily trains nor the commodities carried are a factor in establishing the classification of the track." Spill mitigation measures in Section 6, including VM #15, should include adherence to EPA regulations 40 CFR Part 263, and should explicitly include working with EPA, state environmental agencies, and local agencies on spill responses.

The DEIS acknowledges that the proposal increases the potential for yard accidents due to increases in car handling activity. The DEIS only references that CN must prepare a Safety Integration Plan (SIP) and comply with applicable Federal and state regulations. EPA believes that STB should consider additional mitigation and explain that measures beyond the legal minimums may be appropriate to protect the public health and natural resources. We also recommend that the STB consider adding substantive mitigation measures that specifically contribute to spill prevention and strategic containment for the project area, especially near sensitive water bodies.

Recent research indicates that broken rails, particularly at weld points, are the leading cause of major derailments and accidental releases of hazardous materials on U.S. Class I railroads. Ongoing research, such as that being conducted by Professor Christopher Barkan of the Railroad Engineering Program at the University of Illinois, is developing new methods to locate and correct such rail problems. We recommend that these methods be considered for inclusion in the adaptive management program to enhance spill prevention.

The DEIS does not give much detail on potentially impacted vulnerable facilities, such as schools, hospitals, nursing homes, high density housing, and oil/chemical facilities, although it does provide detail regarding environmentally sensitive areas, hazardous waste sites, and regulated chemical handling facilities. We recommend the community sites be more fully addressed in the FEIS regarding hazard analysis and risk assessment.

The DEIS did not provide any detailed information or statement on CN's hazardous materials (HAZMAT) spill response capabilities. CN seems to rely totally on local responders, despite a wide variability of local HAZMAT response capabilities in the area. No CN equipment lists, contractors, or corporate HAZMAT teams are mentioned. The FEIS should provide more detail which would be useful in determining what impacts to human health and the environment might result from a delayed or under-supplied and understaffed response. We note that STB mitigation #10 states that CN will assist in providing training to the affected local community responders, with an option to perhaps offer training in Chicago. We recommend that such training be provided specifically for the Chicago area to maximize participation for all affected response local responders.

Rail and Community Safety

The DEIS identified that some rail-highway at-grade crossings could have a higher potential for vehicles to become trapped on the tracks between the warning devices, due to local conditions. This is a significant safety concern. EPA recommends that all at-grade crossings on the EJ&E arc be evaluated for this risk, and that all crossings with a higher potential for such a risk be mitigated.

Air Emissions

The mobile source air toxics (MSAT) analysis was performed at railroad crossings for five air toxic compounds. The FEIS should supplement the MSAT analysis by adding diesel particulate matter (PM), which EPA considers a priority MSAT. However, while EPA considers diesel exhaust a likely human carcinogen, and available evidence supports this conclusion, EPA cannot at this time provide a cancer potency value, i.e., unit risk factor (URF), for diesel PM. However, in EPA's recent final rule setting standards for locomotive and marine diesel engines (73 Federal Register 37096, June 30, 2008), EPA conducted dispersion modeling to assess diesel PM concentrations near ports and rail yards across the nation. In that study, 0.2 and 2 ug/m^3 were employed as levels indicating elevated exposures.[1] For non-cancer effects, EPA has a reference concentration (RfC) of 5 ug/m^3 for diesel PM. These factors could be used to estimate exposures to diesel PM of potential health significance.

Climate Change Science

EPA recommends that the background and context for the climate change discussion in the DEIS be revised to reflect, in brief, the relevant climate change science at http://epa.gov/climatechange/. EPA's site references reports from the Intergovernmental Panel on Climate Change, and provides links to the U.S. Climate Change Science program. The executive summary of the "Scientific Assessment of the Effects of Global Climate Change on the United States," by the National Science and Technology Council (May 2008), also synthesizes the climate change science.

Environmental Justice

The environmental justice (EJ) analysis should include citations for the "relevant orders and guidelines" and to the "environmental justice criteria" mentioned in the DEIS, and said to have been developed by EPA and STB. The EJ analysis should explain why census block groups were selected as the unit of analysis. This analysis should consider the availability of other demographic data to supplement the 2000 census data, and/or explain the decision not to use such data. EPA's April 1998 "Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses" notes:

[1] ICF International, September 28, 2007. Estimation of diesel particulate matter concentration isopleths for marine harbor areas and rail yards. Memorandum to EPA under Work Assignment Number 0-3, Contract Number EP-C-06-094. This memo is available in Docket EPA-HQ-OAR-2003-0190. This analysis was published in the peer-reviewed proceedings of the Air & Waste Management Association's annual conference in 2008 (Paper #719).

> census data have been shown to be unreliable in some cases, in part because the level of aggregation may not offer a fine enough mesh to identify the existence of such communities. Also, census data are based on self-reporting. These data are not always consistent and are prone to undercounting minority populations and low-income populations due to a perceived reluctance for certain populations to divulge information.

The "Study Area" for the EJ analysis is defined as "census block groups along the EJ&E rail line within 1,500 feet of rail segments where the number of trains would increase by at least eight trains per day and that would be designated as key routes for hazardous material transportation" and "[a]long the CN rail line, …census block groups within 400 feet of rail segments where the number of trains would decrease by at least eight trains per day and the segments would not be designated key routes for hazardous materials transport." The EJ analysis should explain the rationale for this definition of the Study Area.

The FEIS analysis should explain why other types of impacts evaluated elsewhere in the DEIS are not evaluated in the EJ Analysis, or should include an evaluation of such impacts. Where a localized impact is found in the DEIS yet found not to be significant based on comparison to the overall DEIS Study Area, it may still merit evaluation in the EJ analysis. EPA's 1998 NEPA Guidance states:

> …Minority communities and low income communities may comprise a very small percentage of the total population and/or geographical area. Therefore, the assumptions and inputs used in conjunction with traditional analytical tools for studying potential impacts under NEPA, and the results of the analyses, may not fully reflect the impacts that may be borne by these smaller communities or populations. An analysis of disproportionate impacts will develop an understanding of how the total potential impacts vary across individual communities. This allows analysts to identify and understand what portion of the total impacts may be borne by minority or low-income communities, to assess whether they are disproportionately high and adverse, and to develop alternatives and mitigation measures if necessary.

Appendix I should provide additional information to explain the statistical analysis and the conclusion of the EJ analysis. In particular, the following questions are not answered by the provided information:

- How were the marginal probabilities derived?
- What do the different marginal probabilities demonstrate?
- Why are the marginal probabilities in Tables I.2-2 (Actual noise impacts) and I.2-3 (Expected noise impacts) identical?
- Why are there only 2 tables? Shouldn't there be four: minority/actual; minority/expected; low-income/actual; low-income/expected?
- The DEIS states, "Further analysis revealed that the high and adverse train noise impacts are not disproportionately borne by minority or low-income environmental justice populations." What analysis supports that statement?

Noise

Although several sensitive noise receptors, such as Fermi Lab, are identified, we suggest that the noise analysis be expanded to include specific information on any schools, libraries, eldercare facilities, hospitals, and churches that will be exposed to an Ldn of 65 dBA or greater.

EPA requests STB provide justification of its statement that mitigation at the Ldn of 65 dBA is unreasonable. Section 4.10 states that 1,559 noise-sensitive receptors would experience an Ldn of 70 dBA or greater along seven segments of the EJ&E rail line. In Section 4.10.3, there is discussion that states that it is appropriate that the applicant determine where noise walls could provide noise reductions for receptors that are predicted to experience an Ldn of 70 dBA or greater. We believe that the FEIS should provide more detail on the locations of possible noise walls along these segments (such as placing them on Figure L-1). The FEIS should also provide more information on which noise walls are likely to provide benefits and be both reasonable and feasible. We believe it is important that this mitigation be part of the EIS process and not be developed at a later time as currently proposed. The consideration of other options for noise mitigation should be discussed in the FEIS.

Surface Water, Wetlands, and Stormwater Run-off

CN will be responsible for applying for and securing any wetland Clean Water Act (CWA) Section 404 permits, including State water quality certification under CWA Section 401, which may be needed to construct CN's proposed connecting track and double track projects. However, information in the FEIS could support decision-making during the Section 404 permit review process, especially because the applicant must demonstrate compliance with the CWA Section 404(b)(1) Guidelines prior to obtaining an individual Section 404 permit. The Section 404 (b)(1) Guidelines require that projects be evaluated first to avoid and then minimize impacts to waters of the United States (including wetlands). Remaining impacts must then be mitigated. A permit cannot be issued if there is a practicable alternative that would have fewer adverse impacts on the aquatic ecosystem.

EPA recommends that the FEIS should fully discuss all of the alternatives for the proposed connecting track and double track projects. A number of the connecting track alternatives are able to avoid wetlands and waters entirely. Others have varying amounts and types of impacts to wetlands. Several of the preferred alternatives in the DEIS have higher impacts than some of those not preferred. The FEIS should explain the trade-offs of the selection process, especially at Munger and Matteson. Consideration of alternatives is less clear for the double tracking proposals. Please document in the FEIS what has been done to avoid and minimize wetland and water impacts, by refining the major alternatives.

The FEIS should explain how the proposal will comply with state and county wetland regulations. The States of Illinois and Indiana and many counties in the Chicago metropolitan region have developed rules to regulate wetlands that are outside of the Federal jurisdiction. For example, Lake County, Illinois requires buffers for all Federal and county jurisdictional waters. Buffers are areas of predominantly vegetated land adjacent to drainage ways, wetlands, lakes, ponds, or other surface waters, which may or may not be waters of the United States. Buffer width requirements are based on the quality and size of the wetland.

We note that wetlands in the DEIS are described predominantly in terms of their vegetative quality. A description of any other significant ecological services for these wetlands should be included in the FEIS to better inform mitigation.

The DEIS summarizes previous NEPA activities by the Federal Aviation Administration at the Gary International Airport, pertaining to the EIS/ROD on the runway extension and EJ&E track re-routing. That summary is helpful. Subsequent to the NEPA process, the Gary/Chicago International Airport applied for a Clean Water Act (CWA) Section 404 Permit from the Detroit District of the Corps of Engineers, which was published by the Detroit District as Public Notice No. 93-145-126-7 on January 22, 2007 (replacing the original publication of December 28, 2006). We understand that a decision on this permit is still pending. The project as proposed in the Public Notice reflected the wider loop of the final alignment, Alternative 1-D. However, the Public Notice did not indicate whether or not the proposed crossing of the CSX and Norfolk Southern Railroad (NS) rail tracks by the EJ&E tracks would be at grade or grade-separated. It is unclear whether or not the June 27, 2008, preliminary memorandum of understanding between the Gary/Chicago International Airport, EJ&E, CSX and NS would change what was proposed for Section 404 permitting by the Airport. The DEIS indicates that CN will abide by the Section 404 permit conditions if the permit is issued. The FEIS should report the status of these activities.

Aircraft at the Gary/Chicago International Airport cannot use the full length of the existing main runway because of the vertical impediment of the EJ&E tracks, which are elevated on an embankment. The physical location of these tracks further limits extension of the runway and its safety zone. Consequently, the EJ&E tracks currently limit flight operations. However, if the track relocation cannot be resolved, due to grade crossing problems or some other issue, can the operations under CN's proposed EJ&E acquisition (essentially tripling the number of trains traversing this section of track) proceed effectively over the existing track? How will the change in traffic on the EJ&E tracks under CN's proposal impact flight operations at this airport? Please address this scenario in the FEIS.

The DEIS refers to best management practices (BMPs) for construction run-off in special cases. These special cases and BMPs should be fully described in the FEIS. We recommend the FEIS should stipulate that sediment basins and other mitigations be designed for 100-year flood levels.

Floodplains

The DEIS (Table 4.12-3) indicates 28 surface water impacts from double track construction would result in increased flood elevations up to 1 foot, 9 of which are within FEMA floodplains. Nine others would exceed a 1-foot flood level elevation, 3 of which would be in FEMA-mapped floodplains. An additional 11 drainage structures (Table 4.12-4) are indicated as possibly causing moderate increases (5 to 10 feet per second) in hydraulic flow velocity; 18 could cause major increases (greater than 10 feet per second). The FEIS should include additional information for these floodplains, indicating the acreage and stream length of these impacts. The DEIS is unclear whether these figures represent potential impacts prior to avoidance and minimization or, as implied in the mitigation section, they are conditions proposed to be partially mitigated using BMP protection systems. Stream relocations are also indicated as a possibility. The FEIS should provide details for these impacts and

commit the applicant to negotiate with appropriate local jurisdictions and the Illinois Natural and Water Resources Stakeholder Group on these issues.

Threatened and Endangered Species /Wildlife and Habitat / Invasive Species

Based on the STB stakeholder meetings EPA attended with many federal, state and local representatives, we conclude that the DEIS understates the potential for impacts to threatened and endangered species, wildlife, and habitat, and the consequences of invasive species. We recommend that STB consult with this Illinois Natural and Water Resources Stakeholder Group to more fully identify impacts and formulate appropriate mitigation procedures to include both in the FEIS and in the recommended adaptive management program.

We understand that CN plans to follow some Canadian practices using herbicides in right-of-way maintenance. At a minimum, U.S. and state regulatory requirements for pesticide use must be followed. An expanded discussion of right-of-way maintenance practices should cover the entire EJ&E arc, from Gary to Waukegan. The portion of the EJ&E arc from Leithton to Waukegan is not presently included in the project area, but the impacts of right-of-way maintenance to several significant waters, including the Lake Michigan coastal area, should be addressed in the FEIS.

Cumulative and Indirect Impacts

The DEIS includes a section on Indirect and Cumulative Impacts; however, there is little analysis presented for these determinations. The FEIS should describe the accumulation of impacts to different natural resources and present how the proposed project could add to those impacts, or improve the status of those resources through mitigation for the impacts of the proposed project.

Cultural Resources

The DEIS indicates that during scoping, the applicant requested information from the public regarding historic resources that might be impacted by the proposal, and on the basis that no structures were presented, concludes there will be no impacts to these resources. However, a survey of historic resources has apparently not been undertaken by the applicant or STB. STB is responsible for complying with the National Historic Preservation Act, including determining the area of potential effects and evaluating all existing historic and archaeological resources that are listed or may be eligible for listing on the National Register of Historic Places. For example, EJ&E's Joliet Yard, which is proposed to be acquired by CN, contains an historic roundhouse that is currently in disrepair. Please note that vibration can be a source of impacts to historic structures, even if the construction activities are not directly adjacent The FEIS should provide a detailed discussion of STB's and the applicant's assessment of all historic resources and proposed mitigation measures, including coordination with the State Historic Preservation Officers (SHPO) in Illinois and Indiana.