

TO: Michael C. Van Milligen - City Manager

FROM: Steve Sampson Brown - Project Manager



SUBJECT: Canadian Pacific Railway Acquisition of Kansas City Southern
Railroad & Pending Merger Update
City of Dubuque

DATE: March 16, 2023

INTRODUCTION

The purpose of this memorandum is to provide updated information related to the proposed merger of the Canadian Pacific and Kansas City Southern Railroads.

BACKGROUND

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 for CP to acquire KCS.

CP is one of Canada's two major railroads, extending across the country and connecting east and west coast ports. In the U.S., CP connects to Buffalo and Albany, New York and Searsport, Maine. CP also runs south into the U.S. Midwest and connects with KCS in Kansas City, Missouri. KCS is a Class I railroad that extends from Kansas City, Missouri to the Gulf Coast and into Mexico, operating across 10 states in the Midwest and Southeast. CP and KCS provide rail service for a variety of industries, including agriculture and minerals, military, automotive, chemical and petroleum, energy, industrial, and consumer products.

With the Proposed Acquisition, CP and KCS would combine into a single rail system to be known as Canadian Pacific Kansas City (CPKC). The Proposed Acquisition would be an "end to-end" merger because the existing CP and KCS systems do not overlap. The combined CPKC network would comprise approximately 20,350 miles of track in the U.S., Canada, and Mexico, including rail lines over which the Applicants have trackage rights, of which approximately 8,600 miles would be in the U.S.



Since 2021 the STB's Office of Environmental Analysis (OEA) began working on preparing an Environmental Impact Statement (EIS) to thoroughly assess potential environmental impacts that may result from the proposed acquisition. The final EIS document was completed on January 27, 2023.

Steps of the Environmental Review Process were:

- NOI (Notice of Intent) – November 12, 2021
- Scoping – November 2021 – January 2022
- Public Meetings – November 30 - December 9, 2021
- Scoping Comment Period – November 12, 2021 – January 3, 2022
- Final Scope of Study – February 18, 2022
- Draft EIS – August 5, 2022
- Comment Period on Draft EIS including Public Meetings – August 12, 2022 – October 14, 2022
- Final EIS – January 27, 2023

An EIS is prepared in accordance with the regulations established in the National Environmental Policy Act (NEPA). The NEPA process is intended to identify and assess potential environmental consequences of a proposed activity before a decision

on that proposed activity is made. The STB's OEA is responsible for ensuring that the STB complies with NEPA and related federal, state, and local environmental statutes.

The NOI is a document prepared by the STB that states the intent to prepare an Environmental Impact Statement (EIS). The NOI provides information about the next steps of the environmental review process, including scoping meetings.

Scoping is an open process for determining the breadth of environmental issues to be addressed in the EIS. The scoping process includes public and agency meetings to provide the opportunity to share their interests and concerns.

OEA prepared a Draft EIS pursuant to the National Environmental Policy Act (NEPA) and related laws, including Section 106 of the National Historic Preservation Act. The Draft EIS analyzes the potential environmental impacts of the Proposed Acquisition, including impacts associated with increased rail traffic and the 25 planned capital improvements.

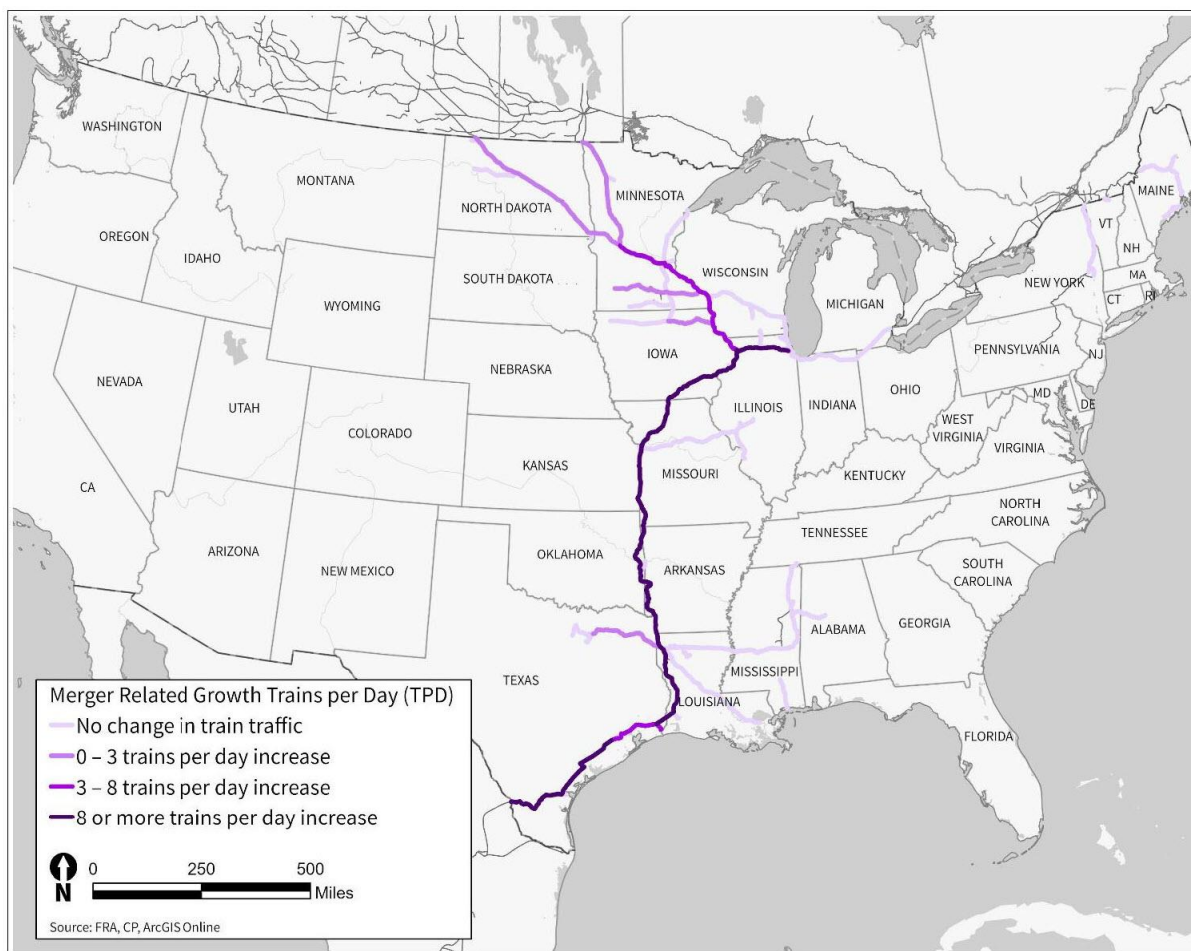
OEA invited public comment on all aspects of the Draft EIS through October 14, 2022. OEA has prepared a Final EIS addressing comments received on the Draft EIS from the public and agencies, and made revisions as needed. The Final EIS can be viewed here: <https://www.cp-kcsmergereis.com/final-eis.htm>

Since October 29, 2021, when CP and KCS filed their merger application, the STB has received nearly 2,000 comments and other filings and held a seven-day public hearing. In addition, the STB's OEA held seven public meetings, all of which were attended by at least one STB member, and conducted a rigorous analysis, producing a comprehensive Final Environmental Impact Statement (FEIS) of more than 5,000 pages including appendices.

In the EIS, the STB conducted a detailed analysis of the potential environmental impacts of the merger and identified "reasonable and appropriate mitigation measures" to minimize the potential environmental impacts of the merger. Those measures include voluntary agreements reached with potentially affected communities and other voluntary mitigation that could eliminate or lessen the expected environmental impacts of the merger and address local concerns. It is important to note that the term "potentially affected communities" means those jurisdictions through which the railroad's right-of-way (ROW) passes and in which traffic increases resulting from the merger would exceed the STB's environmental review thresholds. The increase in train traffic expected in Dubuque is not high enough to exceed any of the environmental review thresholds.

In Dubuque and Iowa train traffic related growth is projected as the following:

Figure 2.2-1. Acquisition-Related Traffic Growth



CP has provided estimated counts for the increased train traffic expected to be seen in Dubuque. As a result of the merger, trains traveling through Dubuque will at least double. The following table shows the expected train growth in Dubuque. On any given day in Dubuque, the CP mainline that runs between the Port of Dubuque and Lock and Dam 11 at Eagle Point Park sees approximately 6-9 trains per day.

Estimated Current Daily Train Count	6 - 9
Post-merger Estimated Daily Train Count	12 - 18

The graphic below indicates two locations to the north and south of Dubuque where CP has calculated that the number of Trains Per Day (TPD) in 2027 will average 11.6 trains without the proposed merger happening, and then they have estimated the TPD in 2027 being 18.0 as a result of the merger.



Select a yard, exceeded threshold segment or capital improvement area to zoom to that location within the map

Select Yard

- None
- BENSENVILLE YARD
- DETROIT CONTAINER TERMINAL
- SCHILLER PARK YARD
- WYLLIE

Select Exceeded Threshold Segment

- None
- C-CHIC-01
- C-CHIC-02
- C-CHIC-03
- C-DAVE-01
- C-DAVE-02

Select Capital Improvement Area

- None

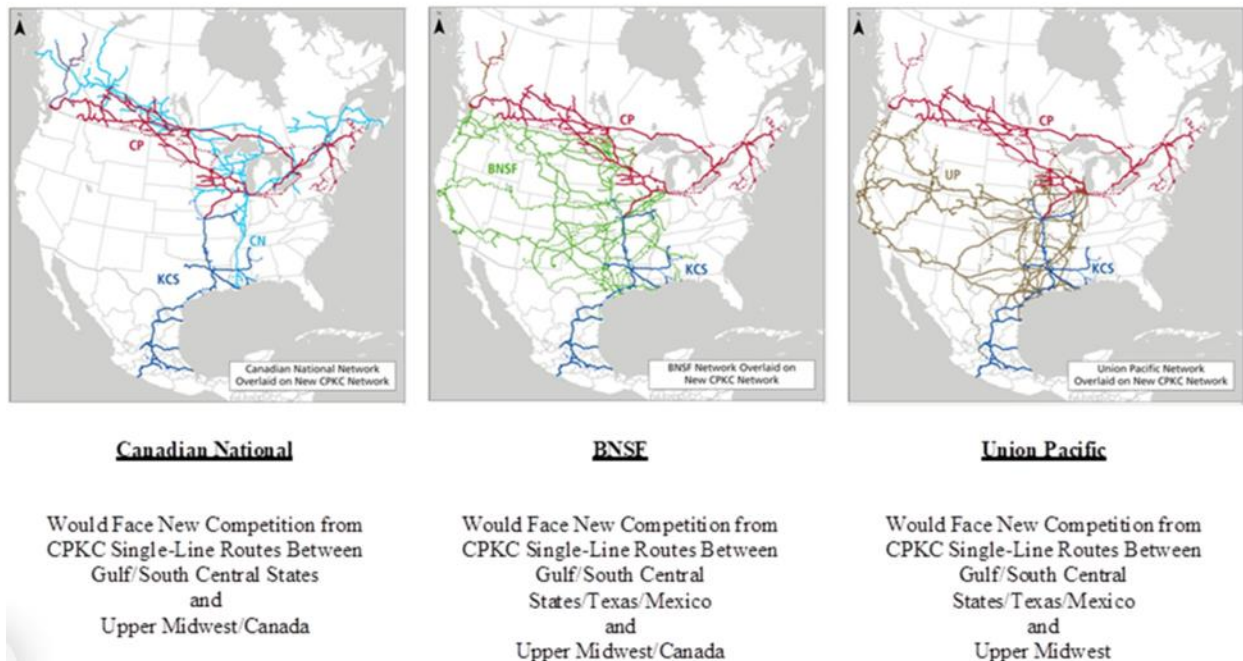


All of these steps described above lead to the STB issuing a final decision on the proposed acquisition. The STB's final decision on the "Proposed Acquisition" or merger takes into account the entire record, including the environmental record. In making its final decision, the STB will consider the Draft EIS, the Final EIS, any public and agency comments received, and OEA's recommendations, including recommendations for potential environmental mitigation.

DISCUSSION

On March 15, 2023 the STB issued its decision that officially approved the acquisition of Kansas City Southern Railway Company (KCS) by Canadian Pacific Railway Limited (CP), with conditions. This decision authorizes the combination of the Canadian Pacific Railway system with the Kansas City Southern Railway system. The STB decision notes CP and KCS are classified as Class I railroads, but individually they are far smaller than any of the other five Class I railroads with which they compete for business. After they merge, the combined system—to be known as Canadian Pacific Kansas City (CPKC)—will continue to be the smallest Class I railroad. This merger creates the first railroad providing single-line service spanning Canada, the United States, and Mexico. Among many other new single-line options, this new direct service will facilitate the flow of grain from the Midwest to the Gulf Coast and Mexico, the movement of intermodal goods between Dallas, Texas, and Chicago, Illinois, and the trade in automotive parts, finished vehicles, and other containerized mixed goods between the United States and Mexico.

FIGURE 1
LARGER CLASS I SYSTEMS WILL FACE NEW COMPETITION FROM THE COMBINED CPKC NETWORK



As part of reaching its final decision on the merger approval, STB engaged in an extensive and thorough environmental review, culminating with the issuance of the Final Environmental Impact Statement (EIS)—which totaled more than 5,000 pages including appendices, the findings of the EIS are adopted as part of STB’s merger decision.

The STB states that “after carefully considering the results of the environmental analysis and the concerns and issues raised by commenters, the STB adopts the analysis in the Final EIS and is imposing the environmental mitigation recommended therein, as modified by the STB in this decision. The STB expects the merger and imposed conditions to result in an overall public benefit.”

In the EIS, it does show Dubuque as a location for CTC investment/improvements. CTC or centralized traffic control is a form of railway signaling that consolidates train routing decisions that were previously carried out by local signal operators or the train crews themselves. The system consists of a centralized train dispatcher's office that controls railroad interlockings and traffic flows in portions of the rail system designated as CTC territory. CTC provides benefits related to capacity and efficiency.

Location of Planned Capital Investments



Some of the key points identified by the STB related to the merger are:

- The transaction will reduce travel time for traffic moving over the single-line service; it should result in increased incentives for investment; and it will eliminate the need for the two now separate CP and KCS systems to interchange traffic moving from one system to the other. The decision also restricts CPKC from terminating reciprocal switching access for shipper facilities served by CP or KCS that have such access today.
- Safety and the Environment – Growth in rail traffic resulting from the merger will be safer, more efficient, and will have fewer emissions than the truckloads that it will remove from North American roads. It is anticipated that CPKC will be able to attract 64,000 truckloads from the roads to rail each year, helping to reduce congestion on the Nation's roads. The STB is well cognizant of the recent elevated level of public concern stemming from the derailment in East Palestine, Ohio, and as always, the STB has carefully analyzed the proposed merger from a safety perspective. It is important to underscore that rail is by far the safest means of transporting any freight, including hazardous materials. Moving 64,000 truckloads off the highways and onto rail will result in a decrease in CO₂ emissions of 127,113 tons per year. It will also reduce—not increase—the risk of dangerous hazardous material spills. According to the Bureau of Transportation Statistics, in 2022, trucks experienced 94% of all hazardous materials incidents,

while in the same year railroads experienced a little more than 1% of all hazardous materials incidents. In the last 15 years, CP has had the best safety record of any Class I railroad. Based on information in the FEIS, on average, for CP and KCS, there has been only one hazardous material release for every 37.8 million miles that a car carrying hazardous materials traveled.

- The STB paid particular attention to community concerns about train lengths. The data shows that the projected average train length is expected to decrease on most CPKC line segments as a result of the merger. Across the entire system, the railroad projects that average train length would decrease from approximately 9,551 feet if there was no merger to 7,726 feet after the merger. At the grade crossings with projected increases in train lengths, the greatest increase is only 349 feet. Included in the environmental conditions is a requirement that, under the General Code of Operating Rules, trains must avoid blocking public crossings longer than ten minutes.
- The STB's extensive oversight of merger operations will be for seven years, which is designed to cover the three-year implementation phase and four years following full implementation. The STB may extend its oversight period if conditions warrant.
- The STB explicitly holds that if problems arise as a result of the merger, the STB stands ready to modify the required environmental mitigation measures and to issue supplemental orders addressing capacity and maintaining fluidity.

As part of the Final Preliminary Recommended Mitigation, the following statement is contained:

MM-General-01. If there is a material change in the facts or circumstances upon which the Board relied in imposing specific environmental mitigation conditions, and upon petition by any party who demonstrates such material change, the Board shall consider revising its final mitigation, if warranted and appropriate.

This statement does appear to leave an option open that if train traffic in Dubuque grows higher by 2027 than the current prediction of 18 trains per day and ends up exceeding the EIS environmental mitigation threshold, the City may be able to petition for local mitigation at some point in the future.

ACTION TO BE TAKEN

This memorandum is being provided for informational purposes only. No action is requested at this time.

SSB/ssb
Attachments

cc: Cori Burbach – Assistant City Manager
Crenna Burmwell – City Attorney
Gus Psihoyos - City Engineer
Teri Goodman – Director of Strategic Partnerships
Barry Lindahl – Senior Counsel