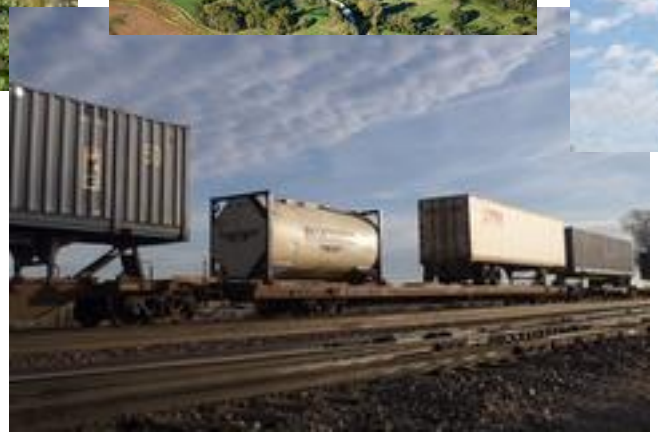


Canadian Pacific (CP) and Kansas City Southern Merger (KCS)

FAC/MPO/RPA/District Planner Outreach

September 16 & 21, 2022

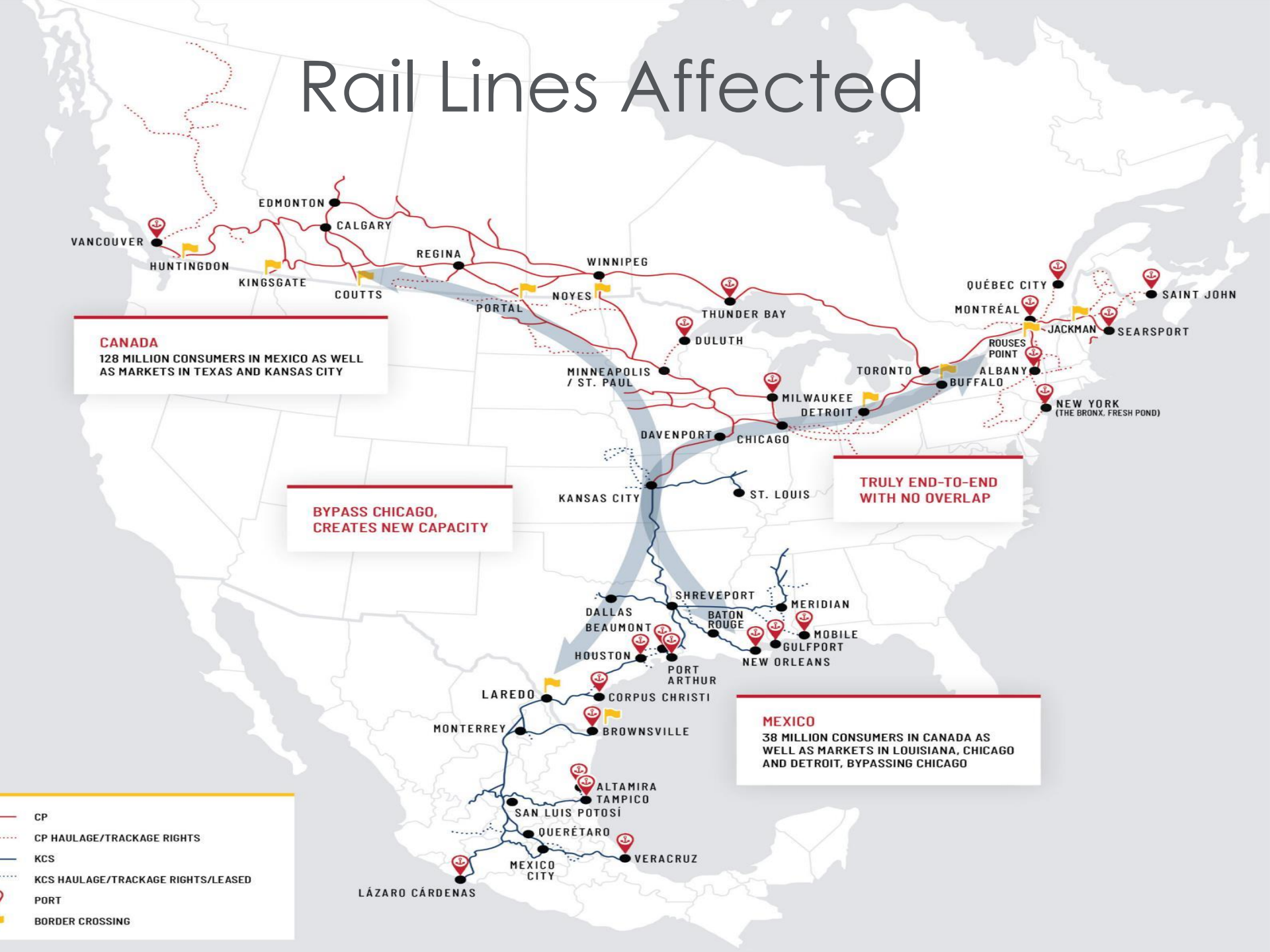
Outline of today's discussion

- CP-KCS merger update
  - Draft EIS highlights
  - Voluntary Mitigation
  - Updated Schedule
- Open discussion and questions

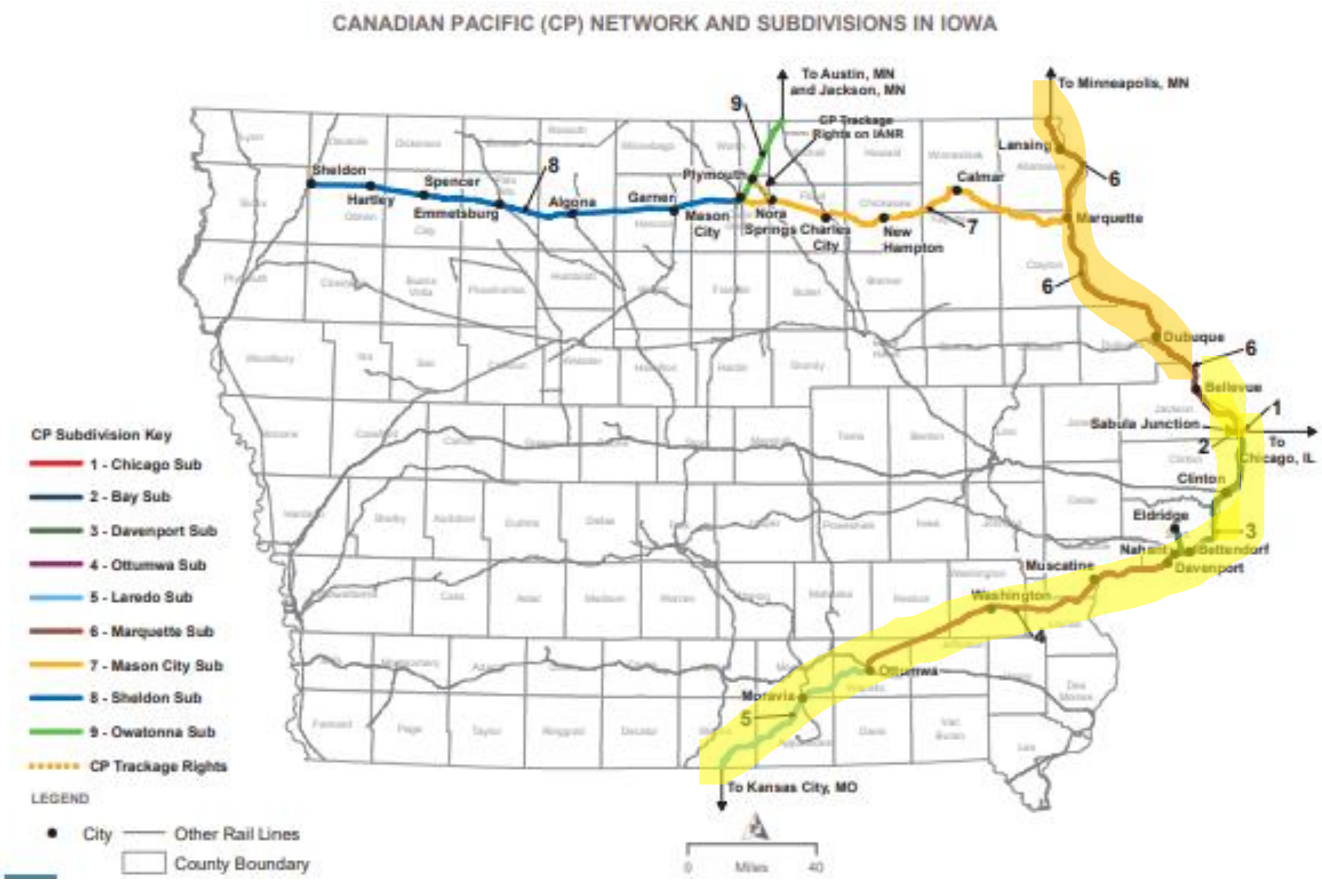
CP/KCS merger

- On October 29, 2021, CP Railway filed with the STB for the acquisition of the KCS. The purpose of the merger is to combine America's two smallest Class I RR's to build a more efficient and competitive rail network. The combination of these two railroads is an "end-to-end" merger because the railroad networks do not overlap. The largest changes in the CP mainline would be between Sabula, Iowa and Kansas City, Missouri where rail traffic is expected to increase by 14.4 trains per day. Current rail traffic for these locations in Iowa is around 5 trains per day, expected to increase to 19 trains per day.
- On August 5, 2022, the STB published the Draft EIS.

Rail Lines Affected



Route affected in Iowa



Rail traffic increase of **14.4** trains/day between Sabula and Kansas City

Draft EIS Highlights

- STB has concluded that, apart from **train noise,** which will result in adverse impacts in some location, the impact of the proposed merger would be negligible, minor and/or temporary.
- Categories evaluated and impact conclusions:
  - Freight and passenger rail safety – minor adverse impacts, the number of accidents/incidents would remain low.
  - Hazardous Materials Transportation – low risk
  - **Grade Crossing Safety – minor adverse impacts**. In some locations, CP has proposed voluntary mitigation
  - **Grade Crossing Delay - minor adverse impacts.** In some locations, CP has proposed voluntary mitigation
  - Truck to Rail Diversion – no adverse impacts
  - Traffic at Intermodal Facilities – no adverse impacts
  - **Noise and Vibration – 6,307 noise receptors will experience adverse noise impacts. CP has proposed voluntary mitigation to help address potential noise impacts, including a commitment to fund improvements to maintain Quiet Zones that may be impacted.** Vibration impacts are minimal.

Draft EIS Highlights

- Categories evaluated and impact conclusions (continued):
  - Air Quality and Climate Change- could result in an overall decrease in emissions due to diversion of freight from truck to rail, with some local distribution of emissions increased near the rail.
  - Energy – no adverse impacts
  - Cultural Resources – no adverse impacts
  - Hazardous Material Release Sites – four sites have potential to encounter hazardous materials due to rail projects, including in Camanche and Ottumwa, Iowa.
  - Biological Resources – may affect but is not likely to adversely affect federally endangered species
  - Water Resources – minimal impacts
  - Environmental Justice – no adverse impacts

Voluntary Mitigation

- CP Railway has reached or are in discussion regarding voluntary mitigation with a number of Iowa communities.
- In general, CP is negotiating with communities for funding of Quiet Zones plus additional funds that the city can use towards grant applications for grade separations or other grade crossing improvements.
- CP has engaged with many communities during the merger to identify local desires for crossing closures, grade separations, pedestrian accommodations and safety improvements. CP has stated they will support grant applications for these improvements.
- **List the ones that have been passed**

Voluntary Mitigation

- Voluntary Mitigation approved:
  - Bettendorf $3M
  - Davenport $10 M
  - Muscatine $3M
  - LeClaire $750,000
  - Clinton $900,000
  -
- Voluntary Mitigation discussion ongoing or rejected
  - Moravia
  - Washington
  - Dubuque
  - Ottumwa
  - Camanche (rejected)
  - Plus other communities in Iowa not listed above.

STB Merger Draft EIS Schedule and Decision schedule

- The STB Office of Environmental Analysis (OEA) published the Draft EIS August 5, 2022. **Comments on the DEIS are due October 14, 2022.**
- Public meetings are scheduled, including one in Davenport that occurred on September 13.
- The STB - OEA will issue a Final EIS that will respond to comments on the DEIS and include environmental mitigation measures.
- The Board-sponsored project website, www.CP-KCSMergerEIS.com, provides additional instructions on how to submit comments and additional information on the upcoming in-person and online public meetings.

Other meetings:

- STB Transportation Hearing September 28, 29, 30 in Washington, DC. Viewing available on the STB website. www.stb.gov

STB Merger Draft EIS – general comments at September 13, 2022 meeting in Davenport

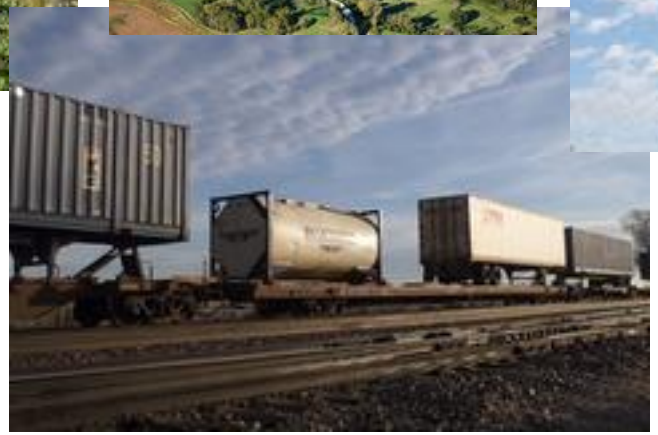
- 100+ people attended
- Camanche – many residents concerned with # of residences between CP tracks and Mississippi River, with no access if blocked by a train. Over 400 residences on east side of tracks.
- Environmental concerns: wetlands, Mississippi River, T&E habitat, contamination from derailment, flood plain vulnerability
- Safety: many concerned with hazardous materials shipping
- Noise impacts: concerns from Davenport, Illinois residents, others
- Blocked crossings and concerns with emergency services response
- Train speeds through communities
- Impacts to Davenport recreation areas and downtown
- Overall sentiment very concerned with the merger and increases in rail traffic through the communities.

Questions?

Key takeaways:

- Contact CP with your questions and requests
- Fall 2022: Draft EIS – comments due by October 14th
  - https://cp-kcsmergereis.com/involvement.htm

- Final EIS and STB Decision – anticipated Winter 2022/2023



Canadian Pacific (CP) and Kansas City Southern Merger (KCS)

MPO/RPA/District Planner Outreach

March 31 & April 7, 2022

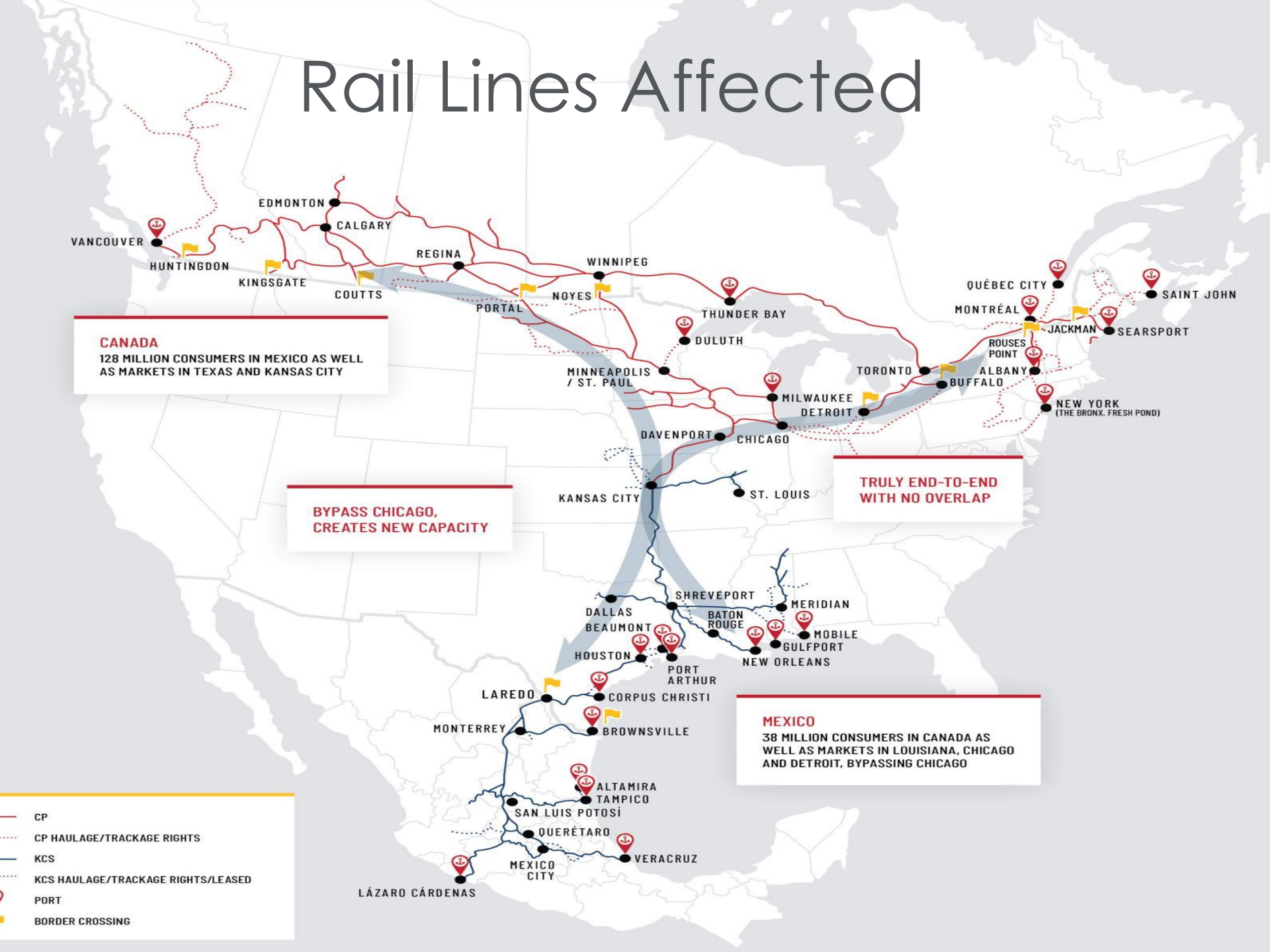
Outline of today's discussion

- CP-KCS merger information
  - Schedule
  - Useful data and resources
- State and Federal funding programs
- CP contacts
- Open discussion and questions

CP/KCS merger

- **On October 29, 2021**, Canadian Pacific Railway Limited, Canadian Pacific Railway Company, and their U.S. rail carrier subsidiaries Soo Line Railroad Company; Central Maine & Quebec Railway U.S. Inc.; Dakota, Minnesota & Eastern Railroad Corporation; and Delaware & Hudson Railway Company, Inc. (collectively, CP) and Kansas City Southern, The Kansas City Southern Railway Company, Gateway Eastern Railway Company, and The Texas Mexican Railway Company (collectively, KCS) **filed an application with the Surface Transportation Board (Board) seeking the Board's approval of the acquisition of control by CP of KCS (Proposed Acquisition)**

Rail Lines Affected



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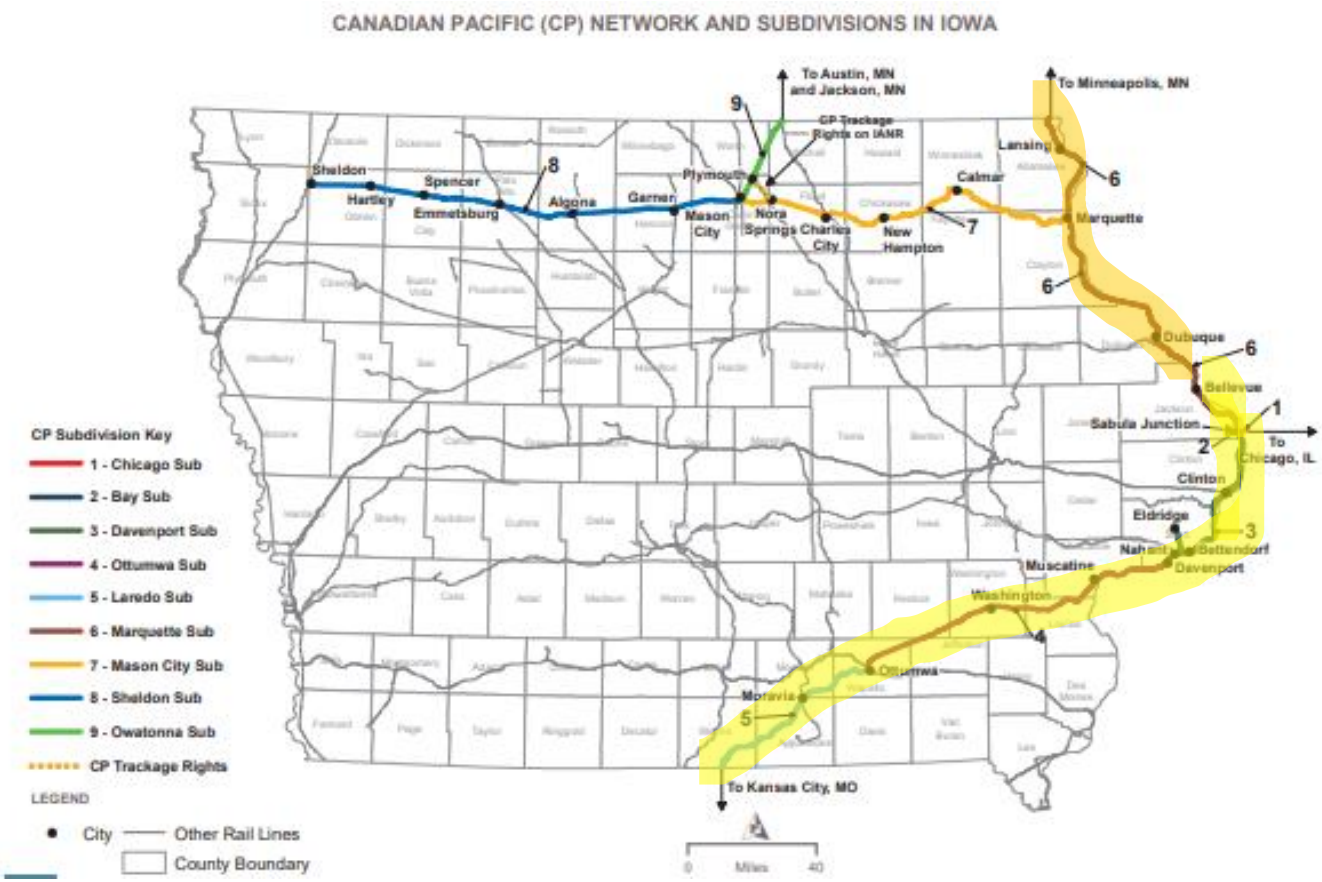


Rail traffic increase of **14.4** trains/day between Sabula and Kansas City

STB Merger Process – basic information

- Surface Transportation Board (STB) is an independent federal agency charged with the economic regulation of freight rail.
- Railroads are required to submit mergers to STB for review
  - Transactions must demonstrate public benefit.
  - A merger of 2 class 1 railroads is a major transaction, with larger burden of showing public benefit.
- STB goal is to preserve competition and prevent railroad from using market power to abuse shippers.
- **STB can impose conditions on approval of a merger to ensure competition, protect labor or protect the environment.**
- Railroads can negotiate with stakeholders before filings to reduce controversy.

STB Merger Process (continued)

- Steps in STB consideration of a merger:
  - Applicants submit pre-filing notices to STB
  - STB establishes a schedule allowing interested parties to comment and request conditions to protect their interests. Major transactions typically have a 12 month schedule
  - STB makes the Final Decision after 45-90 day commnet period

Two part of STB review:

- Economic/competition
- Environmental

STB Merger Process (continued)

Threshold for environmental analysis: A level of proposed change in railroad activities that determines the need for SEA's environmental review by the Office of Environmental Analysis (OEA), formerly the Section of Environmental Analysis. OEA first applies the Board's thresholds for environmental analysis at 49 C.F.R. Part 1105. The Board thresholds apply specifically to air quality and noise.

The Draft EIS will include:

- Mandatory mitigation
- Voluntary mitigation provided by the applicant

Due to the increased rail traffic being over the triggering threshold for STB, all communities over the threshold can comment to the STB regardless of if they registered during the scoping process.

Procedural Schedule

Note: Per 49 CFR 1180.4, STB must complete the process 15 months after the primary application is accepted.

APPENDIX

PROCEDURAL SCHEDULE

October 29, 2021	Application filed.
November 26, 2021	Board notice of acceptance of Application to be published in the Federal Register.
December 13, 2021	Notices of intent to participate in this proceeding due.
December 28, 2021	Proposed Safety Integration Plan (SIP) to be filed with OEA and FRA.
January 12, 2022	Descriptions of anticipated responsive, including inconsistent, applications due. Petitions for waiver or clarification with respect to such applications due.
February 22, 2022	Responsive environmental information and environmental verified statements for responsive, including inconsistent, applicants due.
February 28, 2022	Comments, protests, requests for conditions, and any other evidence and argument in opposition to the Application due. This includes any comments from the U.S. Department of Justice (DOJ) and U.S. Department of Transportation (USDOT).
	Responsive, including inconsistent, applications due.
March 30, 2022	Notice of acceptance of responsive, including inconsistent, applications, if any, published in the Federal Register.
April 22, 2022	Responses to comments, protests, requests for conditions, and other opposition due, including to DOJ and USDOT filings.
	Rebuttal in support of the Application due.
	Responses to responsive, including inconsistent, applications due.
May 23, 2022	Rebuttals in support of responsive, including inconsistent, applications due.
July 1, 2022	Final briefs due.[12]

[12] The Board will also determine the page limits for final briefs in a later decision after the record has been more fully developed.

Environmental Schedule

Steps of the Environmental Review Process

•NOI (Notice of Intent) – November 12, 2021

•Scoping – November 2021 – January 2022

- Public Meetings - November 30 - December 9, 2021 [Meeting details]
- Scoping Comment Period – November 12, 2021 – January 3, 2022

•Final Scope of Study – February 18, 2022

•Draft EIS – Spring 2022 - will contain STB preliminary recommendations for environmental mitigation measures – *mandatory and voluntary mitigation*

•Public Comment Period on Draft EIS including Public Meetings – Spring 2022 – 45 day public comment period, with public meetings

•Final EIS – Fall 2022

•Board's Decision on Acquisition

Note: Schedule subject to change as the project progresses. Please check back for current available information.

Note: The STB Decision will consider the Draft EIS, the Final EIS, any public comments received, and OEA's recommendations, including recommendations for potential environmental mitigation.

STB Documents

- Notice of Intent
  - https://cp-kcsmergereis.com/docs/CP-KCS-NOI.pdf
- Scope of Study
  - https://cp-kcsmergereis.com/docs/CP-KCS-Scope-of-Study.pdf
- Surface Transportation Board Environmental Website for CP-KCS
  - https://cp-kcsmergereis.com/

Surface Transportation Board Environmental Website for CP-KCS

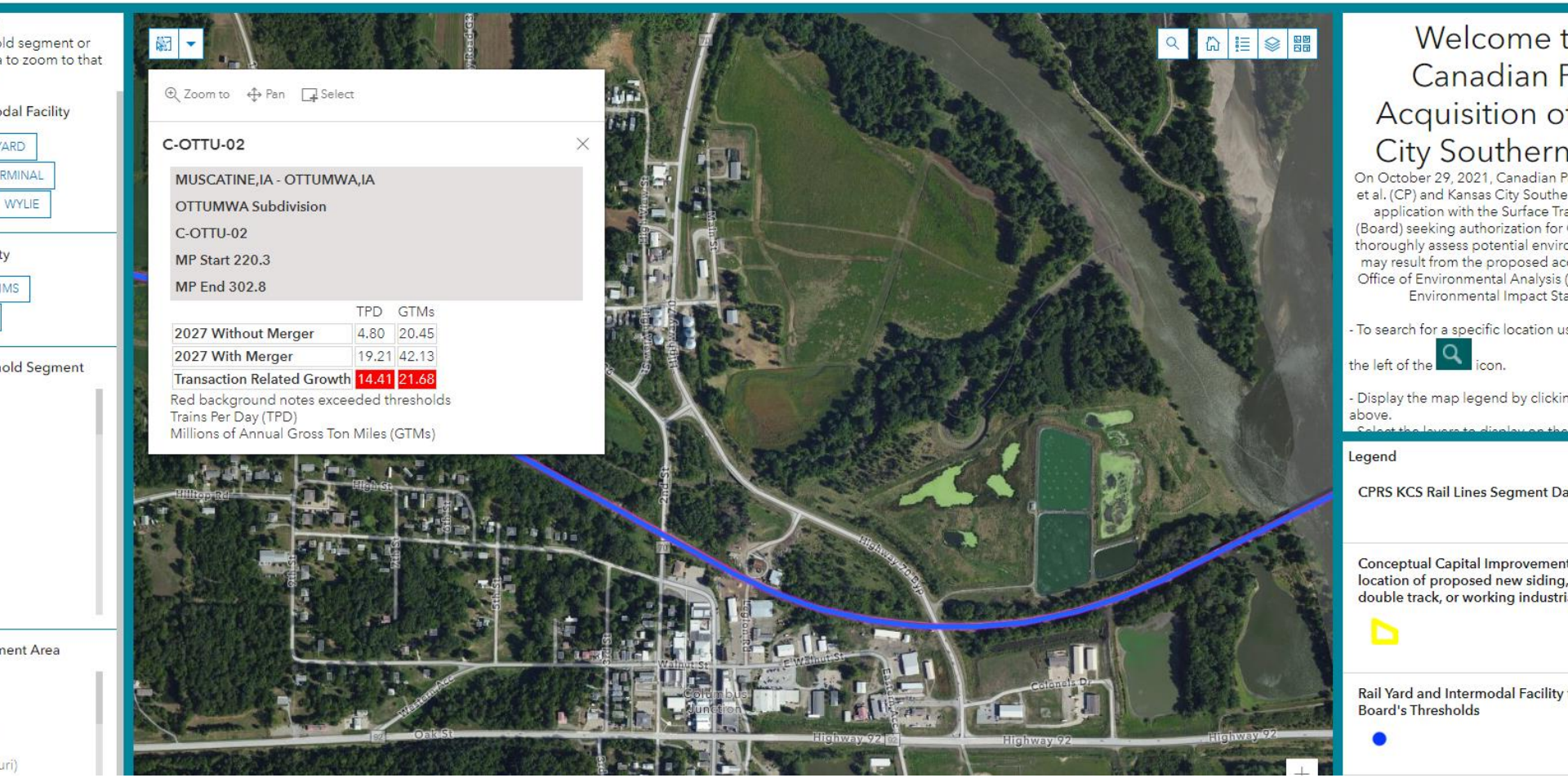
- https://cp-kcsmergereis.com/

CP-KCS EIS Interactive Map

CP-KCS EIS Interactive Map

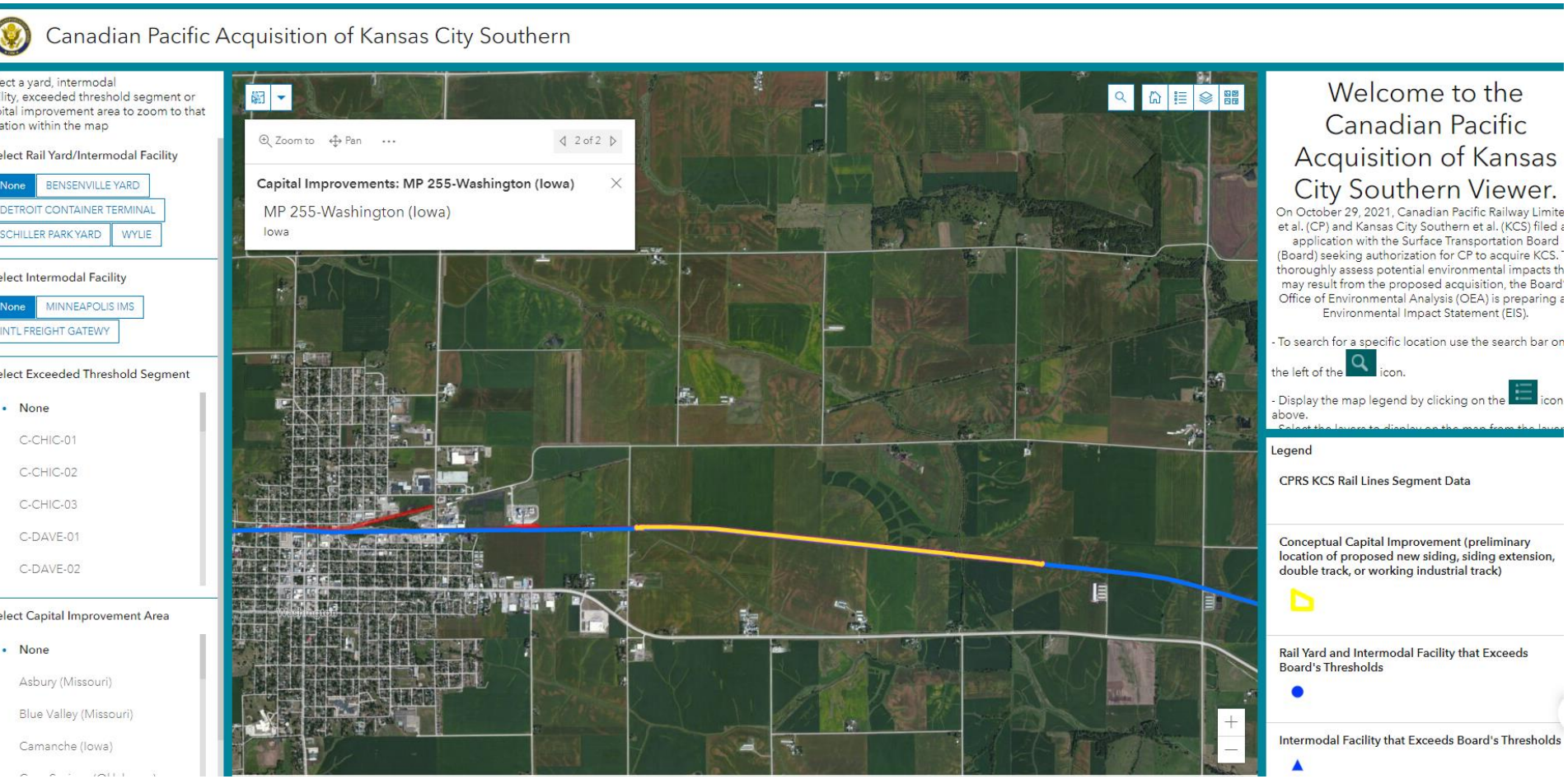
Train Traffic with and without merger

an Pacific Acquisition of Kansas City Southern



CP-KCS EIS Interactive Map

Capital Improvement locations



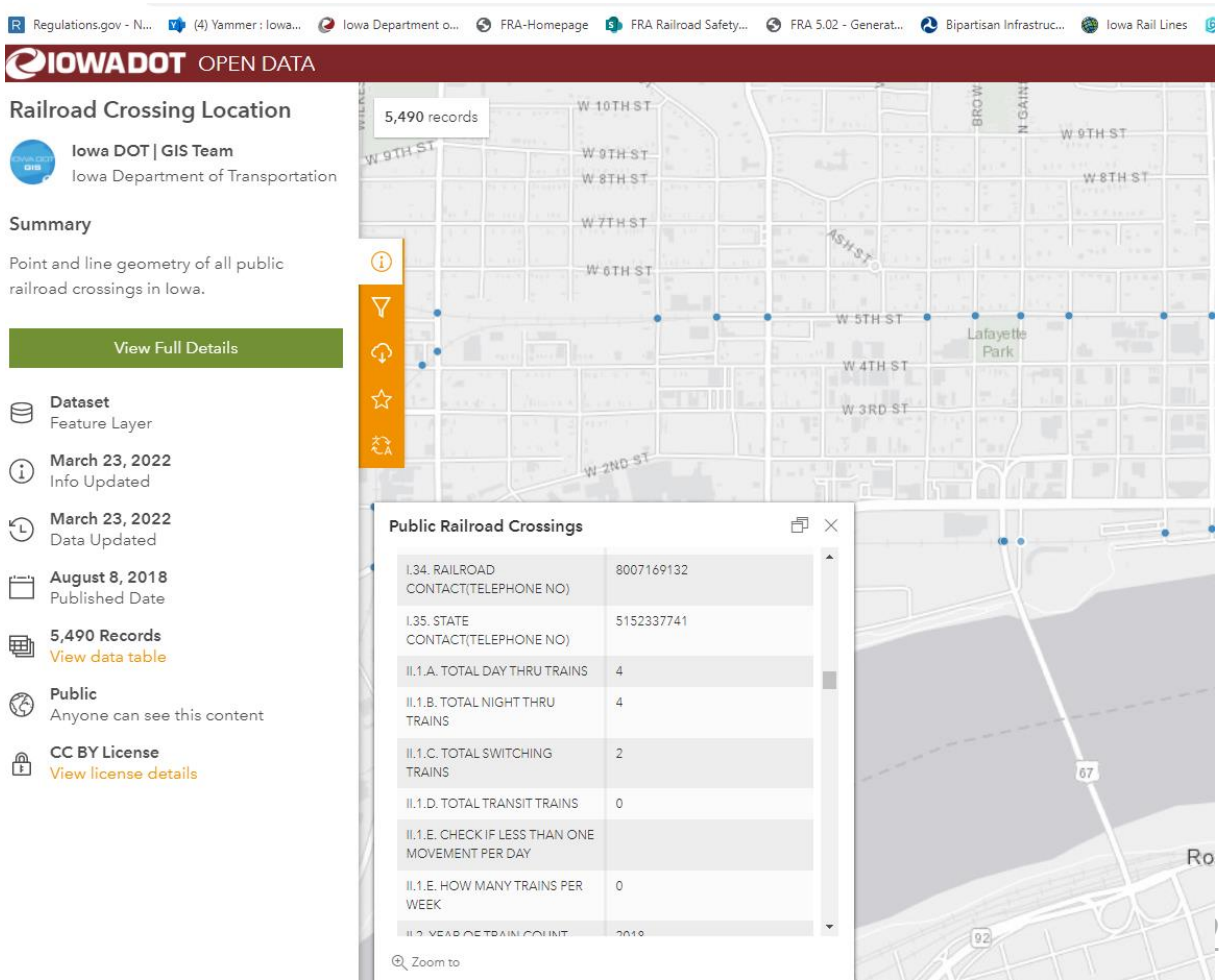
CP Website to Learn More

- https://futureforfreight.com/

Data resources for grade crossings

Iowa DOT Open Data Portal

https://data.iowadot.gov/datasets/railroad-crossing-location/explore?location=41.518311%2C-90.585296%2C15.59



FHWA Grade Crossing Improvement Program

- **23 USC Section 130 Safety Program**
  - This is a Federally funded program, administered by states improves the safety at highway-railroad grade crossings. A 10% non-federal match is required from either the railroad company or public roadway jurisdiction.
  - The program is application based, whereas the railroad and roadway authority must submit an application to the program for funding consideration by July 1st of each year.
  - Projects are selected through the combination of an accident prediction formula as well as a Benefit-Cost Analysis.
  - Projects that are solely for the establishment of Quiet Zones are not eligible for funding through Section 130.
  - Link to Iowa DOT program web page
    - https://iowadot.gov/iowarail/safety/federal-aid-crossing-safety-program

Highway – Railroad Crossing Surface Repair Program

- This is a State funded program to replace railroad crossing surfaces and roadway approaches. The Iowa DOT pays 60% of the total project cost and each the railroad company and roadway authority pay 20%.
- The railroad is responsible for replacing the ballast, ties, rail, and surface through the railroad crossing and the roadway authority is responsible for removal and placement of the roadway approaches to match any track raise resulting from the railroad's replacement of the railroad crossing structure.
- Link to Iowa DOT program web page
  - https://iowadot.gov/iowarail/safety/grade-crossing-surface-repair-program

Quiet Zones

- Designated by FRA, not Iowa DOT
- 49 CFR Parts 222 and 229 guidelines require train engineers to sound the train horn when approaching railroad crossings. Included in the regulations are ways in which communities can make safety improvements to silence the horns through the establishment of a quiet zone. The Federal Railroad Administration (FRA) has sole jurisdiction pertaining to the establishment of quiet zones.
- Railroad crossing safety enhancements that may justify establishing a quiet zone include construction of active warning devices such as lights and gates, medians, and other such safety treatments. (A typical two-quad gate and light system can cost $250,000-$350,000 per crossing.)
- Link to FRA quiet zone web page, "How to create a quiet zone"
  - https://railroads.dot.gov/elibrary/how-create-quiet-zone

Federal Funding Programs

New in Bipartisan Infrastructure Law 2021

- **Railroad Crossing Elimination Program** – Discretionary Grant Program for highway-rail or pathway-rail grade crossing improvements that focus on improving the safety and mobility of people and goods. Project eligibility includes grade separation or closure of crossings frequently blocked by trains, track relocation, installation of a bridge, protective devices, signals, technology, planning, PE, etc. Requires approval of the rail carrier or property owner (except for planning projects with an agreement for collaboration)
  - https://railroads.dot.gov/elibrary/railroad-crossing-elimination-grant-program-fact-sheet
  - https://railroads.dot.gov/sites/fra.dot.gov/files/2022-03/RRCrossing-Elim_GradeCrossingSafety_March2022_PDFa.pdf

Federal Funding Programs

- **CRISI** – Discretionary Grant Program for improvements to safety, efficiency, and reliability of intercity passenger and freight rail.
  - https://railroads.dot.gov/elibrary/consolidated-rail-infrastructure-safety-improvements-grant-program-fact-sheet

- **INFRA** – Discretionary Grant Program for highway and freight projects of national or regional significance

- **RAISE** (previously BUILD) – Discretionary Grant Program for Surface Transportation Projects that will have significant local or regional impacts
  - NOFO was published in February, applications are due on April 14, 2022
  - https://www.transportation.gov/sites/dot.gov/files/2022-02/FINAL-2022-RAISE-NOFO.pdf

Contact information

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EIS Information Line: (888) 319-2337

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Iowa DOT

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- (515) 239-1653
- amanda.martin@iowadot.us

Tammy Nicholson, Modal Transportation Bureau Director

- (515)239-1052
- tamara.nicholson@iowadot.us

Questions?

Key takeaways:

- STB merger process moves quickly!
- Contact STB for information regarding traffic analysis and noise modeling
- Contact CP with your questions and requests
- Spring 2022: Draft EIS – 45 day comment period
- Final EIS and STB Decision
- STB Decision on Merger – will include mandatory and voluntary mitigation