

**Testimony before
U.S. House of Representatives
Committee on Transportation and Infrastructure**

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Mr. Chairman and members of the Committee:

I thank you for this opportunity to appear before you today to discuss H.R. 6707, the Taking Responsible Action for Community Safety Act. I would also like to thank Congressman Dan Lipinski for his leadership and scholarly approach to reviewing transportation related issues. Congressman Lipinski has always taken the time to review issues such as this one from all angles before rushing to a snap decision.

My name is Peter Silvestri, as the Cook County Commissioner of the 9th District and Mayor of the Village of Elmwood Park, a community of almost 26,000 residents, located just across the boarder from the City of Chicago, I have experienced first hand the effects of rail traffic.

When I became Mayor in 1989, the Village of Elmwood Park, a community that has 12,500 residents per square mile, experienced 40 trains a day. Today, that number has tripled and 120 trains pass through my community each and every day. With four crossings within a one-mile stretch through town I personally know the issues that surround trains.

The reduction of rail traffic in my community has been a major concern for years that is why I along with over 60 other communities in the Chicagoland area would benefit from the EJ&E purchase by Canadian National.

The TRACS Act is a good idea in concept because it looks at the specific community concerns of a given area. During the current STB review of the EJ&E purchase by CN many communities' comments were not given equal opportunity to be expressed. Over 4.1 million people could potentially benefit from fewer and faster trains in 60 communities in comparison to approximately 30 communities and 1.5 million residents who would see an increase in train traffic. However, only one STB EIS hearing was held in this part of the region. As a commissioner representing several municipalities, I understand the importance of studying these sorts of things from a regional approach and taking both the negative and positive aspects of developments of regional importance into account. Nonetheless, a region's best interest are not considered in a process that is one sided or allows a few negatively impacted communities to derail a project that has regional and potentially national benefits. The legislation should require

that the environmental benefits of a transaction receive equal consideration to any adverse environmental impacts; as currently drafted, this is not the case. In the case of the EJ&E transaction, it is important that the regional benefits of this transaction not be overlooked in the environmental review process. In the absence of any significant funding for CREATE or any other regional solution to Chicago's serious congestion problems, CN's proposed transaction provides a private-sector means of beginning to address rail congestion in Chicago.

As a village president, I can understand the concerns of communities who would experience more train traffic due to a purchase such as this one; and the reason behind including language H.R. 6707 that address adverse impacts on affected communities. But I ask you are the lives of inner suburban areas any less important than the rich far out suburbs along the EJ&E line? The likely number of rail accidents on CN's rail lines inside the EJ&E arc would decline 77% with this purchase, while the affected communities would likely see an increase by 28%. These communities site safety concerns and do not want rail in their back yards. What about our safety? Current STB regulations already require consideration of public safety, including impacts on emergency responders and transport of hazardous materials, as well as a broad range of environmental impacts. There is no need for additional direction from Congress on this matter.

Furthermore, some communities would see on average up to 19 less trains a day coming through their community. This reduction would greatly improve the quality of life for people along these rail lines. Not only would residents have less delays at rail crossings there would also be less pollution released into the environment from idling trains.

I have great concerns as to why provisions of the legislation apply to any transaction that has not been approved by the Surface Transportation Board (STB) as of August 1, 2008. CN's application for its proposed acquisition of the EJ&E was filed at the STB in October 2007 and was based on the statutory criteria provided by Congress in the ICC Termination Act of 1995, which were in effect at the time CN filed its application. To change the rules that would apply to the transaction while the transaction is still under consideration is unfair and contrary to normal legislative practice. A key purpose of the legislation is to ensure that environmental impacts of proposed rail transactions receive adequate consideration by the STB. There is no question that CN's proposed EJ&E acquisition has been and is continuing to be thoroughly examined by the STB's Section of Environmental Analysis (SEA). SEA has provided numerous opportunities for interested parties to provide input on the environmental impacts of this transaction. In fact, the only other time that the STB has prepared a full Environmental Impact Statement (EIS) on a rail control transaction was in the far more complex Conrail case in 1999, in which Norfolk Southern and CSX acquired Conrail assets. The Conrail case involved 10,500 route miles in 14 states, the District of Columbia, and one Canadian province, while CN's proposed EJ&E acquisition involves 158 route-miles in two states. Unlike the Conrail case, the EJ&E transaction is considered a "minor" transaction by the Board, because it does not involve two Class I carriers and does not raise serious anticompetitive issues. Under current law, the STB is required to render a decision on a "minor" transaction within 180 days after the application has been filed; in this case, by April 25, 2008. In the Conrail case, the STB completed the EIS process in 11 months; the environmental review process for the far less complex EJ&E transaction will take at

least that long by the time the EIS process has been completed. This displays that the STB understands the sensitive environmental issues surrounding rail purchases and adjusts their process accordingly where necessary. Congress should not change the STB's current statute unless it is clear that the STB cannot fairly consider the environmental impacts of this transaction and order appropriate mitigation.

Mr. Chairman, this concludes my prepared remarks. In closing, I would like to thank you for your continued support of local governments. I look forward to working with you in continuing to enhance our rails system..... I would be pleased to answer any questions.