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SEC

SERVICE DATE - DECEMBER 5, 1997

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC.,  
NORFOLK SOUTHERN CORPORATION AND  
NORFOLK SOUTHERN RAILWAY COMPANY  
--CONTROL AND OPERATING LEASES/AGREEMENTS--  
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Decision No. 57

Decided: December 3, 1997

NOTICE TO THE PARTIES:

The service list in this proceeding was issued on August 19, 1997 (Decision No. 21),<sup>1</sup> and was compiled from the notices of intent to participate submitted in accordance with the procedural schedule set forth in Decision No. 6, served May 30, 1997. Subsequently, the Board received timely filed additions and corrections to the service list, and also motions/requests for leave to late-file notices of intent to participate, and late-filed corrections. On October 7, 1997, a Notice to the Parties (Decision No. 43), was served in this proceeding, and the final service list, which incorporated the additions, deletions, and revisions that were received, was attached as an Appendix to the Notice.

Since issuance of the final service list on October 7, 1997, the Board continues to receive late-filed additions/corrections to the service list, and a petition for leave to intervene, which are described, as follows:

**Late-filed Motions/Requests for Leave to Late-file a Notice of Intent to Participate.**

The Board has received motions/requests for leave to late-file a notice of intent to participate in this proceeding from the following parties: (1) John M. Cutler, Jr., counsel for Orange and Rockland Utilities, Inc., received October 8, 1997; (2) Richard F. Friedman, Earl L. Neal & Associates, attorneys for the Illinois International Port District (the Port of Chicago), received

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<sup>1</sup> In a Notice to the Parties served September 8, 1997 (Decision No. 27), the Board advised that the address for Robert J. Cooper, shown on the service list attached to Decision No. 21, was incorrect and provided the correct address.

October 21, 1997. These motions are granted, and the names will be added to the service list representing the entities, as herein noted.

**Late-filed Additions to the Service List/Notices of Appearance.** On October 21, 1997, the Board received letters from Robert A. Wimbish of the law firm, Rea, Cross & Auchincloss, stating that his name should be added to the service list as representing the Toledo-Lucas County Port Authority (TLCPA) and Wyandot Dolomite, Inc. (Wyandot). He filed the notices of appearance late because his firm was just recently retained to represent these entities. TLCPA and Wyandot will be added to the service list as entities represented by Mr. Wimbish. (Mr. Wimbish is already on the service list representing other parties.)

**Clarification of Appearance.** By letter received October 9, 1997, Keith G. O'Brien, of the law firm Rea, Cross & Auchincloss, requested a clarification of appearance on behalf of the Ohio Rail Development Commission and the Public Utilities Commission of Ohio to include the Attorney General's Office of the State of Ohio. Accordingly, the Attorney General's Office of the State of Ohio will be added to the service list as being represented by Mr. O'Brien.

**Clarification/Substitution of Counsel.** The service list issued by the Board on August 19, 1997 (Decision No. 21), showed Edward J. Fishman, Oppenheimer Wolff & Donnelly, Washington, D.C., as a Party of Record representing several entities. Because another member of the law firm, Kevin M. Sheys, has been signing most of the filings submitted to the Board, counsel has confirmed that Mr. Sheys' name should be substituted for Mr. Fishman's name on the service list. Because Mr. Fishman has already received copies of previous filings from Parties of Record, it is not necessary to send copies of previous filings to Mr. Sheys. However, **future filings** must be served on Mr. Sheys.

On December 2, 1997, the Board received a letter from Clark Evans Downs of the law firm Jones, Day, Reavis & Pogue, requesting that his name be substituted as a Party of Record representing National Lime & Stone Company (NLSC), in lieu of John C. Gordon. NLSC's initial filing in this proceeding, a notice of intent to participate, was made by Mr. Gordon, and Mr. Gordon's name is shown on the August 19, 1997 service list as a Party of Record representing NLSC. Subsequently, Mr. Downs' law firm was asked to represent NLSC with respect to this proceeding. In accordance with Mr. Downs' request, his name will be added to the service list as a Party of Record representing NLSC, and Mr. Gordon's name will be deleted from the service list.

**Clarification of Status as an Active Party of Record.** By letter received November 13, 1997, Thomas F. McFarland, Jr., of the law firm McFarland & Herman, notified the Board that he is serving on all Parties of Record copies of comments dated October 21, 1997, on behalf of the Eight State Rail Preservation Group (Eight State). Those comments were previously filed with the Board and were served on counsel for applicants but copies of the comments inadvertently were not sent to all Parties of Record at that time. By serving the comments on all parties, Eight State intends to clarify its status as an active Party of Record, represented by Mr. McFarland. Therefore, Eight State

will be added to the service list as an entity represented by Mr. McFarland. (Mr. McFarland is already on the service list representing another party.)

**Notices of Withdrawal of Counsel/Parties of Record.** On October 14, 1997, the Board was notified by Sandra L. Nunn to remove her name as a Party of Record. Her client, Southwest Ohio Regional Transit Authority, has decided not to participate further in this case. Ms. Nunn's name will be deleted from the service list.

On October 23, 1997, the Board was notified that Delmarva Power & Light Company (Delmarva) was withdrawing as a Party of Record in this proceeding. A Notice of Withdrawal of Counsel for Delmarva was filed by Michael F. McBride. Delmarva will be deleted from the service list as being represented by Mr. McBride. (Mr. McBride is shown on the service list as representing other parties.)

**Withdrawal from Proceeding.** By letter dated and received October 20, 1997, Nicholas J. DiMichael, of the law firm Donelan, Cleary, Wood & Maser, P.C., notified the Board that the following entities are withdrawing from this proceeding: Anker Energy Corporation; Buffalo Coal Company; Evergreen Mining Company; Maryland Coal Association; Mettiki Coal Corporation; PBS Coals, Inc.; Tri-State Coal Association; and Venture Coal Sales. (West Virginia Coals, Inc., is not withdrawing from this proceeding, and adopts the acronym "WVCI" for any future filings.) Mr. DiMichael will continue to represent WVCI.

By letter received November 13, 1997, Jack Walter, Director, Corporate Affairs, WCI Steel, Inc. (WCI), notified the Board that WCI is withdrawing from this proceeding as a Party of Record. Therefore, Mr. Walter's name will be deleted from the service list as a Party of Record representing WCI.

On November 19, 1997, the Board received a letter from Nels Ackerson of The Ackerson Group, requesting that his name be withdrawn as a Party of Record in this proceeding representing the National Association of Reversionary Property Owners and Landowners (NARPO). Mr. Ackerson has also confirmed that NARPO is no longer a party to this proceeding. Accordingly, Mr. Ackerson's name will be deleted from the service list as a Party of Record representing NARPO.

**Removal of Name from the Service List.** On November 13, 1997, the Board received a letter from Mitchell M. Kraus, General Counsel, Transportation Communications International Union (TCU), requesting the Board to delete the name of Larry R. Pruden, Assistant General Counsel, TCU, from the service list in this proceeding as a Party of Record because Mr. Pruden is no longer employed by TCU. Mr. Pruden's name will, therefore, be deleted from the service list. (Mr. Kraus is already on the service list as a Party of Record representing TCU and other parties.)

**Intervention Petition filed by Members of the U.S. House of Representatives.** On October 17, 1997, an intervention petition was filed by The Honorable Jerrold Nadler, Member of Congress, 8th Congressional District, New York, and 23 other Members of Congress<sup>2</sup> (intervenor) and John F. McHugh, McHugh & Sherman, Esqs., attorneys for the intervenor, for inclusion of a cross-harbor float operation across New York Harbor, the Bay Ridge Line of the Long Island Railroad, the New York connecting railroad, Oak Point Yard, Harlem River Yard, the New York Terminal Produce Market, 65th Street Yard and Fresh Pond Junction in the joint facilities railroad proposed by the Norfolk Southern Corporation, Norfolk Southern Railway Company, CSX Corporation, and CSX Transportation, Inc., as a condition of the acquisition requested. The intervenors are elected representatives of the people of the States of New York and Connecticut in the House of Representatives of the United States. The petition for leave to intervene in this proceeding is granted. Accordingly, Congressman Nadler and Mr. McHugh will be added to the service list as "Parties of Record," and the other Members of Congress who signed the intervention petition will be added to the service list as "Members of Congress."

The final service list incorporates the additions, deletions, and revisions shown in the Appendix attached to this Notice. All Parties of Record who have filed pleadings in this proceeding must, within 5 days of the service date of this Notice, serve a copy of those pleadings on the designated Parties of Record that are **added** to the service list, and submit an original and 10 copies of a certificate of service to the Secretary of the Board indicating that service has been accomplished.

All future filings must each have a certificate of service indicating that all Parties of Record have been properly served with a copy of the filing. **Parties are reminded that, in addition to submitting an original and 25 paper copies of each document filed with the Board, parties are also requested to submit, on diskettes (3.5-inch IBM-compatible floppies formatted for WordPerfect 7.0 or formatted so that they can be converted into**

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<sup>2</sup> The intervention petition was also signed by the following Members of the U.S. House of Representatives, The Honorable: Christopher Shays, Charles Rangel, Ben Gilman, Barbara Kennelly, Nancy Johnson, Charles Schumer, Rosa DeLauro, Michael Forbes, Sam Gejdenson, Nita Lowey, Major Owens, Thomas Manton, Maurice Hinchey, Ed Towns, Carolyn B. Maloney, Nydia M. Velazquez, Floyd Flake, Gary Ackerman, Eliot L. Engel, Louise M. Slaughter, John LaFalce, Michael McNulty, and James Maloney.

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**WordPerfect 7.0) or compact discs, one electronic copy of each such document.** (See Decision No. 12, served July 23, 1997, and published that day in the Federal Register at 62 FR 39577).

Vernon A. Williams  
Secretary

APPENDIX

THE FOLLOWING NAMES SHOULD BE **ADDED** TO THE SERVICE LIST AS  
**PARTIES OF RECORD:**

PARTY OF RECORD

John M. Cutler, Jr.  
McCarthy, Sweeney & Harkaway, P.C.  
Suite 1105  
1750 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006

Represents: Orange and Rockland Utilities, Inc.

PARTY OF RECORD

Clark Evans Downs  
Jones, Day, Reavis & Pogue  
1450 G Street, N.W.  
Washington, D.C. 20005-2088

Represents: National Lime & Stone Company

PARTY OF RECORD

Richard F. Friedman  
Earl L. Neal & Associates  
3600 East 95<sup>th</sup> Street  
Chicago, IL 60617-5193

Represents: Illinois International Port District (the Port of Chicago)

PARTY OF RECORD

John F. McHugh  
McHugh & Sherman, Esqs.  
20 Exchange Place  
New York, NY 10005

Represents: The Honorable Jerrold Nadler, The Honorable Christopher Shays, The Honorable Charles Rangel, The Honorable Ben Gilman, The Honorable Barbara Kennelly, The Honorable Nancy Johnson, The Honorable Charles Schumer, The Honorable Rosa DeLauro, The Honorable Michael Forbes, The Honorable Sam Gejdenson, The Honorable Nita Lowey, The Honorable Major Owens, The Honorable Thomas Manton, The Honorable Maurice Hinchey, The Honorable Ed Towns, The Honorable Carolyn B. Maloney, The Honorable Nydia M. Velazquez, The Honorable Floyd Flake, The Honorable Gary Ackerman, The Honorable Eliot L. Engel, The Honorable Louise M. Slaughter, The Honorable John LaFalce, The Honorable Michael McNulty, and The Honorable James Maloney, Members of the U.S. House of Representatives.

PARTY OF RECORD

The Honorable Jerrold Nadler  
U.S. House of Representatives  
Washington, D.C. 20515

PARTY OF RECORD

Kevin M. Sheys  
Oppenheimer Wolff & Donnelly  
1020 Nineteenth Street, N.W., Suite 400  
Washington, D.C. 20036-6105

Represents: Livonia, Avon and Lakeville Railroad Corporation and Vermont Railway, Inc.  
New Jersey Department of Transportation  
New Jersey Transit Corporation  
Northern Virginia Transportation Commission  
Potomac and Rappahannock Transportation Commission  
R. J. Corman Railroad Company/Western Ohio Line (R. J. Corman Parties)

THE FOLLOWING NAMES SHOULD BE **ADDED** TO THE SERVICE LIST AS  
**MEMBERS OF CONGRESS:**

MEMBER OF CONGRESS  
The Honorable Gary Ackerman  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Rosa DeLauro  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Eliot L. Engel  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Floyd Flake  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Michael Forbes  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Sam Gejdenson  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Ben Gilman  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Maurice Hinchey  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Nancy Johnson  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Barbara Kennelly  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable John LaFalce  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Nita Lowey  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Carolyn B. Maloney  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable James Maloney  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Thomas Manton  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Michael McNulty

U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Major Owens  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Charles Rangel  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Christopher Shays  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Charles Schumer  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Louise M. Slaughter  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Ed Towns  
U.S. House of Representatives  
Washington, D.C. 20515

MEMBER OF CONGRESS  
The Honorable Nydia M. Velazquez  
U.S. House of Representatives  
Washington, D.C. 20515

THE FOLLOWING NAMES SHOULD BE **DELETED** FROM THE SERVICE LIST AS  
**PARTIES OF RECORD:**

Nels Ackerson

The Ackerson Group  
1275 Pennsylvania Avenue, N.W., Suite 1100  
Washington, D.C. 20004-2417

Represents: National Association of Reversionary Property Owners and Landowners

Edward J. Fishman  
Oppenheimer Wolff & Donnelly  
1020 Nineteenth Street, N.W., Suite 400  
Washington, D.C. 20036-6105

John C. Gordon  
National Lime & Stone Company  
P.O. Box 120  
Findlay, OH 45840

Represents: National Lime & Stone Company

Sandra L. Nunn  
Frost & Jacobs LLP  
2500 PNC Center  
201 East Fifth Street  
Cincinnati, OH 45202-4182

Represents: Southwest Ohio Regional Transit Authority

Larry R. Pruden  
Transportation Communications International Union  
3 Research Place  
Rockville, MD 20850

Jack Walter  
Director, Corporate Affairs  
WCI Steel, Inc.  
1040 Pine Ave., S.E.  
Warren, OH 44483-6528

Represents: WCI Steel, Inc.

THE FOLLOWING PARTIES OF RECORD ARE ALREADY SHOWN ON THE SERVICE LIST BUT HAVE ADVISED THE BOARD OF ADDITIONS/DELETIONS CONCERNING THEIR REPRESENTED ENTITIES. PLEASE ADD OR DELETE THE ENTITIES, AS SHOWN BELOW. **(REVISIONS ARE SHOWN IN BOLD AND UNDERSCORED)**.

PARTY OF RECORD

Nicholas J. DiMichael  
Donelan, Cleary, Wood & Maser, P.C.  
1100 New York Avenue, N.W., Suite 750  
Washington, D.C. 20005-3934

Represents: West Virginia Coals, Inc.

**[Anker Energy Corporation, Buffalo Coal Co., Inc., Evergreen Mining Company, Maryland Coal Association, Mettiki Coal Corporation, PBS Coals, Inc., Tri-State Coal Association, and Venture Coal Sales]**  
**(Please delete these entities/withdrawing from the proceeding).**

PARTY OF RECORD

Michael F. McBride  
LeBoeuf, Lamb, Greene & MacRae, L.L.P.  
1875 Connecticut Avenue, N.W., Suite 1200  
Washington, D.C. 20009-5728

Represents: American Electric Power

Atlantic City Electric Company  
The Fertilizer Institute  
The Ohio Valley Coal Company and affiliated party The American Coal Sales Company  
Indianapolis Power & Light Company  
Ohio Mining and Reclamation Association  
**[Delmarva Power & Light Company]** **(Please delete this entity/withdrawing**

**from the proceeding).**

PARTY OF RECORD

Thomas F. McFarland, Jr.  
McFarland & Herman  
20 North Wacker Drive, Suite 1330  
Chicago, IL 60606-2902

Represents: Kokomo Grain Co., Inc.

**Eight State Rail Preservation Group (Please add)**

PARTY OF RECORD

Keith G. O'Brien  
Rea, Cross and Auchincloss  
1920 N Street, N.W., Suite 420  
Washington, D.C. 20036

Represents: Ohio Rail Development Commission  
Public Utilities Commission of Ohio

**Office of the Attorney General, State of Ohio (Please add)**  
Redland Ohio, Inc.

PARTY OF RECORD

Robert A. Wimbish  
Rea, Cross & Auchincloss  
1920 N Street, N.W., Suite 420  
Washington, D.C. 20036

Represents: Connecticut Central Railroad

**Toledo-Lucas County Port Authority (Please add)**  
**Wyandot Dolomite, Inc. (Please add)**