

LAW OFFICES OF  
**LOUIS E. GITOMER, LLC.**

LOUIS E. GITOMER  
Lou@lgraillaw.com

MELANIE B. YASBIN  
Melanie@lgraillaw.com  
410-296-2225

600 BALTIMORE AVENUE, SUITE 301  
TOWSON, MARYLAND 21204-4022  
(410) 296-2250 • (202) 466-6532  
FAX (410) 332-0885

November 29, 2012

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Ms. Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D.C. 20423-0001

ENTERED

Office of Proceeding  
November 29, 2012  
Part of Public  
Record

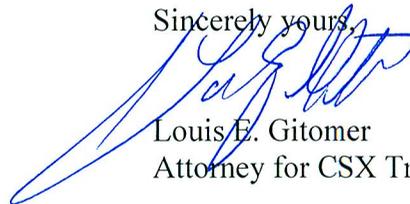
Re: **Docket No. FD 35661, *Grand Trunk Western Railroad Company—Acquisition of Operating Easement—CSX Transportation, Inc.***

Dear Ms. Brown:

Enclosed for efileing is the Reponse of CSX Transportation, Inc.

Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,



Louis E. Gitomer  
Attorney for CSX Transportation, Inc.

Enclosure

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Docket No. FD 35661

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GRAND TRUNK WESTERN RAILROAD COMPANY – ACQUISITION OF OPERATING  
EASEMENT – CSX TRANSPORTATION, INC.

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RESPONSE OF CSX TRANSPORTATION, INC. TO COMMENTS OF AMERICAN TRAIN  
DISPATCHERS ASSOCIATION

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Peter J. Shudtz, Esq.  
David A. Hoffman, Esq.  
Steven C. Armbrust, Esq.  
CSX Transportation, Inc.  
500 Water Street J-150  
Jacksonville, FL 32202  
(904) 359-1229

Louis E. Gitomer, Esq.  
Melanie B. Yasbin, Esq.  
Law Offices of Louis E. Gitomer, LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(410) 296-2250  
Lou@lgraillaw.com

Attorneys for: CSX Transportation, Inc.

Dated: November 29, 2012

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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DOCKET NO. FD 35661

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GRAND TRUNK WESTERN RAILROAD COMPANY – ACQUISITION OF OPERATING  
EASEMENT – CSX TRANSPORTATION, INC.

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RESPONSE OF CSX TRANSPORTATION, INC. TO COMMENTS OF AMERICAN TRAIN  
DISPATCHERS ASSOCIATION

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CSX Transportation, Inc. (“CSXT”) responds to the comments filed by the American Train Dispatchers Association (“ATDA”) on November 8, 2012 (the Comments”).

In this proceeding, the Grand Trunk Western Railroad Company (“GTW”) is seeking an exemption under 49 U.S.C. §10502 from the requirements of 49 U.S.C. §11323-11325 to acquire from CSXT an exclusive, perpetual non-assignable railroad operating easement (the “Easement”) over approximately 2.1 miles of CSXT’s Memphis Terminal Subdivision between Leewood, TN and Aulon, TN (the “Leewood-Aulon Line”).<sup>1</sup> The Leewood Acquisition is in exchange for the grant by GTW to CSXT of an exclusive operating easement over a portion of GTW’s Elsdon Subdivision between

Elsdon, IL and Munster, IN (the “Elsdon Line”).<sup>2</sup>

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<sup>1</sup> Referred to as the “Leewood Acquisition”.

<sup>2</sup> See the Application filed on August 13, 2012, in *CSX Transportation, Inc.-Acquisition-Grand Trunk Western Railroad Company*, Docket No. FD 35522 (the “Elsdon Acquisition”). The Board is considering CSXT’s acquisition of an easement over the Elsdon Line and GTW’s acquisition of the Easement together for administrative purposes, but has not consolidated them. See *CSX Transportation, Inc.-Acquisition-Grand Trunk Western Railroad Company*, Docket No. FD 35522, slip op. at 1 (served October 11, 2012).

ATDA has filed comments in the Leewood Acquisition and the Elsdon Acquisition. ATDA does not take a position either in favor of or in opposition to either transaction. ATDA agrees with GTW that the Leewood Acquisition is subject to the imposition *New York Dock – Control – Brooklyn Eastern Dist. Term.*, 360 I.C.C. 60 (1979) (“*New York Dock*”) labor protective conditions.

CSXT agrees that the version of the *New York Dock* labor protective conditions that applies to the Leewood Acquisition is *New York Dock – Control – Brooklyn Eastern Dist. Term.*, 360 I.C.C. 60 (1979), as modified by *Wilmington Term. R.R. Inc. – Purchase and Lease – CSX Transp. Inc.*, 6 I.C.C.2d 799 (1990) (the, “*Labor Protective Conditions*”).<sup>3</sup> In the Agreement for Exchange of Perpetual Easements dated as of August 13, 2012 (the “Agreement”) (See Volume II of the Application in the Elsdon Acquisition), CSXT and GTW agreed to the imposition of the *Labor Protective Conditions* on the Elsdon Acquisition and the Leewood Acquisition. CSXT contends that the *Labor Protective Conditions* are appropriate for the Leewood Acquisition, as they are for the Elsdon Acquisition, and that they apply to any CSXT employees adversely impacted by the Leewood Acquisition. However, for the reasons set forth in the Rebuttal of CSX Transportation, Inc. filed in the Elsdon Acquisition concurrently filed with this response and which is incorporated herein by reference, to the extent ATDA seeks to have the Board impose additional protection for train dispatchers on either CSXT or GTW, require either railroad to adopt or apply the existing collective bargaining agreement of the other following completion of the transaction, or make any determination as to whether an override of a

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<sup>3</sup> As noted in the GTW’s Response and CSXT’s Rebuttal in Finance Docket No. 35522, the Board considers the acquisition of a permanent freight easement as equivalent to the acquisition of a rail line and has repeatedly found that the *New York Dock* conditions as modified by *Wilmington Terminal* are the appropriate conditions for line acquisitions subject to sections 11323-25, including acquisition of an easement. *See. e.g., Massachusetts Coastal Railroad, LLC—Acquisition—CSX Transportation, Inc.*, Finance Docket No. 35314 (served May 19, 2010).

particular collective bargaining agreement is necessary, those requests should be rejected, and ATDA should be referred to the negotiation and arbitration procedures provided under the *Labor Protective Conditions*.

#### CONCLUSION

For the reasons stated above, CSXT supports the granting of the Leewood Acquisition, subject only to the *Labor Protective Conditions*.

Respectfully submitted,



Peter J. Shultz, Esq.  
David A. Hoffman, Esq.  
Steven C. Armbrust, Esq.  
CSX Transportation, Inc.  
500 Water Street J-150  
Jacksonville, FL 32202  
(904) 359-1229

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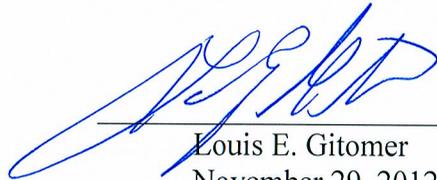
Louis E. Gitomer, Esq.  
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Law Offices of Louis E. Gitomer, LLC  
600 Baltimore Avenue, Suite 301  
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(410) 296-2250  
Lou@lgrailaw.com

Attorneys for: CSX Transportation, Inc.

Dated: November 29, 2012

CERTIFICATE OF SERVICE

I hereby certify that I have caused the Response of CSX Transportation, Inc. to Comments of American Train Dispatchers Association in Docket No. 35661, *Grand Trunk Western Railroad Company-Acquisition of Operating Easement-CSX Transportation, Inc.*, to be served electronically and by first class mail, postage pre-paid on the American Train Dispatchers Association, and the Grand Trunk Western Railroad Company.



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Louis E. Gitomer  
November 29, 2012