



AGENDA ITEM #10A/B

AGENDA ITEM EXECUTIVE SUMMARY

Village Board Meeting

February 28, 2022

Item Title: Canadian Pacific and Kansas City Southern Merger

Staff Contact: Jason M. Bielawski, Village Administrator

VILLAGE BOARD ACTION

- 1. Approve an Intergovernmental Agreement forming the Stop CPKC Coalition and sharing costs to represent the common interests of the parties related to the merger of the Canadian Pacific and Kansas City Southern Railroads.**
- 2. Adopt a resolution authorizing the Village Administrator to represent the Village of Roselle on the Stop CPKC Coalition and expend an amount not to exceed \$100,000 to support the legal, technical, public affairs, lobbying, legislative, and other lawful actions in furtherance of the Village's and Coalition's interests.**

Executive Summary:

At the February 14, 2022 Village Board meeting, I provided an update to the Village Board on the forming of the Stop CPKC Coalition. The Coalition is comprised of eight communities along the Milwaukee District West Metra line, opposing the proposed merger between Canadian Pacific and Kansas City Southern Railroads. The proposed merger would increase the number of daily freight trains on the railroad from 4 to 12, resulting in a multitude of adverse impacts to communities along the line to include but not limited to: traffic congestion, increased noise and vibration, and increased probability of accidents associated with vehicles, trains, and pedestrians. The Village outlined specific concerns in the attached letter submitted to the Surface Transportation Board – the regulatory Board responsible for evaluating and ultimately voting on the proposed merger.

Attached is an Intergovernmental Agreement forming the Stop CPKC Coalition. The highlights include:

- Coalition consists of Elgin, Bartlett, Hanover Park, Schaumburg, Roselle, Itasca, Wood Dale, and Bensenville
- Costs associated with the common interests of the Coalition are split evenly across Coalition members
- Each Coalition member has one appointed representative.

- The Itasca representative is the Chair of the Coalition and primarily responsible for most administrative and financial duties.
- Coalition members can leave with 45 days notice.

The attached resolution authorizes the Village Administrator to serve as the Village's representative on the Coalition. Furthermore, it authorizes the Village Administrator to expend funds up to \$100,000 for costs associated with the Coalition and proposed merger. Since December 2021, the Coalition has expended approximately \$40,000 or \$5,000 per member. The Coalition has ongoing costs associated with legal, technical expert, and public affairs. The official site for the Coalition is <https://www.stopcpkc.com/>.

Implications:

Is this item budgeted? No, however; the Village has adequate General Fund Reserves, approximately \$11M, to cover these one-time expenses.

Any other implications to be considered? A press conference was held on February 22, announcing the formation of the Stop CPKC Coalition and its opposition to the merger.

Attachments:

Intergovernmental Agreement
Resolution
Letter to Surface Transportation Board

**INTERGOVERNMENTAL AGREEMENT FORMING THE STOP CPKC COALITION AND
SHARING COSTS TO REPRESENT THE COMMON INTERESTS OF THE PARTIES
RELATED TO THE MERGER OF THE CANADIAN PACIFIC AND KANSAS CITY
SOUTHERN RAILROADS**

This Agreement is made this 14th day of February, 2022 (“Effective Date”), by and between the Village of Itasca, the City of Wood Dale, the Village of Roselle, the Village of Bensenville, the Village of Bartlett, the City of Elgin, the Village of Hanover Park, and the Village of Schaumburg (collectively, the “Parties”) (individually, “Party”).

RECITALS

WHEREAS, the Parties are municipal corporations; and

WHEREAS, Article 7, Section 10 of the Illinois Constitution of 1971 and the Illinois Intergovernmental Cooperation Act 5 ILCS 220/1 et seq. allow units of local government to enter into intergovernmental agreements in the furtherance of their governmental purposes; and

WHEREAS, On October 29, 2021, Canadian Pacific Railway Limited, et al. (CP) and Kansas City Southern, et al. (KCS) filed an application with the Surface Transportation Board (STB) seeking authorization from the STB for CP to acquire KCS; and,

WHEREAS, CP and KCS are two of seven Class I railroads, which are the largest freight railroads serving a variety of industries including agriculture and minerals, military, automotive, chemical and petroleum, energy, industrial, and consumer products; and

WHEREAS, the proposed combination of these two railroads would be a mostly ‘end-to-end’ merger because the CP and KCS railroad networks do not overlap and would therefore create a single railroad connecting Canada with Mexico and extending across the United States; and

WHEREAS, the approval of the merger could increase freight traffic on the Milwaukee District West rail line through the territory of the Parties by more than 300% in the first three years; and

WHEREAS, the Parties agree that the increase of freight train traffic and train lengths through their communities will most likely have a detrimental impact on the quality of life for residents and business operations, property values, vehicular and pedestrian safety; and

WHEREAS, the Parties share a common interest to protect their respective units of government and must do everything each can to prevent this merger from occurring as proposed and the Parties desire to do what is best for each of the Parties’ respective communities; and,

WHEREAS, the corporate representatives of these Parties wish to form a Coalition to represent their common interests in the merger proceedings pending before the Surface Transportation Board; and

WHEREAS, the Parties agree to share the expected costs and expenses related to

investigating, evaluating, communicating, and representing the Coalition's interests.

AGREEMENT

NOW, THEREFORE, pursuant to statutory authority and their powers of intergovernmental cooperation, it is agreed by and among the Parties as follows:

Incorporation of Recitals. The above recitals are hereby incorporated into and made a part of this Agreement.

Coalition Formation and Purpose. The Parties agree to form a Coalition to assess and evaluate the CP and KCS Railroads merger. The Coalition may retain legal, technical, communication, and government affairs consultants and attorneys to advise and, when requested, testify before the Surface Transportation Board in support of the shared interests of the Parties.

Coordination. The Village of Itasca agrees to coordinate on behalf of all Parties in evaluating and retaining attorneys and consultants as agreed upon by the Parties and consistent with the aforementioned Coalition Formation and Purpose, subject to the future agreement of a majority of all the parties. If the Village of Itasca leaves the Coalition, the remaining Parties shall assume all responsibilities for coordination.

Cost Sharing. The Parties agree to split equally the costs and expenses incurred by the Coalition in retaining the appropriate attorneys and consultants. The costs and expenses incurred by the Coalition will be in support of the shared interests of all of the Parties only. The Coalition shall not be responsible for expenses associated with any work completed on behalf of an individual member Party. The Coalition shall be responsible for establishing and approving the eligible shared interests and associated costs and expenses. Itasca will thereafter provide the Parties with invoices reflecting the cost and expenses of the coalition and each Party's responsibility. Each Party agrees to pay or dispute the party's invoices within 45 days of receipt. Failure to timely pay the invoices or dispute the party's payment will result in the matter being brought before the Coalition for consideration of the issues presented in the party's dispute or non-payment including continuing participation. A decision of a majority of all members is required to resolve a dispute including continued participation when it comes to a dispute over cost sharing.

Termination. If a Party wishes to leave the Coalition, it may do so by submitting a 30-day written notice to the Coalition and the Village of Itasca. After the written notice is received by the Coalition and the Village of Itasca, the exiting Party shall pay any remaining balance of shared Coalition costs accruing on or before the notice and then is no longer responsible for the decisions made and costs incurred by the Coalition after that date.

Representations. Each Party is entitled to one representative who shall make decisions and make votes, as necessary, in furtherance of purpose and duties of the Coalition. Furthermore, each Party represents to the others that it has obtained all necessary approvals, consents and authorizations to enter into this Agreement and that the person executing this Agreement on behalf of their Party has the authority to do so; upon execution of this Agreement by the Parties, it is valid and binding, enforceable in accordance with its terms; and the execution, delivery, and

performance of this Agreement does not violate any bylaw, charter, regulation, law or any other governing authority of the Party.

The parties hereby enter into this Agreement as of the Effective Date.

Village of Itasca	City of Wood Dale
By: _____	By: _____
Name: Jeffery J Pruyn	Name: _____
Title: Village President	Title: _____
Date: _____	Date: _____
Village of Bensenville	Village of Roselle
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
Village of Bartlett	Village of Hanover Park
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
City of Elgin	Village of Schaumburg
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

RESOLUTION NO. 2022-

A RESOLUTION AUTHORIZING THE VILLAGE ADMINISTRATOR TO REPRESENT THE VILLAGE OF ROSELLE ON THE STOP CPKC COALITION AND EXPEND AN AMOUNT NOT TO EXCEED \$100,000 TO SUPPORT THE LEGAL, TECHNICAL, PUBLIC AFFAIRS, LOBBYING, LEGISLATIVE, OR OTHER LAWFUL ACTIONS IN FURTHERANCE OF THE VILLAGE'S AND COALITION'S INTERESTS

WHEREAS, On October 29, 2021, Canadian Pacific Railway Limited, et al. (CP) and Kansas City Southern, et al. (KCS) filed an application with the Surface Transportation Board (STB) seeking authorization from the STB For CP to acquire KCS.

WHEREAS, the proposed combination of these two railroads would be an 'end-to-end' merger because the CP and KCS railroad networks do not overlap and would therefore create a single railroad connecting Canada with Mexico and extending across the United States; and

WHEREAS, the proposed acquisition would result in changes in rail traffic on portions of the combined rail network including the increase in rail traffic within the Village of Roselle (Roselle) of at least eight additional freight trains per day on the Milwaukee District West Metra line; and

WHEREAS, potential adverse impacts from the increased rail traffic include noise impacts, rail operations safety impacts, air quality impacts from air emissions from locomotives, and impacts related to changes in vehicular traffic on roadways; and

WHEREAS, the Village of Roselle and other affected communities along the Milwaukee District West Metra line agree that the increase of freight train traffic and train lengths through their communities will most likely have a detrimental impact on the quality of life for residents and business operations, property values, vehicular and pedestrian safety; and

WHEREAS, the Village of Roselle and other affected communities share a common interest to protect their respective units of government and must do everything each can to prevent this merger from occurring as proposed and the Village of Roselle and other corporate authorities of the affected communities have formed a Coalition to represent their common interests in the merger proceedings pending before the Surface Transportation Board; and

NOW, THEREFORE, be it Resolved by the Mayor and Board of Trustees of the Village of Roselle, DuPage and Cook Counties, that:

- a.) The foregoing recitals are hereby incorporated into this Resolution in their entirety.
- b.) The Corporate Authorities of the Village of Roselle hereby appoint the Village Administrator, and his designee, as the representative to the Coalition. If the designee

is to attend to more than two successive meetings the Village Administrator shall notify the Corporate Authorities in writing.

c). The Mayor and Board of Trustees hereby authorize the Village Administrator to expend an amount not to exceed \$100,000, from the Village's general fund reserves for investigating, evaluating, communicating, and representing the Village's and Coalition's interests.

d. The Village Administrator, and his designee when authorized by the Village Administrator, are further authorized to undertake actions within budgeting limitations approved in this resolution, in furtherance of the Coalition's purpose and goals.

e.) This resolution shall become effective upon its passage and execution by the Mayor,

ADOPTED this 28th day of February, 2022

AYES:

NAYS:

ABSTAIN:

ABSENT:

David Pileski, Mayor

ATTEST:

Patricia Burns, Village Clerk



EI-31456

David Pileski *Mayor*
Patty Burns *Village Clerk*

December 17, 2021

Joshua Wayland
Office of Environmental Analysis
Surface Transportation Board, c/o VHB
940 Main Campus Drive, Suite 500
Raleigh, NC 27606

**Subject: FD 36500, Canadian Pacific Ry. – Control – Kansas City Southern–
Request for Comments on Scope of EIS**

Dear Mr. Wayland;

I am the mayor of the Village of Roselle, Illinois. I am submitting this letter in response to the Notice of Intent to Prepare an Environmental Impact Statement (EIS) served in the captioned proceeding on November 12, 2021. That decision in part invited public comment on the scope of the EIS to be prepared by the Surface Transportation Board's (STB) Office of Environmental Analysis (OEA). On behalf of the Village of Roselle, I urge OEA to ensure that the scope of the EIS includes a thorough examination of the potential impacts of the merger on the roads and communities of the Village of Roselle and the greater Chicago area. Based on the information we have reviewed to date, there is the potential that the merged railroads will further burden the Chicagoland area with increased road network congestion by significantly increasing freight rail volumes over existing rail lines.

Specifically, we understand the merger applicants estimate that traffic over the Milwaukee District West Metra line between the Bensenville Rail Yard and Randall Road is expected to increase by 235% - or 8 freight trains per day (TPD) - and 128%, or 17.44 million Annual Gross Ton Miles (GTMs). The impacts from such increases will be felt most strongly at the following 8 at-grade railroad crossings within the Village of Roselle: Rodenburg Rd (US DOT #372202Y), Roselle Rd (US DOT #372196X), Prospect St (US DOT #372195R), Park St (US DOT #372194J), private crossing (US DOT #372192V), Roselle west pedestrian (US DOT #920570C), Roselle center pedestrian (US DOT #920569H), Roselle east pedestrian (US DOT #920568B) and 2 at-grade crossings on Roselle's eastern border within DuPage County/Medinah: Medinah Road (US DOT #372191N) and Medinah pedestrian (US DOT #920567U), which are within the Village's planning area.

While the Chicago region is a rail hub and has benefitted from the jobs that accompany that reality, the very existence of the Chicago Region Environmental and Transportation Efficiency Program (CREATE) demonstrates that there must be a careful balancing of the broader public interest when it comes to a merger that has the potential to further burden communities, commuters, and the other regional economic drivers in the region. Whether or not a particular town has a rail line running through it, a freight rail line creates roadway chokepoints for neighboring towns and communities. The impact of 25% of U.S. rail freight touching the Chicagoland region each day is significant in the daily lives of millions living in the region.

We also believe that the applicants' estimates that freight rail traffic would only increase by a mere 8 freight trains a day are too low, and that rail traffic would instead continue to increase by an indeterminant amount due to the "once in a lifetime partnership" (CP News Release, September 15, 2021 – Calgary and Kansas City, MO) between CP and KCS railroads. New business opportunities alone would guarantee the combined railway network would increase by far more than the 8 freight trains daily (Bensenville-Randall Rd, Chicago area) asserted in the submittal materials. The STB should reconsider the train traffic impacts from the currently approved "five years after" (Floyd-Venable, LLP, Request A Response, October 2021) time period and increase this for a period of no less than 10 years due to the unique nature and incredible growth potential that comes with connecting three countries together.

For this reason, I respectfully request that the scope of the EIS include an examination of the following regional concerns and potential impacts:

- Average freight train length with and without the merger between the CP and KCS railway. This information was not included in the STB information request (May 2021) nor provided in the CP-KCS submittal materials (October 2021). To the extent that the CP-KCS increased rail traffic involves increasing the average freight train length, communities and emergency response can be fatally impacted if train lengths cause multiple at-grade rail crossings to be simultaneously blocked during normal and routine daily train operations.
- How many grade crossings in the region would become substantially impacted by increased rail traffic stemming from a CP-KCS merger?
- How would emergency response service times be impacted if more grade crossings are substantially affected?
- To what extent would the merged railroads be required to mitigate community harms at their own expense?
- 235% increase in daily number of trains traveling through the Village
 - The proposed merger of CP-KCS would increase the average number of freight trains that move through the Village from the current 3 freight

trains per day to 11 freight trains per day (OEA Information Request 1-A2/Elgin Subdivision- Tower B12, IL to Randall Road, IL: Segments C-ELGI-01, C-ELGI-02). The increased noise will become, at best, an ever present nuisance. In addition, this will cause severe delays for all motor vehicles attempting to pass through the Village, including school buses transporting students to school. Most importantly, it will have a potentially lethal impact on victims of traffic accidents, emergency medical incidents, criminal activity and other emergencies by delaying Police, Fire and EMS response times. It is true that the Village has mutual aid agreements with other emergency service providers. Such agreements, however, were never intended to deal with the breadth and scope of the interference that will be caused by the proposed increase in freight train traffic. It is questionable whether the Village will be able to maintain such agreements in light of the burdens caused by the anticipated traffic congestion and delays.

- 128% Increase in Daily Gross Tons of Freight Traveling Through the Village
 - The proposed merger would increase the gross daily tons miles (GTMs) of freight that moves through the Village from the current rate of 37,205 (14 million annual GTMs) gross daily tons miles to 84,986 (31 million annual GTMs) gross daily tons miles (OEA Information Request 1-A2, Elgin Subdivision – Tower B12, IL to Randall Rd, IL: Segments C-ELGI-01, C-ELGI-02). This is an increase of 47,781 gross GTMs. The increased tonnage combined with the increased volume of trains will create strong and persistent vibrations that will constitute a nuisance and a danger to homes and other buildings near the CP-KCS (Metra Milwaukee District West) rail line. Moreover, it has not been established that the rail line itself is able to withstand the increased tonnage and volume. The Village Engineer estimates that, due such tonnage increases, the at-grade crossings will suffer damage requiring costly repairs.
- 18% Increase in Daily Carloads of Hazardous Materials Traveling Through the Village
 - The proposed merger would increase the daily carloads of hazardous material that moves through the Village from 167 (61,000 annual) carloads to 197 (72,000 annual) carloads per day (OEA Information Request 1-F, Hazardous Materials, Elgin Subdivision – Segment C-ELGI-01, Bensenville Metra, IL to Randall Rd, IL). This is an increase of 30 (11,000 annual) carloads per day. This is a critical issue, as potential accidents would have disastrous consequences, particularly because the CP-KCS (Metra Milwaukee District West) rail line runs adjacent to residential areas including nearby schools.
- Increased Risk of Accidents
 - The projected increase in the number of trains that would pass through at-grade crossings due to the CP-KCS railway merger on a daily basis would result in an increased risk of accidents. Not only would the risk of accidents increase at the at-grade railroad crossings, but the risk of

accidents would also increase on other roads throughout the Village as vehicles attempt to avoid the crossings. This risk would increase exponentially as ADT levels are projected to increase due to future population growth in the region.

- 140% Increase in Number of Train Cars – Impacts on Noise, Vibration and Air Quality (Effects on Environment and Property Values)
 - The increases in train frequency and tonnage will create continuous noise and vibrations. The proposed merger would increase the total number of train cars from 457 daily (167,000 annual) cars to 1,098 daily (401,000 annual) cars (OEA Information Request 1-F, Hazardous Materials – Elgin Subdivision – Segment C-ELGI-01, Bensenville Metra, IL to Randall Road, IL). This is an increase of 638 daily (233,000 annual) cars. The cumulative effect of these added train cars creates disturbances over time that could severely impact the local environment and the safety and property values of nearby homes. Furthermore, increases in motor vehicles delayed at at-grade railroad crossings will significantly increase carbon emissions and negatively impact air quality in the Village.
- Costs of creating new and maintaining existing whistle ban/Quiet Zones
 - The increase in train traffic and related sounding of train horns may lead to the need for the establishment of new Quiet Zones. In addition, existing whistle bans/quiet zones may no longer be in compliance with 49 CFR Parts 222 and 229 – Use of Locomotive Horns at Highway-Rail Grade Crossings (Train Horn Rule) and may require costly safety measures to be installed to maintain the quiet zone. The cost of this quality of life issue would fall mainly on the Village.
 - Pursuant to 49 CFR Section 222.3(c) the Federal Railway Administration’s Train Horn Rule does not apply to the following highway-rail grade crossings in Roselle, which are part of the “Chicago Region”: Roselle Rd (US DOT #372196X), Prospect St (US DOT #372195R), and Park St (US DOT #372194J) due to an existing “partial” quiet zone between the hours of 12 a.m. and 5 a.m. The Village has tried to obtain a 24-hour quiet zone but have to date been denied by the FRA because it states it lacks jurisdiction. Due to the FRA’s position on jurisdiction, the Illinois Commerce Commission (ICC) has been unsuccessful in obtaining Canadian Pacific’s agreement to the 24-hour a quiet zone. The Village submits that the scope of OEA’s evaluation of the environmental impacts of the proposed merger must include an evaluation of noise impacts presented such as those the Village is in, and OEA should develop and recommend appropriate mitigation measures, such as requiring a 24-hour quiet zone.
- Interference with suburban commuter rail service
 - The proposed merger will interfere with efforts to create suburb to suburb mobility for residents, workers and visitors in the region and is

expected to cause delays for commuter train traffic due to freight train operations. The total daily passenger trains (commuter) is 47 as reported in the materials submitted to the STB (OEA Information Request 1-D, Elgin Subdivision, Segments C-ELG-01, C-ELGI-02).

The Village of Roselle urges OEA to thoroughly examine the foregoing negative impacts as part of its EIS process, and to develop and recommend appropriate mitigation requirements on which the STB's approval of the proposed CP-KCS merger would be expressly conditioned. Furthermore, the Village requests that OEA allow for an extended period during which comments on the draft EIS may be submitted given the millions of people who would be affected by the merger.

Thank you for your careful consideration of my concerns and those of the residents of Roselle, IL.

Sincerely,

A handwritten signature in red ink that reads "David Pileski". The signature is written in a cursive style with a large, sweeping initial "D".

David Pileski
Mayor

Email: dpileski@roselle.il.us