

Congress of the United States

Washington, DC 20515

February 23, 2023

Martin Oberman
Chairman
Surface Transportation Board
395 E St SW
Washington, DC 20423

Dear Chairman Oberman,

Following the derailment of approximately 50 Norfolk Southern Railroad cars near the village of East Palestine, Ohio on February 3, we write today to strongly urge the Surface Transportation Board (STB) to delay any final decision on the proposed merger between Canadian Pacific (CP) and Kansas City Southern (KCS) railroads until it thoroughly reviews the increased transportation of hazardous materials that would result from the merger.¹

The train derailment in Ohio has had devastating effects on the surrounding community. Many of the derailed cars in East Palestine contained hazardous materials, including vinyl chloride, that are widely considered to be toxic and can have damaging effects to humans and the environment.² So far residents have experienced dizziness, nausea, and headaches, and at least 15,000 pounds of soil and 1.1 million gallons of water have been contaminated.³ In order to prevent future derailments and spills, there must be additional scrutiny of railroad safety and preparedness when transporting hazardous materials.

CP and KCS both have histories of train derailments causing hazardous material spills, and any increases in the amount of hazardous materials transported as a result of the proposed merger would put communities across the country at greater risk of a dangerous incident. The merger's final Environmental Impact Statement (EIS) released on January 27 states that between 2015 and 2019, CP and KCS reported five derailments that involved the release of hazardous materials from one or more loaded rail cars.⁴ In addition, the EIS notes that the merger would increase the amount of hazardous material transported on 141 of the 178 rail segments on the CP-KCS line—approximately 5,802 miles of track.⁵

We are concerned that this increase puts CP's Central Corridor, which passes through Chicago, Illinois, particularly at risk since the route transports intermodal containers carrying fertilizers, crude oil, and chemicals from the Port of Vancouver. The EIS estimates that the proposed merger would cause almost 11,000 additional carloads of hazardous materials to be transported along the Metra line that runs from Elgin to Bensenville on the route to downtown Chicago and serves thousands of residents.⁶ The EIS notes that flammable liquids make up 50 percent of hazardous materials that CP and KCS transport annually, however CP and KCS "generally cannot control what types of regulated hazardous materials they transport" because they are "required to serve shippers

¹ Simon Ducroquet et al., Here's What the Derailed Ohio Train Was Carrying - and What Was Burned, The Washington Post, (Feb.18, 2023), <https://www.washingtonpost.com/climate-environment/2023/02/18/ohio-train-derailment-visual-timeline/>.

² *Id.*

³ Li Cohen, Ohio Train Derailment Contaminated at Least 15,000 Pounds of Soil and 1.1 Million Gallons of Water, Norfolk Southern Says, CBS News, (Feb. 20, 2023), <https://www.cbsnews.com/news/ohio-train-derailment-contaminated-soil-water-norfolk-southern-says-east-palestine/>.

⁴ Surface Transportation Board, Canadian Pacific Acquisition of Kansas City Southern Final Environmental Impact Statement, 3.1-7, (Jan. 27, 2023).

⁵ *Id.* at 2-10.

⁶ *Id.* at C-19.

upon reasonable request.”⁷ We are deeply concerned that the increased transport of unknown chemicals puts Illinoisan lives at danger and risks the Chicago suburbs suffering similar devastation to that of East Palestine. Public and environmental safety must be a top priority in the STB’s review of the proposed CP-KCS merger.

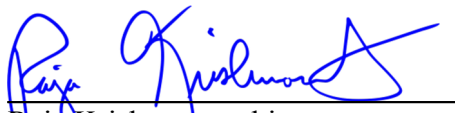
Therefore, as the STB reviews a merger that would significantly increase the amount of hazardous materials being transported through one of the densest metropolitan areas of the country, we strongly urge you to delay any final decision regarding the CP-KCS merger until there is a thorough review of the transportation of hazardous materials on the rail lines, including an analysis of how to strengthen oversight and safety protocols to ensure the safety of nearby residents and the surrounding environment.

In addition, as you consider the proposed merger, we respectfully request that you provide answers to the following questions:


1. In the STB’s review of the merger, what toxic chemicals did it identify could be transported along CP-KCS rail lines? Do these toxic chemicals include vinyl chloride?
2. Can the STB quantify the increased likelihood of an accident involving toxic chemicals under the proposed merger?
3. What regulations, procedures, and oversight is the STB considering as potential mitigation to decrease the likelihood of an accident involving toxic chemicals along the CP-KCS rail lines?
4. What, if any, mechanisms does the STB have to restrict CP and KCS from increasing the amount and type of hazardous materials being transported on their rail lines?
5. If the merger is approved, will the STB require CP and KCS to notify federal and state governments, in addition to local communities, of the amount and type of toxic chemicals that are being transported on its rail lines?
6. In the STB’s review of the environmental impacts of the merger, what has it identified as the potential risks and remedies for communities who are exposed to airborne toxins or whose drinking water sources are exposed to toxins released from hazardous material spills?
7. Will the STB require CP and KCS to develop and implement a plan to prevent a hazardous material spill if the merger is approved? What oversight would the STB provide to ensure that this plan is implemented?
8. Has the STB considered the potential impacts of a derailment and hazardous material spill on Chicago O’Hare International Airport given its close proximity to the CP and KCS rail line?

Thank you for your attention. We eagerly await your response.

Sincerely,

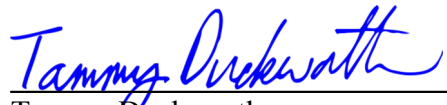


Raja Krishnamoorthi
Member of Congress



Richard J. Durbin
United States Senator

⁷ *Id.* at 3.1-15.



Tammy Duckworth
United States Senator



Delia C. Ramirez
Member of Congress