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June 14, 2013

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234398

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 Proceedings
June 14, 2013
Part of
Public Record

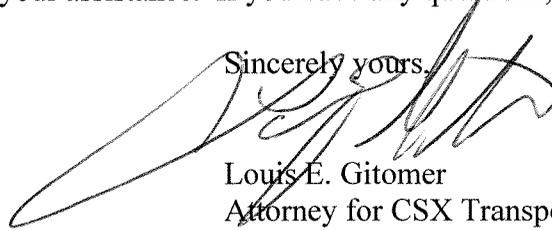
Re: Finance Docket No. 35523, *CSX Transportation, Inc. –Joint Use –
Louisville & Indiana Railroad Company, Inc.*

Dear Ms. Brown:

Enclosed for filing are the original and 10 copies of a minor Application for CSX Transportation, Inc. (“CSXT”) and the Louisville & Indiana Railroad Company, Inc. (“L&I”) to jointly use a 106.5-mile railroad line pursuant to a perpetual non-exclusive freight railroad operating easement being granted to CSXT by L&I; and 20 copies of maps. A diskette containing a WORD and pdf version of the Application is attached. A check for the filing fee of \$7,500 for the Application is enclosed.

Please time and date stamp the extra copy of the filing and return with our messenger. Thank you for your assistance. If you have any questions, please contact me.

Sincerely yours,



Louis E. Gitomer
Attorney for CSX Transportation, Inc.

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35523

CSX TRANSPORTATION, INC.—JOINT USE—LOUISVILLE & INDIANA RAILROAD
COMPANY, INC.

APPLICATION

VOLUME I

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Dated: June 14, 2013

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35523

CSX TRANSPORTATION, INC.—JOINT USE—LOUISVILLE & INDIANA RAILROAD
COMPANY, INC.

APPLICATION

CSX Transportation, Inc. (“CSXT”) and the Louisville & Indiana Railroad Company, Inc. (“L&I”) file this minor application pursuant to 49 U.S.C. §11323(a)(6) and 49 C.F.R. Part 1180 (the “Application”) seeking approval from the Surface Transportation Board (the “Board”) for the joint use by CSXT and L&I of L&I’s 106.5-mile railroad line between its connection with CSXT in Indianapolis, IN, milepost 4.0±, and its connection with CSXT in Louisville, KY, milepost 110.5± (the “Line”). In order to jointly use the Line with L&I, CSXT seeks authority to acquire and use a perpetual non-exclusive freight railroad operating easement over the Line (the “Easement”). The joint use and acquisition of the Easement are referred to as the “Proposed Transaction.” CSXT and L&I are collectively referred to as the “Applicants.”¹

The Proposed Transaction will not substantially lessen competition, create a monopoly, or restrain trade in freight surface transportation in any region of the United States. As a result of the Proposed Transaction, CSXT will fund a significant upgrade of the Line to Federal Railroad Administration (“FRA”) Class 4 track allowing operations at speeds up to 60 miles per hour

¹ CSXT is a wholly owned subsidiary of CSX Corporation and L&I is a wholly owned subsidiary of Anacostia Rail Holdings Company.

where signaling and track geometry permit, replace Bridge No. 40.19 at Columbus, IN, modernize the dispatching system, and remove weight restrictions to permit the handling of 286,000 pound gross weight on rail (“GWOR”) cars (the “Upgrade”).² L&I and CSXT will continue to operate over the Line as a result of the Proposed Transaction, only more efficiently.³ L&I will be able to operate at higher speeds and handle heavier cars over the Line. CSXT will be able to operate traffic over the Line reducing congestion on other CSXT lines and operate more efficiently. Shippers will retain the same options after the Proposed Transaction as before. Neither L&I nor CSXT will close any routes as a result of the Proposed Transaction.

The additional significant private investment in infrastructure and more efficient operations of L&I and CSXT as a result of the Proposed Transaction are public benefits.

SUMMARY

CSXT and L&I have entered a Transaction Agreement dated May 30, 2013 (the “Transaction Agreement”) and upon closing, will enter an Easement Agreement (the “Easement Agreement”) and a Joint Use Operating Agreement (the “Operating Agreement”), as well as other agreements (See Exhibit 2).⁴ Through the Agreements, CSXT is seeking to jointly use the Line with the L&I by acquiring a perpetual non-exclusive freight railroad operating easement and will fund the Upgrade. The Easement will ensure CSXT perpetual operating rights over the Line

² It is estimated that the cost of the Upgrade will be between \$70 million and \$90 million. L&I will continue to be responsible for the maintenance and dispatching of the Line.

³ CSXT received trackage rights over the Line in *CSX Transportation, Inc.—Trackage Rights Exemption—Louisville & Indiana Railroad Company*, STB Finance Docket No. 33744 (STB served June 21, 2001). Under the existing trackage rights agreement between L&I and CSXT (the “Trackage Rights Agreement”), the number of trains that CSXT can operate over the Line is not limited.

⁴ The Transaction Agreement, Easement Agreement, and Operating Agreement are collectively referred to as the “Agreements.”

in order to justify the investment in the Upgrade. L&I will continue to provide overhead service and exclusive local service on the Line. CSXT currently operates over the Line via trackage rights. CSXT will fund and own certain capital improvements to the Line in order to remove weight restrictions, increase track speed, add capacity to the Line, and increase fluidity that will enable Applicants to operate more efficiently in markets they already serve.

The Proposed Transaction will not result in substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States. The Proposed Transaction will not result in a reduction in the number of rail carriers serving any shipper. Nor will the Proposed Transaction alter the competitive balance between Applicants. L&I and CSXT will remain unaffiliated and L&I and CSXT will not be commonly controlled as a result of the Proposed Transaction. The benefits of the Proposed Transaction for L&I will be a more efficient operation over the upgraded Line, while CSXT will be able to operate more efficiently over an area encompassing Ohio, Indiana, Illinois, and Kentucky (the “Midwestern Region”). CSXT and L&I do not expect any adverse impact on their respective employees as a result of the Proposed Transaction.

As described in Section I, the Proposed Transaction is a minor transaction. A proposed schedule is requested in Section II. Section III discusses the Background of the Proposed Transaction. Section IV provides the specific information required by the Board’s regulations.

In order to comply with the environmental and historic requirements of 49 C.F.R. §1105, CSXT has requested and been approved to prepare a preliminary draft environmental assessment (the “PDEA”) (see the exchange of correspondence in Exhibit 4). CSXT submitted

the PDEA to the Board's Office of Environmental Assessment ("OEA") prior to filing this Application.

THE PROPOSED TRANSACTION IS MINOR

The Proposed Transaction is a minor transaction, as that term is defined in the Board's regulations at 49 CFR §1180.2(c).

The Proposed Transaction is not a major transaction because it does not involve the control or merger of two Class I railroads. See 49 C.F.R. §1180.2(a). CSXT is a Class I railroad, while L&I is a Class III railroad.⁵ The Proposed Transaction has resulted from arms' length negotiations between CSXT and L&I. CSXT and L&I will remain independent of each other, will not merge with each other, and neither will control the other.

Applicants contend that this Application demonstrates that the Proposed Transaction clearly will not have any anticompetitive effects. There will be no reduction in the number of railroads serving any shipper. Service over the Line will be unchanged, except for the increased efficiency of operations. The Proposed Transaction is not a significant transaction as that term is defined in 49 C.F.R. §1180.2(b).

If there were any anticompetitive effects, they would be outweighed by the infrastructure improvements on the Line, L&I's increased operating efficiency on the Line, and the increased efficiency in CSXT's operations in its Midwestern Region.

The Board has determined that a transaction is minor when no "shipper would have fewer

⁵ The L&I began operations on March 11, 1994. *Louisville & Indiana Railroad Company-Acquisition and Operation Exemption-Consolidated Rail Corporation*, ICC Finance Docket No. 32440 (ICC served January 19, 1994).

competitive rail alternatives as a result of the transaction.” *CSX Transportation, Inc. and Delaware and Hudson Railway Company, Inc.—Joint Use Agreement*, Docket No. FD 35348 slip op. at 7 (STB served May 27, 2010). L&I will continue to provide local and overhead service on the Line, while CSXT will continue to provide overhead service on the Line. The Proposed Transaction will not reduce the competitive rail alternatives for shippers. It will only result in more efficient operations for both L&I and CSXT.

The Board has also found a transaction to be minor “because it appears on the face of the application that there would not be any clear anticompetitive effects from the transaction. *Cf. Norfolk S. Ry.—Consolidation of Operations—CSX Transp. Inc.*, FD 32299 (ICC served Aug. 5, 1993).” *CSX Transportation, Inc.—Acquisition of Operating Easement—Grand Trunk Western Railroad Company*, Docket No. FD 35522, slip op. at 7 (served September 12, 2012). L&I and CSXT will continue to operate as they do today after completion of the Upgrade, only more efficiently.

The Board has defined interchange commitments as “contractual provisions included with a sale or lease of a rail line that limit the incentive or the ability of the purchaser or tenant carrier to interchange traffic with rail carriers other than the seller or lessor railroad.” *Review of Rail Access and Competition Issues—Renewed Petition of the W. Coal Traffic League*, EP 575, slip op. at 1 (STB served Oct. 30, 2007) and *Information Required in Notices and Petitions Containing Interchange Commitments*, EP 714, slip op. at 2 (STB served November 1, 2012). As the entity acquiring the Easement, CSXT is not subject to an interchange commitment. L&I is not required to compensate CSXT for the use of the Upgrade if it uses the Upgrade as it does today. However, L&I is required to compensate CSXT for the use of the Upgrade only for traffic

that it could not handle unless the Upgrade were completed. In an abundance of caution, Applicants have addressed this issue in response to 49 CFR §1180.6(a)(2)(i).

Applicants respectfully request that the Board find the Proposed Transaction to be a minor transaction as defined in 49 C.F.R. §1180.2(c).

II. PROPOSED SCHEDULE

Applicants propose the following schedule in accord with the requirements of 49 U.S.C. §11325 and based on the schedule adopted in *CSX Transportation, Inc.—Acquisition of Operating Easement—Grand Trunk Western Railroad Company*, Docket No. FD 35522, slip op. at 11 (served September 12, 2012).

DATE	ACTION
June 14, 2013	Application filed with Board. PDEA previously submitted to OEA.
July 12, 2013	Board accepts application and establishes schedule.
July 26, 2013	Notices of intent to participate must be filed with the Board. Discovery requests due to Applicants.
August 9, 2013	Applicants respond to discovery requests.
August 14, 2013	OEA issues Draft EA.
September 13, 2013	Comments due from all parties, including the Attorney General and Secretary of Transportation, on the transportation merits of the Proposed Transaction . Comments due in response to EA.
October 3, 2013	Responses to comments on the transportation merits of the Proposed Transaction due. Applicants' rebuttal in support of the application due.
October 11, 2013	Close of record.

On or before OEA issues final EA.
October 25, 2013

November 25, 2013 Board serves final decision.

December 15, 2013 Board decision becomes effective.

The proposed schedule provides the Board and parties with the statutorily mandated time periods and allows sufficient time for oral argument, if necessary, and for the completion of the environmental review based on the PDEA that has been filed with OEA. Applicants have consulted with OEA in proposing the schedule for environmental review in this proceeding.

The record is scheduled to close on October 11, 2013, eight days after Applicants respond to comments and submit rebuttal on October 3, 2013. Applicants have proposed a 91-day evidentiary period because they do not expect opposition to the Proposed Transaction based upon potential competitive harm. CSXT's authority to fund the acquisition of the Easement terminates at the end of 2013. L&I sees significant benefits to being able to complete the Proposed sale of the Easement by the end of 2013. In addition, once CSXT acquires the Easement, budgeting and construction of the Upgrade can commence. The Applicants have proposed a schedule that completes the evidentiary phase of the proceeding in 91 days and provides the Board the statutorily mandated 45 days to serve a decision 45 days after the close of the record on November 25, 2013, the period mandated under 49 U.S.C. §11325(d)(2).

In order to ensure closing by the end of 2013, Applicants request the Board to make its decision effective 20 days after service, by December 15, 2013. The Applicants will then be able to proceed in an orderly manner and close the Proposed Transaction prior to the holiday season.

In order to fully inform the public of potential environmental impacts, Applicants have engaged in a significant effort. Applicants have held outreach meetings with local, state and Federal representatives of the communities that the Line runs through. In addition to the outreach meetings, after consultation with OEA, CSXT retained HDR Engineering, Inc. (“HDR”) to prepare the PDEA. HDR and OEA have conducted site visits to the Line and have collaborated in the preparation of the PDEA. As part of the preparation of the PDEA, HDR sought comments from numerous parties identified in the consultation letters in Exhibit 4-C. Those comments (see Exhibit 4-D) have been taken into account in the preparation of the PDEA. Applicants have made the Proposed Transaction and potential environmental effects known to the people potentially affected. Therefore, Applicants contend that the comment period on the EA is sufficient to allow the potentially affected parties to make their concerns known to OEA and the period for the preparation of the final EA provides OEA with time to assess and review any environmental effects of the Proposed Transaction.

Applicants respectfully request the Board to adopt the proposed schedule.

III. BACKGROUND

CSXT and L&I are seeking authority from the Board to jointly use the Line as a result of L&I granting CSXT a perpetual non-exclusive freight railroad operating easement over the Line. Once the Upgrade is completed, as defined in the Operating Agreement, CSXT intends to operate between 13-15 trains per day over the Line. Under the Operating Agreement and subject to certain exceptions provided in the Operating Agreement, the Upgrade must be completed within seven years of the closing of the Proposed Transaction. If the Upgrade is not completed as provided in the Operating Agreement, the Easement will terminate and CSXT will continue to

operate under the Trackage Rights Agreement, as modified by the Operating Agreement.⁶

Prior to the L&I's acquisition of the Line, it was owned by Consolidated Rail Corporation ("Conrail"). The Line was the Conrail route between Indianapolis and Louisville. And in the Final System Plan that created Conrail, the Line was considered to have heavy traffic density and projected to carry between ten and twenty million gross tons per year. *See Final System Plan Part II page 216.*

The Louisville Cincinnati Subdivision (the "LCL Subdivision") is CSXT's only proprietary double stack and automotive traffic route to Louisville from the north and east. Today, a large number of trains that operate between points east and north of Louisville and Louisville at some point move over the LCL Subdivision. This traffic is overhead traffic and does not originate or terminate on the LCL Subdivision.

CSXT's LCL Subdivision is at capacity and has significant grades and curvature. The grades and curvature make it impractical to add capacity to the LCL Subdivision. Capacity and performance constraints are a result of the LCL Subdivision's significant grade, over 1 percent, 8 degree curvature, and siding limitations, which result in train length restrictions of approximately 7,500 feet, tonnage restrictions, and reduced train speeds which average about 15 miles per hour.

The LCL Subdivision's grade and curvature make increasing velocity or adding capacity impractical. L&I, on the other hand, has a ruling grade under 1 percent and no curves greater than 5 degrees. These attributes will allow CSXT to operate longer, heavier, and faster trains. As a result of the Proposed Transaction, CSXT will be able to increase its train lengths to 10,000

⁶ Under the Operating Agreement, the Trackage Rights Agreement shall become dormant, but shall automatically reactivate, as amended, in the unlikely event of termination of the Easement Agreement.

feet. This increase in train length will provide operating economies for CSXT.

Train length limitations on the LCL Subdivision require CSXT to operate shorter, less efficient trains between Louisville and Cincinnati. These smaller trains create inefficiencies throughout CSXT's network in terms of additional resources, terminal congestion, and track occupancy. Operating limitations (*i.e.*, shorter trains at slower speeds) require additional resources and train starts, which result in more trains moving across an already capacity constrained corridor and more trains moving through CSXT's Queensgate Yard in Cincinnati, OH, a major hump classification facility.

Today, CSXT uses its trackage rights over the Line to relieve some of the congestion on the LCL Subdivision. Currently, CSXT operates over the Line between Louisville, KY and Seymour, IN and then over its own line from Seymour, IN to Cincinnati, specifically operating two trains a day, both in a northward direction between Louisville and Seymour.

As part of the joint use, CSXT will fund improvements to be constructed by L&I or its contractor on the Line that will enable CSXT to operate on the Line north of Seymour to Indianapolis and operate more efficiently south of Seymour.⁷ The existing track will be replaced with continuous welded rail to allow the Line to handle cars at 286,000 pounds GWOR instead of the 263,000 pounds GWOR today, replace a weight restricted bridge, and add passing sidings, if necessary for operations. Details of the Upgrade are provided in Attachment D, Upgrade of the L&I Line, to the Operating Agreement. CSXT and L&I have agreed to the joint use of the Line and the Proposed Transaction will not have any anticompetitive effects.

⁷ It is expected that all improvements to the Line will be made within the existing Line's right-of-way.

Trains running on the L&I now travel between 20 and 25 mph but once the Upgrade is complete, trains will be able to run at speeds up to 60 miles per hour where signaling and track geometry permit. The Line handles the following traffic today: two trains per day between Indianapolis and Seymour, IN, four trains per day between Seymour and Jeffersonville Yard, IN, and seven trains per day between Jeffersonville Yard, IN and Louisville, KY. After the Upgrade is completed, CSXT will increase its use of the Line. CSXT plans to operate add trains per day between Indianapolis and Seymour, IN, and 13 trains per day between Seymour, IN and Louisville, KY.

Under the Easement Agreement, CSXT will have the right to use the Line for overhead traffic, with the ability to enter and exit the track at the Line's end points, Seymour, and the interchange with the Paducah & Louisville Railway, Inc. The L&I will continue to provide overhead and local service on the Line. Using the Line after the Upgrade is completed will reduce inefficiencies on the CSXT network caused by the need to run shorter slower trains on the LCL Subdivision. Under the Operating Agreement, the L&I will continue to be responsible for the maintenance and dispatching of the Line.

IV. INFORMATION PROVIDED IN RESPONSE TO BOARD REGULATIONS

Pursuant to the Board's regulations at 49 C.F.R. § 1180.4, CSXT and L&I submit the following information:

Section 1180.6 Supporting Information

(i) A brief summary of the proposed transaction, the name of applicants, their business address, telephone number, and the name of the counsel to whom questions regarding the transaction can be addressed.

CSXT and L&I have entered the Transaction Agreement dated May 30, 2013 (see Exhibit

2 in Volume 2), pursuant to which CSXT seeks to improve the efficiency of its operations through the joint use of the Line and the acquisition of a perpetual non-exclusive freight railroad operating easement over the Line and to agree to arrangements for CSXT to fund and own the Upgrade. L&I has agreed to sell the Easement to CSXT for \$10,000,000 and to the joint use of the Line. To implement the Transaction Agreement, CSXT and L&I have agreed to enter into the Easement Agreement, the Operating Agreement and the Liability Allocation Agreement (see Exhibit 2 in Volume 2 for the most recent drafts of these agreements). Applicants have structured the Proposed Transaction in order to receive favorable tax treatment as specified in Exhibit D to the Transaction Agreement.

The Easement Agreement grants a perpetual non-exclusive freight railroad operating easement over the Line to CSXT from L&I. The Operating Agreement provides for the joint use of the Line under L&I's control. L&I will be responsible for maintenance and dispatching of the Line. The Operating Agreement also governs CSXT's funding and ownership of the Upgrade, the methodology for progressing the Upgrade during the seven year period after closing, and the methodology for L&I to oversee and contract for the Upgrade, including CSXT contributing the Upgrade. Once the Upgrade is complete, CSXT will operate additional traffic on the Line. CSXT may operate additional traffic over the Line once the portion of the Upgrade between the south end of the Line and Seymour is complete.

The carriers involved in this transaction and their business addresses are:

CSX Transportation, Inc.
500 Water Street J-150
Jacksonville, FL 32202

Louisville & Indiana Railroad Company, Inc.
500 Willinger Lane
Jeffersonville, IN 47130
(812) 288-0940

Questions and correspondence concerning this application may be addressed to:

For CSXT:

Steven C. Armbrust
CSX Transportation, Inc.
500 Water Street J-150
Jacksonville, FL 32202
(904) 359-1229

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For L&I:

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General Counsel
Anacostia Rail Holdings Company
1701 Pennsylvania Ave., NW, Suite 300
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(ii) The proposed time schedule for consummation of the proposed transaction.

The transaction is scheduled to be consummated before the end of 2013. CSXT and L&I would prefer to close the Proposed Transaction the week of December 16, 2013 in order to ensure that CSXT can acquire the Easement in 2013 before the holidays. In order to accommodate a closing during the week of December 16, 2013, the proposed schedule suggests a 20-day effective date for the Board's decision.

(iii) The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving the financial viability of the applicants.

The Proposed Transaction will result in operating economies, improved service, and improved financial viability.

CSXT will fund the Upgrade of the Line. CSXT and L&I will share the costs to maintain the Line based on usage. L&I will be able to operate more efficiently over the Line in local and overhead service once the Line has been upgraded from FRA Class 2 (maximum speed of 25 miles per hour) to FRA Class 4 (maximum speed of 60 miles per hour), the maximum weight restrictions have been increased to 286,000 GWOR, Bridge No. 40.19 at Columbus, IN has been replaced, and the dispatching system has been modernized. CSXT will be able to operate between 13-15 trains per day from highly congested slower routes to various segments of the Line and will improve service because the traffic will move over the more efficient Line thereby reducing congestion on other CSXT lines. By granting CSXT the Easement and jointly using the Line with CSXT, L&I will receive the benefit of operating over the upgraded Line without incurring the capital cost and will share the cost of maintaining the Line with CSXT based on usage.

Through joint use of the Line, specifically because of its grade and curvature attributes, CSXT will be able to increase its efficiencies, reduce transit time, provide a more competitive service product, and create a more fluid and consistent service product to its customers.

Joint use of the Line will create routing flexibility and performance improvements for CSXT in the Midwestern Region. Most of the traffic utilizing CSXT's LCL Subdivision originates or terminates outside of the Midwestern Region. As such, operating trains over the

Line will include the avoidance of Queensgate Yard in Cincinnati, a major classification terminal, will improve transit times, will improve efficiencies, and will improve terminal fluidity for traffic in the Midwestern Region and beyond on CSXT's system.

In addition, joint use of the Line will provide additional capacity between the Midwestern Region and South, allowing CSXT to more efficiently handle expected growth. The preponderance of the trains that will use the Line are automotive trains moving between Louisville, the center of CSXT's automotive network, and production and distribution facilities across CSXT's network.

Light vehicle production is expected to return to about 16 million vehicles in the next five years. Louisville is currently, and is expected to remain, the primary collection and distribution point for automotive traffic moving on CSXT's system. Regardless of production location – whether it occurs in Michigan, Ohio, or the Southeast – CSXT will continue to handle this traffic through Louisville. CSXT's ability to efficiently handle automotive traffic to and from its primary auto-classification yard is critical to providing the level of service required by automotive manufacturers and improving CSXT's efficient handling of automotive traffic.

As CSXT integrates and realizes the benefits of its affiliate's Northwest Ohio Intermodal Terminal Facility and the National Gateway, CSXT expects to provide new and/or expanded intermodal service. CSXT's LCL Subdivision is CSXT's only proprietary double-stack route to Louisville from the north and east. Joint use of the Line will create another route with capacity to provide additional intermodal service. The upgraded Line will enable CSXT to operate longer intermodal trains than it operates on the LCL Subdivision to intermodal terminals.

There are a limited number of Ohio River railroad crossings available to CSXT, thereby

limiting efficient north-south routings. The Line adds another Ohio River Crossing to maintain CSXT's north/south connectivity without incurring additional costs and delays in routing trains around the region.⁸ The Line will allow CSXT to avoid circuitous routes and unnecessary moves in the wrong direction that are currently required to cross the Ohio River. This will improve car utilization and reduce fuel consumption.

(iv) The nature and amount of any new securities or other financial arrangements.

No new securities will be issued by CSXT or L&I in connection with the Proposed Transaction. The Upgrade will be funded for as part of CSXT's annual capital budget.

(2) A detailed discussion of the public interest justifications in support of the application, indicating how the proposed transaction is consistent with the public interest, with particular regard to the relevant statutory criteria, including

(i) The effect of the transaction on inter- and intramodal competition, including a description of the relevant markets (see §1180.7). Include a discussion of whether, as a result of the transaction, there is likely to be any lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States.

Applicants contend that the Proposed Transaction will not reduce competition, create a monopoly, or restrain trade in freight surface transportation in any region of the United States. Rather, Applicants' expect the joint use of the Line will enhance competition by improving CSXT's ability to compete with other railroads, trucks, and other modes of transportation moving freight between Louisville and points north and east of Louisville. CSXT expects to be more efficient and competitive moving traffic between points east and north of Louisville and Louisville. L&I will improve the efficiency of its operation allowing it to provide more

⁸ CSXT currently has two Ohio River crossings on its primary north-south corridors, one at Henderson, KY/Evansville, IN and one at Cincinnati, OH/Covington, KY. The Proposed Transaction will give CSXT an additional crossing at Louisville, KY.

competitive service to its shippers.

The Proposed Transaction will not adversely impact competition. To the contrary, it will provide Applicants with an improved service product that enhances their ability to compete not only with other railroads, but also with freight that currently moves via other modes of transportation, such as long haul and short haul trucking companies.

No shipper will lose competitive service as a result of the Proposed Transaction. The Proposed Transaction will not alter the competitive balance between CSXT and L&I. L&I will serve the same shippers it serves today, only more efficiently. CSXT will operate more efficiently in the markets it already serves because the Proposed Transaction will improve fluidity on the LCL Subdivision and provide CSXT with capacity for future growth. The ability to move overhead traffic over multiple routes between points north and east of Louisville and Louisville will improve the flexibility and reliability of CSXT's network.

L&I will continue to provide overhead and local service over the Line while CSXT will continue to provide overhead service only. Applicants will be able to operate more efficiently in the markets they already serve. The Proposed Transaction will improve the efficiency, consistency, and reliability of Applicants' train operations.

As more shippers turn to rail as a transportation option, increased capacity becomes essential. CSXT's LCL Subdivision is at capacity and there is no practical means of expanding capacity on that line. Acquisition of the perpetual freight easement and joint use of the Line will provide CSXT with more flexibility in routing its trains, thus allowing it to operate more efficiently.

After the Upgrade of the Line, L&I will be able to handle cars with a GWOR of more

than the 263,000 pounds L&I can handle today. The Upgrade will allow L&I to handle the newer more efficient 286,000 GWOR cars on the Line. In addition, L&I will be able to operate over the Line at up to 49 miles per hour. L&I Bridge No. 40.19 will be replaced and a new dispatching system will be installed. CSXT will pay for all of these upgrades. In addition, CSXT and L&I will pay for the maintenance of the Upgrade based on use of the Line. Based on the traffic handled by L&I today, L&I will not reimburse CSXT for the use of the Upgrade. However, if L&I is able to generate new overhead traffic consisting of cars weighing more than 263,000 GWOR cars where CSXT is not involved in the movement of the car, L&I will pay CSXT for use of the Upgrade (certain to certain geographic exclusions).

The Board has indicated that “it would give especially close scrutiny to those interchange commitments that totally ban the lessee/purchasing railroad from interchanging with a third party carrier, and those commitments that were not time-limited.” *Review of Rail Access and Competition Issues—Renewed Petition of the W. Coal Traffic League*, EP 575, slip op. at 13 (STB served Oct. 30, 2007) and *Information Required in Notices and Petitions Containing Interchange Commitments*, EP 714, slip op. at 3 (STB served November 1, 2012). The Agreements do not ban the interchange of traffic between L&I and a third party. L&I will not pay for traffic interchanged with a third party if that traffic moves in cars with a 263,000 pound GWOR or less. L&I will not pay for traffic if CSXT or an affiliate of CSXT is involved in the routing. Essentially, L&I is merely required to pay for use of the Upgrade for cars with a GWOR exceeding 263,000 pounds, traffic it cannot handle today, and traffic that is not interchanged with CSXT or handled in CSXT trains. Indeed, CSXT is merely seeking compensation for the \$70 million to \$90 million cost it will incur in having L&I Upgrade the Line in case one of its

competitors seeks to use the Line.

Use of the Upgrade by L&I for the same traffic it handles today at no charge is perpetual. The charges for handling new traffic with a GWOR exceeding 263,000 pounds, traffic it cannot handle today, and traffic that is not interchanged with CSXT or handled in CSXT trains is also perpetual because of the initial cost that CSXT will incur and the maintenance that CSXT will incur over the years.

Applicants contend that the potential payment from L&I to CSXT for use of the upgrade to handle new traffic with a GWOR exceeding 263,000 pounds, traffic L&I cannot handle today, and traffic that is not interchanged with CSXT or handled in CSXT trains, is not an interchange commitment as the Board has defined that term. Moreover, the proposed payment from L&I to CSXT is reasonable. L&I has voluntarily entered the Transaction Agreement and will receive significant benefits consisting of the \$10 million purchase price for the easement and the \$70 million to \$90 million Upgrade of its Line at CSXT's cost. L&I will be able to use the Line with the Upgrade as it does today at no cost. The public benefits from the infrastructure improvement of the Line and efficiency of the upgraded Line for CSXT and L&I outweigh the cost to L&I of paying for future traffic of a type that it cannot and does not handle today, and would not handle without the Upgrade.

The Board typically reviews the effect of a proposed transaction on geographic and product competition. The geographic area affected by the proposed transaction is the movement of overhead traffic between Louisville and Indianapolis. The product is the rail transportation of freight. In examining the effect of the proposed transaction on geographic competition, the Board examines the effect of the transaction on source competition (*i.e.*, when two carriers can

transport the same product to the same destination but from different origins), or conversely when two carriers transport the same product from the same origin to two different destinations. The Proposed Transaction will not reduce product or geographic competition because all shippers will continue to have the same shipping options that they do today.

(ii) The financial consideration involved in the proposed transaction, and any economies, to be effected in operations, and any increase in traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from the consummation of the proposed transaction.

CSXT will purchase the Easement from L&I for \$10,000,000. CSXT will contribute an estimated \$70,000,000 to \$90,000,000 for the Upgrade within seven years of the closing of the Proposed Transaction. CSXT will make this contribution as part of its ongoing capital expenditures. CSXT will not have to borrow in order to fund either the purchase price for the Easement or the capital costs of the Upgrade.

In order to jointly use the Line with L&I, CSXT will pay L&I a reduced per-car-mile fee to operate over the Line. L&I and CSXT will pay for maintenance, dispatching and other joint facilities on the Line based on usage as provided in the Operating Agreement.

CSXT's use of the Line creates routing flexibility and performance improvements in CSXT's Midwestern Region Network. Most of the traffic carried on the trains that utilize the LCL Subdivision originates or terminates outside of the Midwestern Region. As such, the ability to route trains around the LCL Subdivision, including the avoidance of Queensgate Yard will improve transit times, efficiencies, and terminal fluidity on all traffic throughout CSXT's system.

(iii) The effect of the increase, if any, of total fixed charges resulting from the proposed transaction.

CSXT and L&I do not expect any fixed charges as a result of the proposed transaction.

(iv) The effect of the proposed transaction upon the adequacy of transportation service to the public, as measured by the continuation of essential transportation services by applicants and other carriers.

For the reasons discussed above, the Proposed Transaction will enhance the transportation services to rail customers now served by CSXT by providing CSXT with additional capacity to move overhead traffic between points east and north of Louisville and Louisville. The Proposed Transaction will also enhance the transportation services to those rail customers now served by the L&I by adding capacity and fluidity to the Line.

(v) The effect of the proposed transaction upon applicant carriers' employees (by class or craft), the geographic points where the impact will occur, the time frame of the impact (for at least 3 years after consolidation), and whether any employee protection agreements have been reached.

The Proposed Transaction will have no adverse effect on CSXT and L&I employees. The CSXT trains that will be operated over the Line will continue to be crewed by CSXT employees. CSXT has no plans to discontinue service over its LCL Subdivision or the Indiana Subdivision. L&I trains will continue to be operated by L&I employees. L&I will continue to maintain and dispatch the Line.

In accord with Board precedent, Applicants request the Board impose the labor protective conditions in *Norfolk and Western Railway Co.—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605, 610-15 (1978), *as modified in Mendocino Coast Railway, Inc.—Lease & Operate—California Western Railroad*, 360 I.C.C. 653, 664 (1980).

(vi) The effect of inclusion (or lack of inclusion) in the proposed transaction of other railroads in the territory, under 49 U.S.C. 11324.

Inclusion is not available as a form of relief in a minor transaction. Even if the relief

were available, which it is not, there is no basis for including another railroad in the Proposed Transaction, since there will be no anticompetitive effects.

(3) Any other supporting or descriptive statements applicants deem material.

The Proposed Transaction does not involve the merger or control of at least two Class I rail carriers. Therefore, under Section 11324(d) the Board “shall approve” the transaction unless it finds both that:

- (1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and
- (2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

49 U.S.C. § 11324(d).

Under the governing statutory criteria, the Board’s primary focus is on the probable competitive effects of the Proposed Transaction. *See, e.g., Canadian Pacific Ltd., and Soo Line R.R.—Control—Davenport, Rock Island & North Western Ry.*, ICC Finance Docket No. 32579 (ICC served February 10, 1995), at 5; *Wilmington Term. RR, Inc.—Pur. & Lease—CSX Transp., Inc.*, 6 I.C.C. 2d 799, 803 (1990), *pet. for review denied sub nom. Railway Labor Executives Ass’n v. ICC*, 930 F.2d 511 (6th Cir. 1991). The Board has stated that “our primary focus is on whether there would be adverse competitive impacts that are both likely and substantial.” *CSX Transportation, Inc.—Acquisition of Operating Easement—Grand Trunk Western Railroad Company*, Docket No. FD 35522, slip op. at 5 (served February 8, 2013); and *Canadian National Railway Company and Grand Trunk Corporation-Control-EJ&E West Company*, STB Finance Docket No. 35087, Decision No. 16, slip op. at 13 (STB served December 24, 2008). The public

interest factors are considered only where significant anticompetitive effects are found. *Id.*

Since, as discussed above, there are no significant anticompetitive effects that will result from the Proposed Transaction the Board does not need to consider the public interest factors. However, CSXT contends that the reduced time traveling through the Midwestern Region and accompanying efficiency savings result in a substantial public interest benefit. Service improvements and cost reductions are public benefits. *Union Pacific-Control-Missouri Pacific: Western Pacific*, 366 I.C.C. 459, 489 (1982).

A finding of competitive harm under Section 11324(d)(1) must be grounded on a showing that any adverse competitive effects are both “likely” and “substantial.” *Wisc. Central Transportation Corporation, et al.*, 9 I.C.C.2d 233, 238 (1992). Examples of adverse competitive impacts that would trigger the balancing of the public interest factors under Section 11324(d)(2) “would be the likelihood of significantly higher rates or significantly worsened service, or the likelihood of a combination of the two.” *Blackstone Cap. Partners—Cont. Exempt.—CNW Corp. et al.*, 5 I.C.C.2d 1015, 1019 (1989). The Proposed Transaction will not lead to higher rates or worsened service. In fact, the opposite will occur. The Proposed Transaction will allow CSXT to move its traffic more efficiently, thus providing CSXT with more capacity on its other lines and will provide CSXT with more flexibility in routing traffic. Greater flexibility will allow CSXT to achieve greater efficiencies and will also allow CSXT to provide better service to its shippers. In addition, L&I will be able to provide more efficient service once the Upgrade is complete.

Even though the Board does not need to consider public interest factors, the Proposed Transaction is in the public interest because it will allow CSXT to operate more efficiently in the

Midwestern Region and will reduce congestion on lines that CSXT is using today. CSXT expects to reduce service times through the Midwestern Region by about 130.5 hours per day, with annual savings of about \$11.8 million.

Further support for the Application is contained in the verified statement of Mr. Lawrence L. Ratcliffe in Exhibit 22.

Applicants believe that the information furnished in this application adequately supports the Board's approval of this minor transaction under applicable statutory criteria and Board precedent. Applicants will furnish the Board with any information concerning this Proposed Transaction that it may require, and will participate fully in any proceedings on the Proposed Transaction which the Board deems appropriate.

(4) An opinion of applicants' counsel that the transaction meets the requirements of the law and will be legally authorized and valid, if approved by the Board. This should include specific references to any pertinent provisions of applicants' bylaws or charter or articles of incorporation

See Appendixes 2A and 2B.

(5) A list of the State(s) in which any part of the property of each applicant carrier is situated.

CSXT owns and operates about 21,000 miles of railroad in the States of Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, the District of Columbia, and the Canadian Provinces of Ontario and Québec.

L&I owns and operates approximately 106 route miles in Kentucky and Indiana.

(6) Map (exhibit 1). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relations to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map shall be filed with the Board.

See Exhibit 1 attached hereto.

(7) Explanation of the transaction.

(i) Describe the nature of the transaction (e.g., merger, control, purchase, trackage rights), the significant terms and conditions, and the consideration to be paid (monetary or otherwise).

CSXT proposes to jointly use the Line with L&I after acquiring a perpetual non-exclusive freight railroad operating easement over approximately 106.5 miles of the L&I from its connection with CSXT in Indianapolis, IN, milepost 4.0±, to its connection with CSXT in Louisville, KY, milepost 110.5±. CSXT will pay L&I \$10,000,000 for the easement and intends to contribute an estimated \$70,000,000 to \$90,000,000 in the Upgrade. Under the Easement Agreement and Operating Agreement, CSXT will bear the costs and expenses of upgrading the Line to FRA Class 4, removing 263,000 pound GWOR restrictions, replacing Bridge No. 40.19 at Columbus, IN, and modernizing and improving the L&I's dispatching system.

(ii) Agreement (exhibit 2). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction. In addition, parties to exempt trackage rights agreements and renewal of agreements described at §1180.2(d)(7) must submit one copy of the executed agreement or renewal agreement with the notice of exemption, or within 10 days of the date that the agreement is executed, whichever is later.

A copy of the executed Transaction Agreement is submitted in Exhibit 2 attached hereto.

In addition, unexecuted agreements, some of which are drafts with provisions that continue to be negotiated are also being submitted in Exhibit 2. A copy of the unredacted agreements has been

submitted under seal.

(iii) If a consolidation or merger is proposed, indicate: (A) The name of the company resulting from the consolidation or merger; (B) the State or territory under the laws of which the consolidated company is to be formed or the merged company is to file its certificate of amendment; (C) the capitalization proposed for the resulting company; and (D) the amount and character of capital stock and other securities to be issued.

Not applicable.

(iv) Court order (exhibit 3). If a trustee, receiver, assignee, or personal representative of the real party in interest is an applicant, submit a certified copy of the order, if any, of the court having jurisdiction, authorizing the contemplated action.

Not applicable.

(v) State whether the property involved in the proposed transaction includes all the property of the applicant carriers and, if not, describe what property is included in the proposed transaction.

The Proposed Transaction involves the mainline of the L&I as further described in the Agreements.

(vi) Briefly describe the principal routes and termini of the lines involved, the principal points of interchange on the routes, and the amount of main-line mileage and branch line mileage involved.

There are four CSXT routes that will be affected by the Proposed Transaction.

Louisville – Sidney, OH (via the LCL Subdivision). There are 9 trains a day that run over this route that would be affected by the Proposed Transaction. Trains move from Louisville over the Louisville Terminal Subdivision for 8.6 miles to the connection with the LCL Subdivision then 101.6 miles over the LCL Subdivision to the Cincinnati Terminal Subdivision, where they cross the Ohio River. At Cincinnati trains move over the Cincinnati Terminal Subdivision for 26.5 miles to Hamilton, OH. From Hamilton, trains move over the Toledo

Subdivision for 71.2 miles to Sidney, OH.⁹ This 207.9-mile route takes approximately 17.4 hours, including dwell at both Louisville and Cincinnati per train and must move over the LCL Subdivision and through Queensgate Yard.

Under the Proposed Transaction, trains will move over the Louisville Subdivision in Louisville for 3.0 miles to the joint use Line for 106.5 miles to the connection with CSXT in Indianapolis, at milepost 4.0. From Indianapolis, trains would move over the Indianapolis Terminal Subdivision for 14.4 miles to the Indianapolis Line Subdivision, which extends to the east for 109.9 miles to Sidney. While this 233.8-mile route is slightly longer than the current Louisville to Sidney route, it is expected to save approximately 8.4 hours over the current route because the trains can move faster over the Line than they can over the LCL Subdivision and would avoid congestion in the Cincinnati Terminal. This route also allows trains to avoid the operational challenges of using Queensgate Yard.

Louisville - East St. Louis. There is one train each day that operates over this route that would be affected by the Proposed Transaction. This train operates over the Louisville, Henderson, and St. Louis Subdivision (“LH & STL”) for 136 miles between Louisville and Henderson, KY where the LH&STL connects with the Henderson Subdivision. The train uses 8.3 miles of the Henderson Subdivision to cross the Ohio River, 16.1 miles of the Evansville Terminal Subdivision, and 39.9 miles on the CE&D Subdivision to Vincennes, IN. From Vincennes the train moves over the Illinois Subdivision for 147.4 miles between Vincennes and East St. Louis. This 347.7-mile route takes approximately 22.6 hours per train, inclusive of

⁹ From Sidney, trains will move on their existing routes to destination.

running time and yard dwell.

Under the Proposed Transaction, the train will move from Louisville over Louisville Terminal Subdivision in Louisville for 3.0 miles to the Line. The train would then move north from Louisville over the Line for 106.5 miles to the connection with CSXT in Indianapolis at milepost 4.0. From the connection, the train would move over the Indianapolis Terminal Subdivision for 14.4 miles to Avon, IN.¹⁰ From Indianapolis the train would move west over the St. Louis Line Subdivision for 226.1 miles to East St. Louis. This route is essentially the same distance as the current Louisville to East St. Louis route, but will be faster. This route will save approximately 4 hours per train over the current route.

Louisville – Sidney, OH (via Seymour, IN). There are two trains a day that operate between Louisville and Sidney, by utilizing existing trackage rights over the Line between Louisville and Seymour and then east over CSXT's line to Cincinnati en route to Sidney. Trains operating over this route start in Louisville and operate over 3.0 miles of the Louisville Terminal Subdivision and then over the L&I for 46.8 miles to Seymour. Thence, trains operate east over the Indiana Subdivision for 85.8 miles where these trains enter or bypass Queensgate Yard. From Cincinnati trains move north over the Cincinnati Terminal Subdivision for 24.1 miles to Hamilton, OH. From Hamilton, trains move north over the Toledo Subdivision for 71.2 miles to Sidney. This 230.9-mile trip takes approximately 15.4 hours, including dwell time.

Under the Proposed Transaction, two trains will move over the Louisville Subdivision in Louisville for 3.0 miles to the joint use Line for 106.5 miles north to the connection with CSXT

¹⁰ The Avon Yard is CSXT's major classification terminal and hump yard in the Indianapolis, IN area.

in Indianapolis, at milepost 4.0. From Indianapolis, trains would east move over the Indianapolis Terminal Subdivision for 14.4 miles to the Indianapolis Line Subdivision, which extends to the east for 109.9 miles to Sidney. While this 233.8-mile route is about the same distance as the current Louisville to Sidney route (via Seymour, IN), it will save approximately 6.4 hours in travel time over the current route because the trains can move faster over the Line than they can over the LCL Subdivision and would avoid delay at Cincinnati. This reroute also allows trains to avoid the Queensgate Yard.

As a result of the Proposed Transaction, CSXT will eliminate the two trains that it currently operates over its Indiana Subdivision (between Seymour and Cincinnati) and these trains will operate over the entire Line between Louisville and Indianapolis. CSXT will maintain the ability to enter and exit the Line at Seymour. CSXT has no plans to discontinue service over or abandon the Indiana Subdivision. As a result of the Proposed Transaction, and more specifically the capacity it creates on the LCL Subdivision, CSXT will be able to utilize the LCL Subdivision to accommodate future volume increases and operating needs.

Indianapolis - Louisville. Currently, CSXT does not operate any trains between Indianapolis (Avon Yard) and Louisville. Instead, CSXT traffic that could be more efficiently handled over the Line is routed circuitously between Indianapolis and Louisville, often incurring additional handlings and costs which impact customer service and transit time. From Indianapolis, the traffic moves over Indianapolis Terminal for 11.8 miles to the connection to the Indianapolis Subdivision, and then 98.2 miles east to Hamilton, OH. The traffic then moves 26.5 miles over the Cincinnati Terminal Subdivision, 101.6 miles on the LCL Subdivision to

Louisville, and 8.6 miles over the Louisville Terminal Subdivision. This 246.7-mile route takes approximately 23.6 hours per train (including dwell time) and must move over the LCL Subdivision and through Queensgate Yard. This route takes trains east to Cincinnati to cross the Ohio River only to double back west to Louisville, which is almost directly south of Indianapolis.

Under the Proposed Transaction, CSXT would move enough traffic to operate three new trains per day between Indianapolis and Louisville (one of which will operate to East St. Louis). The trains would move from Avon via the Indianapolis Terminal Subdivision for 14.4 miles to the joint use Line for 106.5 miles to Louisville and over the Louisville Terminal Subdivision for 3.0 miles. This 123.9 mile route is significantly shorter than the routing via Cincinnati and would save CSXT 12.7 hours per train over the current route. Traffic routed this way would also avoid the LCL Subdivision, with its lower speeds, and the congestion associated with Queensgate Yard. Additionally, the route under the Proposed Transaction would provide a much more direct route to Louisville by allowing CSXT to take advantage of the Ohio River crossing at Louisville instead of having to go east to Cincinnati to cross the Ohio River.

Summary. CSXT will use the Line, once it is upgraded to operate 13 additional trains per day between Louisville and Seymour. Fifteen trains per day will be operated between Seymour and Indianapolis. The traffic will take advantage of the more direct uncongested Line. CSXT expects to save about 130.5 hours of transit time per day, resulting in savings of about \$11.8 million per year. Use of the Line will also relieve congestion on other CSXT lines and will enhance the fluidity of the entire CSXT system.

(vii) State whether any governmental financial assistance is involved in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance.

No governmental financial assistance is involved in the Proposed Transaction.

(8) Environmental data (exhibit 4). Submit information and data with respect to environmental matters prepared in accordance with 49 CFR part 1105. In major and significant transaction, applicants shall, as soon as possible, and no later than the filing of a notice of intent, consult with the Board's Section of Environmental Analysis for the proper format of the environmental report.

Applicants have submitted a PDEA to the Board's OEA. Applicants have requested permission to follow the PDEA approach. See Exhibit 4A. OEA granted the request. See Exhibit 4B.

Applicants solicited comments for use in developing the PDEA. See Exhibit 4C. Comments received in response are contained in Exhibit 4D.

Applicants will cooperate with OEA in developing a Draft Environmental Assessment that will be distributed for public comment.

1180.8. Operational Data

(c) For minor transactions: Operating plan-minor (exhibit 15). Discuss any significant changes in patterns or types of service as reflected by the operating plan expected to be used after consummation of the transaction. Where relevant, submit information related to the following:

Once the Upgrade is completed, CSXT intends to operate trains more frequently on the Line than are currently operated by L&I and CSXT today, including: trains from CSXT's Louisville to Sidney¹¹ route (via the LCL Subdivision); trains from CSXT's Louisville to East St. Louis route; trains from CSXT's Louisville to Sidney route (via Seymour); and traffic from CSXT's current Indianapolis to Louisville route. Additional capacity will come from additional available train slots and the ability to run longer trains. See Exhibit 15.

¹¹ From Sidney, trains will move on their existing routes to destination.

(1) Traffic level density on lines proposed for joint operations.

On the Line today, two L&I trains operate between Indianapolis and Seymour, IN; four trains (two L&I and two CSXT) operate between Seymour and Jeffersonville, IN; and seven trains (five L&I and two CSXT) operate between Jeffersonville, IN and Louisville, KY. Under the Proposed Transaction, once the Upgrade is completed there will be 17 trains (two L&I and 15 CSXT) per day operating between Indianapolis and Jeffersonville, IN; and 20 trains (five L&I and 15 CSXT) per day operating between Jeffersonville, IN and Louisville, KY. The Upgrade of the entire Line is expected to be completed within seven years of the consummation of the Proposed Transaction, with the Upgrade between Louisville and Seymour being completed within four years. See Section 3 of the Easement Agreement and Sections 3 and 8 of Attachment D – Upgrade of the L&I Line to the Operating Agreement.

(2) Impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated, or operated on a consolidated basis.

No adverse impacts on commuter or other passenger service are anticipated. No lines will be downgraded, eliminated, or operated on a consolidated basis. Pursuant to Section 2(I) of the Operating Agreement, L&I generally “retains all rights with respect to the conducting of revenue passenger operations on the” Line.

(3) Operating economies, which include, but are not limited to, estimated savings.

CSXT expects operating economies as a result of the transaction. Acquisition of the Easement will enable CSXT to have greater flexibility over the handling of its trains through its network by providing CSXT with an alternate route between the Southeast and Midwestern Region, and will provide CSXT with greater rail capacity in the Midwestern Region. The more

direct route, greater routing flexibility, and increased rail capacity will allow CSXT trains to move more quickly through the area. The increased flexibility will improve car utilization, and reduce fuel consumption. CSXT estimates that it will save approximately 130.5 hours of transit time per day, resulting in savings of about \$11.8 million per year.

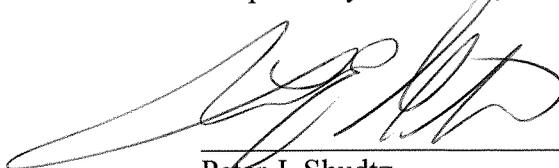
(4) Any anticipated discontinuances or abandonments.

CSXT and L&I do not anticipate discontinuing service over or abandoning any of their rail lines as a result of the Proposed Transaction.

CONCLUSION

CSXT and L&I respectfully request the Board to accept the Application, determine that this is an Application for a minor transaction, and grant this Application subject to the conditions for the protection of employees in *Norfolk and Western Railway Co.—Trackage Rights—Burlington Northern, Inc., 354 I.C.C. 605, 610-15 (1978), as modified in Mendocino Coast Railway, Inc.—Lease & Operate—California Western Railroad, 360 I.C.C. 653, 664 (1980).*

Respectfully submitted,



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Attorneys for: Louisville &
Indiana Railroad Company, Inc.

Attorneys for: CSX Transportation, Inc.

Dated: June 14, 2013

VERIFICATION

I, Christopher Maffett, declare under penalty of perjury that the foregoing is true and correct, with respect to CSX Transportation, Inc. Further, I certify that I am qualified and authorized to make this verification and to file this Application.



Christopher Maffett

June 13, 2013

VERIFICATION

I, Michael Stolzman, declare under penalty of perjury that the foregoing is true and correct, with respect to Louisville & Indiana Railroad Company, Inc. Further, I certify that I am qualified and authorized to make this verification and to file this application.

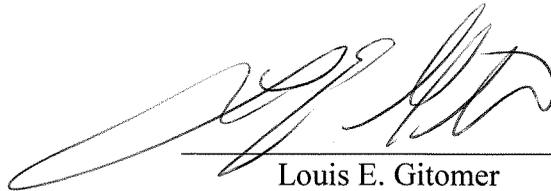


Michael Stolzman

June 13, 2013

CERTIFICATE OF SERVICE

I hereby certify that I have caused the Application in Finance Docket 35523, *CSX Transportation, Inc.—Joint Use—Louisville & Indiana Railroad Company, Inc.* to be served by first class mail, postage pre-paid on the Secretary of the United States Department of Transportation, the Attorney General of the United States, the Federal Trade Commission and the Governors, Public Service Commission, and Departments of Transportation of the States of Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, and the District of Columbia.



Louis E. Gitomer
June 14, 2013

INDEX TO APPENDIXES AND EXHIBITS

APPENDIXES

- Appendix 1 Impacts of the proposed transaction upon carrier employees.
- Appendix 2A Opinion of Counsel for Louisville & Indiana Railroad Company, Inc.
- Appendix 2B Opinion of Counsel for CSX Transportation, Inc.

EXHIBITS

- Exhibit 1 Maps. Color Exhibit at end of Volume 1.
- Exhibit 2 Agreement between Applicants. See Volume 2.
- Exhibit 4 Environmental Information.
 - Exhibit 4A – Waiver Request to Prepare PDEA
 - Exhibit 4B – Grant of Waiver to Prepare PDEA
 - Exhibit 4C – Consultation Letters
 - Exhibit 4D – Public Comments
- Exhibit 15 Minor Transaction Operating Plan.
- Exhibit 22 Verified Statement of Lawrence L. Ratcliffe.

APPENDIX 1-Impacts of the proposed transaction upon carrier employees.

CSX Transportation Inc.

Employees Affected by the Proposed Transaction

Current Location	Job Classification/Craft	Jobs Transferred	Jobs Abolished	Jobs Created	Year
There will be no CSXT employees Affected by the Proposed Transaction		0	0	0	2014
		0	0	0	2015
		0	0	0	2016

APPENDIX 1-Impacts of the proposed transaction upon carrier employees.

Louisville & Indiana Railroad Company, Inc.

Employees Affected by the Proposed Transaction

Current Location	Job Classification/Craft	Jobs Transferred	Jobs Abolished	Jobs Created	Year
There will be no L&I employees Affected by the Proposed Transaction		0	0	0	2014
		0	0	0	2015
		0	0	0	2016

Appendix 2A-Opinion of Counsel for Louisville & Indiana Railroad Company, Inc.

ANACOSTIA RAIL HOLDINGS
COMPANY

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224 S. Michigan Ave., Suite 600
Chicago, IL 60604
TEL: (312) 341-1026
FAX: (312) 431-0828

555 Fifth Avenue, 17th Floor
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June 13, 2013

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

Re: Docket No. FD-35523, *CSX Transportation, Inc.—Joint Use—Louisville & Indiana Railroad Company, Inc.*

Dear Ms. Brown:

As counsel for the Louisville & Indiana Railroad Company, Inc. (“L&I”), I am familiar with the Application for the joint use of the L&I’s 106.5 miles from its connection with CSXT in Indianapolis, IN, milepost 4.0±, to its connection with CSXT in Louisville, KY, milepost 110.5±, including designated sidings and turnouts, by CSXT and L&I and am of the opinion that the transaction described in said Application meets the requirements of law and will be legally authorized and valid, if approved by the Board.

Very truly yours,



Mark H. Sidman
General Counsel
1701 Pennsylvania Avenue, NW
Suite 300
Washington DC 20006

Opinion of Counsel for CSX Transportation, Inc.



Law Department
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Jacksonville, Florida 32202
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Email: Steven_Armbrust@csx.com

Steven C. Armbrust
Assistant General Counsel-Regulatory
Corporate & Transportation Law

Admitted in NY – Not Admitted in FL
FL Authorized House Counsel

June 13, 2013

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

Re: Docket No. FD-35523, *CSX Transportation, Inc.—Joint Use—Louisville
& Indiana Railroad Company*

Dear Ms. Brown:

As counsel for CSX Transportation, Inc. (“CSXT”), I am familiar with the Application for the joint use of Louisville & Indiana Railroad Company’s (“L&I”) 106.5 mile line of railroad from its connection with CSXT in Indianapolis, IN, milepost 4.0±, to its connection with CSXT in Louisville, KY, milepost 110.5±, including designated sidings and turnouts, by CSXT and L&I and am of the opinion that the transaction described in said Application meets the requirements of law and will be legally authorized and valid, if approved by the Board.

Very truly yours,

A handwritten signature in black ink, appearing to read "Steven C. Armbrust".

Steven C. Armbrust
Assistant General Counsel

EXHIBIT 1-MAPS.

See Color Exhibits at end of Volume 1

Exhibit 2- Agreement between CSXT and L&I.

See Volume 2.

EXHIBIT 4-ENVIRONMENTAL DOCUMENTS

EXHIBIT 4A – WAIVER REQUEST TO PREPARE PDEA

LAW OFFICES OF
LOUIS E. GITOMER, LLC.

LOUIS E. GITOMER
Lou@lgraillaw.com

May 20, 2013

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MELANIE B. YASBIN
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410-296-2225

Ms. Victoria Rutson
Director
Office of Environmental Assessment
Surface Transportation Board
395 E Street, S.W.
Washington, D. C. 20423

RE: Finance Docket No. 35523, *CSX Transportation, Inc.—Joint Use—
Louisville & Indiana Railroad Company, Inc.*

Dear Ms. Rutson:

CSXT Transportation, Inc. (“CSXT”) seeks your approval to prepare a Preliminary Draft Environmental Assessment (“PDEA”) in connection with the environmental review of the Proposed Transaction, as defined below.

CSXT and the Louisville & Indiana Railroad Company, Inc. (“L&I”) propose to file on or about May 31, 2011, a minor application under 49 U.S.C. §11323(a)(6) and 49 C.F.R. Part 1180 seeking approval from the Surface Transportation Board (the “Board”) for the joint use by CSXT and L&I of L&I’s 106.5-mile railroad line between its connection with CSXT in Indianapolis, IN, milepost 4.0±, and its connection with CSXT in Louisville, KY, milepost 110.5±, including designated sidings and turnouts, (the “Line”). In order to jointly use the Line with L&I, CSXT seeks authority to acquire and jointly use a perpetual non-exclusive freight railroad operating easement over the Line (the “Easement”). A map of the Proposed Transaction is shown on the Attachment.

CSXT conferred with the Office of Environmental Assessment (“OEA”) on February 17, 2011. As a result of that consultation, CSXT proposes that, with OEA’s guidance, CSXT prepare a PDEA for the Proposed Transaction. The PDEA will be prepared by CSXT’s environmental consultants, HDR Engineering, Inc. (“HDR”), under guidance provided by OEA. The PDEA will serve as the basis for the environmental documentation to be prepared by OEA. Preparation of such a PDEA would be consistent with the regulations of the Council on Environmental Quality at 40 C.F.R. §1506.5(b), which specifically contemplate preparation of an environmental assessment (“EA”) by an applicant.

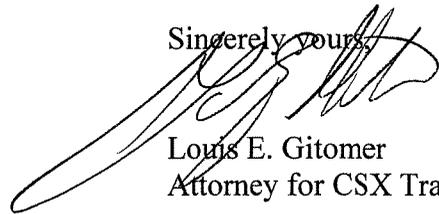
Ms. Victoria Rutson
May 20, 2013
Page 2

CSXT's objective in preparing the PDEA is to submit a document of such quality and accuracy as to conform fully with OEA's requirements for such documents. CSXT anticipates that OEA would verify the information submitted in the PDEA and independently evaluate the environmental impacts of the Proposed Transaction. In this manner, CSXT expects that OEA's independent verification and evaluation would confirm that the PDEA could be adopted, with a minimum of revision, as OEA's own EA. OEA would then issue its EA for public review and comment within a 30-day period and subsequently make final recommendations to the Board.

Please let me know if (i) the PDEA approach set forth in this letter conforms with your understanding, and (ii) CSXT may proceed to work, consistent with that approach and in consultation with your office and HDR, on a PDEA regarding the Proposed Transaction. We look forward to working together with OEA on this environmental review process.

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

Sincerely yours,



Louis E. Gitomer
Attorney for CSX Transportation, Inc.

Enclosures

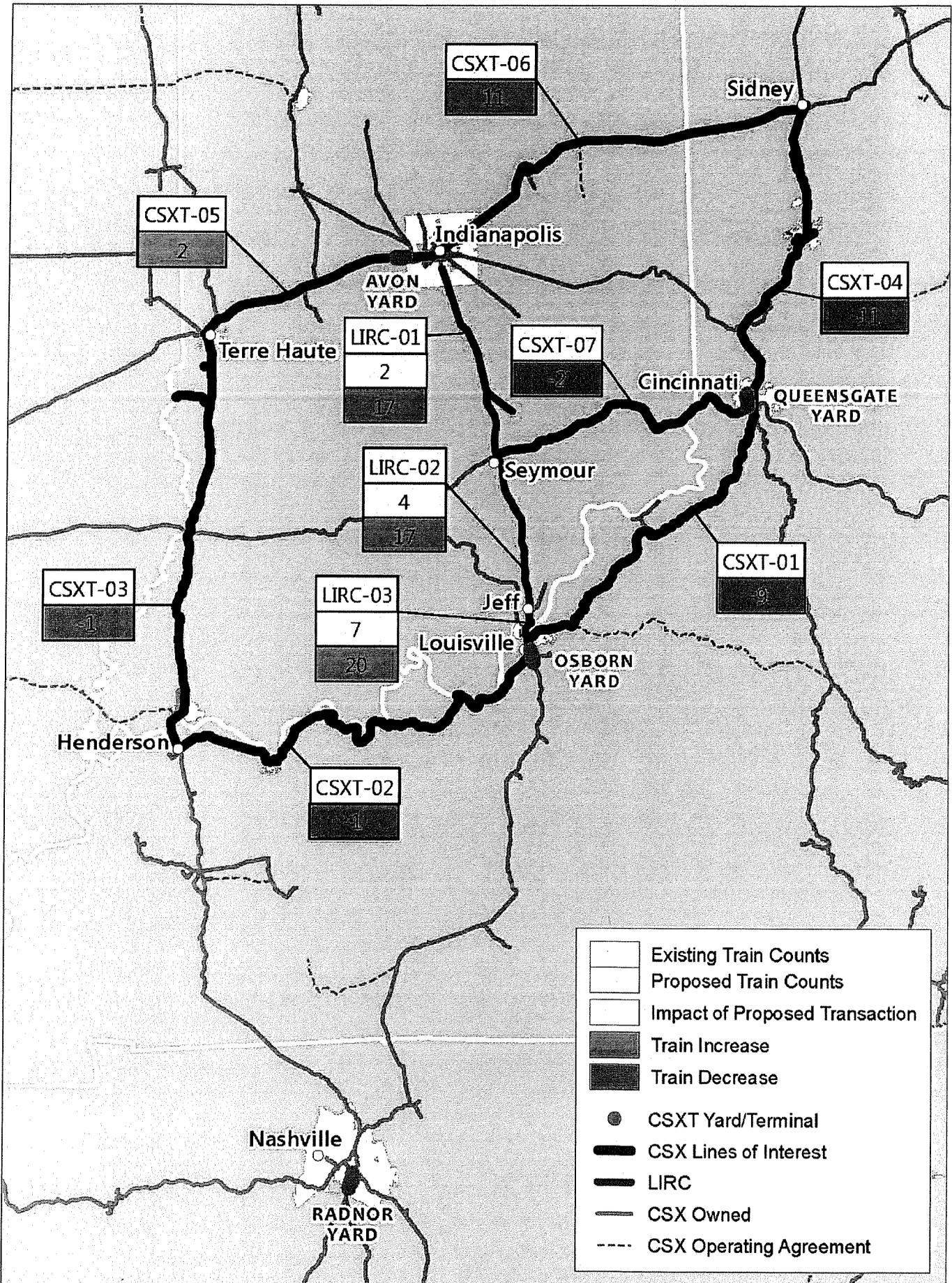


EXHIBIT 4B – GRANT OF WAIVER TO PREPARE PDEA

SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

June 4, 2013

Louis E. Gitomer, Esq.
600 Baltimore Avenue, Suite 301
Towson, MD 21204

RE: Finance Docket No. 35523, CSX Transportation, Inc. – Joint Use –
Louisville & Indiana Railroad Company, Inc.; Approval of Request to
Submit a Preliminary Draft Environmental Assessment

Dear Mr. Gitomer:

I am responding to your letter of May 20, 2013, in which you request that CSX Transportation (CSXT) prepare a Preliminary Draft Environmental Assessment (PDEA) for submission to the Surface Transportation Board's (Board) Office of Environmental Analysis (OEA) in lieu of the environmental and historic reports required under the Board's environmental rules at 49 C.F.R. §§1105.7 and 1105.8. For the reasons set forth below, I am granting your request.

Your letter indicates that on or about May 31, 2013, CSXT plans to file a minor application with the Board under 49 U.S.C. §11323(a)(6) and 49 C.F.R. Part 1180. Specifically, you state that CSXT will seek Board authority for the joint use by CSXT and the Louisville & Indiana Railroad Company (L&I) of L&I's railroad line between its connection with CSXT in Indianapolis, Indiana at milepost 4.0±, and its connection with CSXT in Louisville, Kentucky at milepost 110.5±, including designated sidings and turnouts (the Line). You also state that in order to jointly use the Line with L&I, CSXT will seek authority to jointly use a perpetual non-exclusive freight railroad operating easement over the Line (the Easement).

Based on a prior discussion of February 17, 2011, OEA concurs with your request to submit a PDEA. The PDEA will serve as an administrative draft for OEA, which is responsible for ensuring the Board's compliance with the National Environmental Policy Act. OEA will independently review the PDEA and make appropriate recommendations to the Board, including recommendations to mitigate potential environmental impacts. OEA will then issue a Draft Environmental Assessment (EA) based upon the PDEA for a 30-day public review and comment period. Following the public review and comment period, OEA will prepare a Final EA containing OEA's final recommendations to the Board.

The Council on Environmental Quality (CEQ) regulations at 40 C.F.R. §1506.5(b) specifically contemplate that an agency may permit an applicant to prepare an EA. The agency, however, must make its own evaluation of the environmental issues and take responsibility for the scope and content of the EA. Therefore, as stated above, OEA will conduct an independent analysis and verification of the EA, including any proposed mitigation measures. OEA has ultimate responsibility for the environmental document; therefore, the extent to which OEA may adopt all or portions of the PDEA as the Draft EA will be determined after you have submitted the PDEA to, and it has been reviewed by, OEA.

If during the environmental review process it becomes clear that potentially significant adverse environmental effects would result from the project and could not be adequately mitigated, OEA would then be required under CEQ regulations and the Board's environmental rules at 49 C.F.R. 1105(6)(a) to prepare a more detailed Environmental Impact Statement (EIS). Should this occur, OEA will inform you of that decision. OEA would then use the PDEA as an informational submittal and determine if it has the resources to prepare an EIS in a timely and expeditious manner, or whether it would be more appropriate for the applicant to retain a third-party contractor to prepare the EIS under OEA's direct control and supervision to assist OEA in the environmental review process.

Thank you for initiating early consultation for the proposed undertaking. If you have any questions or would like to discuss this matter further, please contact Dave Navecky of my staff at (202) 245-0294 or email at naveckyd@stb.dot.gov

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is written in a cursive, flowing style.

Victoria Rutson
Director
Office of Environmental Analysis

**EXHIBIT 4C – CONSULTATION LETTERS
(WITHOUT MAPS)**



July 11, 2011

Captain Larry Hewett
Eighth District Coast Guard
Sector Ohio Valley
600 Martin Luther King Place
Room 409-D
Louisville, KY 40202-2242

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Captain Hewett:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

The proposed project includes rehabilitation of the Line to FRA Class IV, which will allow freight trains to operate at up to 49 miles per hour and the movement of 286,000 lbs. (286K) carloads including double stack intermodal trains. The rehabilitation is planned to occur over a period of time that may be up to seven years. All of the rehabilitation will be limited to work upon and within existing railroad right of way.

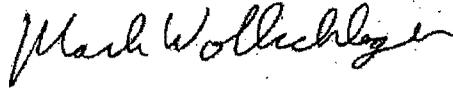
Once the rehabilitation is completed, CSXT intends to reroute trains from its other lines in the Illinois, Indiana, Ohio, Tennessee, and Kentucky region over the Line. The reroute of trains will reduce the use of certain parts of CSXT's current network, specifically that between Louisville, KY and Cincinnati, OH, and create additional capacity on that route. CSXT plans to add up to 15 trains per day between Indianapolis and Seymour, IN; 13 trains per day between Seymour and Jeff Yard, IN; and 16 trains per day between Jeff Yard, IN and Louisville, KY.

As part of the application process CSXT will submit a Preliminary Draft Environmental Assessment (the "PDEA") to the Board's Office of Environmental Analysis ("OEA"). The PDEA will discuss land use, hazardous material, hazardous waste sites, socioeconomic, geology & soils, water resources, biological resources, cultural resources, environmental justice, transportation (including the local road network and grade crossing delay & safety), air quality & climate, noise & vibration, energy resources, and proposed mitigation. Attached is a map of the proposed transaction.

CSXT is soliciting your input to assist us with the identification of possible economic, social, or environmental effects that should be considered in preparation of the PDEA. It is anticipated that the STB's OEA will use this information in preparing an Environmental Assessment ("EA") for the proposed transaction. The EA will be prepared pursuant to the National Environmental Policy Act and related environmental laws, including the National Historic Preservation Act. On behalf of CSXT, we request your input by August 1, 2011. Replies should be addressed to:

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive, flowing style.

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Board of Commissioners
Bartholomew County
440 3rd Street
Columbus, IN 47201

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

To the Board of Commissioners:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

The proposed project includes rehabilitation of the Line to FRA Class IV, which will allow freight trains to operate at up to 49 miles per hour and the movement of 286,000 lbs. (286K) carloads including double stack intermodal trains. The rehabilitation is planned to occur over a period of time that may be up to seven years. All of the rehabilitation will be limited to work upon and within existing railroad right of way.

Once the rehabilitation is completed, CSXT intends to reroute trains from its other lines in the Illinois, Indiana, Ohio, Tennessee, and Kentucky region over the Line. The reroute of trains will reduce the use of certain parts of CSXT's current network, specifically that between Louisville, KY and Cincinnati, OH, and create additional capacity on that route. CSXT plans to add up to 15 trains per day between Indianapolis and Seymour, IN; 13 trains per day between Seymour and Jeff Yard, IN; and 16 trains per day between Jeff Yard, IN and Louisville, KY.

As part of the application process CSXT will submit a Preliminary Draft Environmental Assessment (the "PDEA") to the Board's Office of Environmental Analysis ("OEA"). The PDEA will discuss land use, hazardous material, hazardous waste sites, socioeconomics, geology & soils, water resources, biological resources, cultural resources, environmental justice, transportation (including the local road network and grade crossing delay & safety), air quality & climate, noise & vibration, energy resources, and proposed mitigation. Attached is a map of the proposed transaction.

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Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive, flowing style.

Mark Wollschlager
Project Manager

Attachment

July 11, 2011

Mr. John A. Barrett
Citizen Potawatomi Nation
1601 S. Gordon Cooper Drive
Shawnee, OK 74801

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Barrett:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

The proposed project includes rehabilitation of the Line to FRA Class IV, which will allow freight trains to operate at up to 49 miles per hour and the movement of 286,000 lbs. (286K) carloads including double stack intermodal trains. The rehabilitation is planned to occur over a period of time that may be up to seven years. All of the rehabilitation will be limited to work upon and within existing railroad right of way.

Once the rehabilitation is completed, CSXT intends to reroute trains from its other lines in the Illinois, Indiana, Ohio, Tennessee, and Kentucky region over the Line. The reroute of trains will reduce the use of certain parts of CSXT's current network, specifically that between Louisville, KY and Cincinnati, OH, and create additional capacity on that route. CSXT plans to add up to 15 trains per day between Indianapolis and Seymour, IN; 13 trains per day between Seymour and Jeff Yard, IN; and 16 trains per day between Jeff Yard, IN and Louisville, KY.

As part of the application process CSXT will submit a Preliminary Draft Environmental Assessment (the "PDEA") to the Board's Office of Environmental Analysis ("OEA"). The PDEA will discuss land use, hazardous material, hazardous waste sites, socioeconomic, geology & soils, water resources, biological resources, cultural resources, environmental justice, transportation (including the local road network and grade crossing delay & safety), air quality & climate, noise & vibration, energy resources, and proposed mitigation. Attached is a map of the proposed transaction.

CSXT is soliciting your input to assist us with the identification of possible economic, social, or environmental effects that should be considered in preparation of the PDEA. It is anticipated that the STB's OEA will use this information in preparing an Environmental Assessment ("EA") for the proposed transaction. The EA will be prepared pursuant to the National Environmental Policy Act and related environmental laws, including the National Historic Preservation Act. On behalf of CSXT, we request your input by August 1, 2011. Replies should be addressed to:

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Doug Campbell
City of Austin
City Hall
80 W. Main Street
Austin, IN 47102

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Campbell:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

The proposed project includes rehabilitation of the Line to FRA Class IV, which will allow freight trains to operate at up to 49 miles per hour and the movement of 286,000 lbs. (286K) carloads including double stack intermodal trains. The rehabilitation is planned to occur over a period of time that may be up to seven years. All of the rehabilitation will be limited to work upon and within existing railroad right of way.

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Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Fred Armstrong
City of Columbus
City Hall
123 Washington Street
Columbus, IN 47201

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Armstrong:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

The proposed project includes rehabilitation of the Line to FRA Class IV, which will allow freight trains to operate at up to 49 miles per hour and the movement of 286,000 lbs. (286K) carloads including double stack intermodal trains. The rehabilitation is planned to occur over a period of time that may be up to seven years. All of the rehabilitation will be limited to work upon and within existing railroad right of way.

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HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large, sweeping initial "M".

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Fred L. Paris
City of Franklin
Mayor's Office
70 E. Monroe
Franklin, IN 46131

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Paris:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

The proposed project includes rehabilitation of the Line to FRA Class IV, which will allow freight trains to operate at up to 49 miles per hour and the movement of 286,000 lbs. (286K) carloads including double stack intermodal trains. The rehabilitation is planned to occur over a period of time that may be up to seven years. All of the rehabilitation will be limited to work upon and within existing railroad right of way.

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Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive, flowing style.

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Charles Henderson
City of Greenwood
Mayor's Office
2 N. Madison Street
Greenwood, IN 46142

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Henderson:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large initial "M".

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Ryan Vaughn
City of Indianapolis and Marion County
City-County Council
200 E. Washington Street
Room 241
Indianapolis, IN 46204

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Vaughn:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large, stylized initial "M".

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Tom Galligan
City of Jeffersonville
City Hall
500 Quartermaster Court
Jeffersonville, IN 47129

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Galligan:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive, flowing style.

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Craig Luedeman
City of Seymour
City Hall
301-309 N. Chestnut Street
Seymour, IN 47274

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Luedeman:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Sincerely,

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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Dr. Robin Thomas
City of Southport
Mayor's Office
6091 Derbyshire Road
Southport, IN 46222-5133

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Dr. Thomas:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Mark Wollschlager
Project Manager

Attachment

July 11, 2011

Board of Commissioners
Clark County
501 E. Court Avenue
Jeffersonville, IN 47130

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

To the Board of Commissioners:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Minneapolis, MN 55416-3636
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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Kent Anderson
Columbus Area Metropolitan Planning Organization
Executive Office
123 Washington Street
Columbus, IN 47201

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Anderson:

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Suite 600
Minneapolis, MN 55416-3636
or by email to:
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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Mike Hill
Commonwealth of Kentucky
Transportation Cabinet
125 Holmes Street
Frankfort, KY 40622

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Hill:

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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. R. Bruce Scott
Commonwealth of Kentucky
Department for Environmental Protection
300 Fair Oaks Lane
Frankfort, KY 40601

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Scott:

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701 Xenia Avenue South
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Minneapolis, MN 55416-3636
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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Commonwealth of Kentucky
State Clearinghouse
700 Capitol Avenue
Frankfort, KY 40601

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

To the State Clearinghouse:

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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Gene Kiser
Commonwealth of Kentucky
Office of Homeland Security
200 Metro Street
Frankfort, KY 40622

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Kiser:

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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Craig Potts
Commonwealth of Kentucky
Kentucky Heritage Council
300 Washington Street
Frankfort, KY 40601

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Potts:

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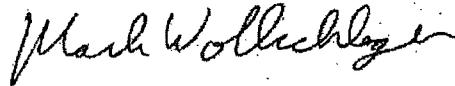
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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Kerry Holton
Delaware Nation
P.O. Box 825
Anadarko, OK 73005

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Holton:

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Sincerely,

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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Mitchell Hicks
Eastern Band of Cherokee Indians
Qualla Boundary
P.O. Box 455
Cherokee, NC 28719

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Hicks:

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Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Harold Frank
Forest County Potawatomi Community
P.O. Box 340
Crandon, WI 54520

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Frank:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive, flowing style.

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Kenneth Meshigaud
Hannahville Indian Community
N 14911 Hannahville B1 Road
Wilson, MI 49896-9728

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Meshigaud:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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701 Xenia Avenue South
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or by email to:
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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Thomas Easterly
State of Indiana
Department of Environmental Management
Office of the Commissioner
100 N. Senate Avenue
Room IGCN 1301
Indianapolis, IN 46204

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Easterly:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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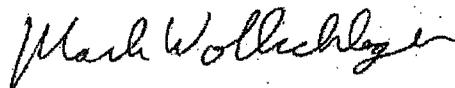
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Sincerely,

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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Dr. James Glass
State of Indiana
Department of Natural Resources
Division of Historic Preservation and Archaeology
402 W. Washington Street
Room W274
Indianapolis, IN 46204

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Dr. Glass:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Mike Molnar
State of Indiana
Department of Natural Resources
Division of Water, Coastal Zone Management
402 W. Washington Street
Room W246
Indianapolis, IN 46204

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Molnar:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Ms. Venetta Keefe
State of Indiana
Department of Transportation
100 N. Senate Avenue
ICGN Room N-955
Indianapolis, IN 46204

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Ms. Keefe:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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701 Xenia Avenue South
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Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large, prominent "M" and "W".

Mark Wollschlager
Project Manager

Attachment

July 11, 2011

Mr. Michael Riley
State of Indiana
Department of Transportation
100 N Senate Avenue
ICGN Room N-955
Indianapolis, IN 46204

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Riley:

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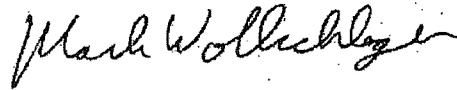
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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Joe Wainscott
State of Indiana
Department of Homeland Security
302 W. Washington Street
Room E-208
Indianapolis, IN 46204

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Wainscott:

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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Andrew Norris
State of Indiana
Department of Intergovernmental Affairs
Office of the Commissioner
200 W. Washington Street
Room 206
Indianapolis, IN 46204

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Norris:

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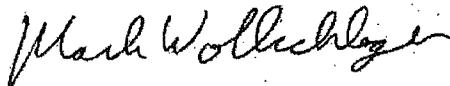
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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

State of Indiana
State Clearinghouse
Indiana Department of Transportation, Railroad Section
100 N. Senate Avenue
IGC-N Room N901
Indianapolis, IN 46204

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

To the State Clearinghouse:

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Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large initial "M".

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Ms. Lori Miser
Indianapolis Metropolitan Planning Organization
Executive Office
200 W. Washington Street
Suite 1922
Indianapolis, IN 46204

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Ms. Miser:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

The proposed project includes rehabilitation of the Line to FRA Class IV, which will allow freight trains to operate at up to 49 miles per hour and the movement of 286,000 lbs. (286K) carloads including double stack intermodal trains. The rehabilitation is planned to occur over a period of time that may be up to seven years. All of the rehabilitation will be limited to work upon and within existing railroad right of way.

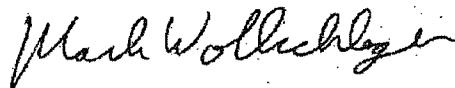
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As part of the application process CSXT will submit a Preliminary Draft Environmental Assessment (the "PDEA") to the Board's Office of Environmental Analysis ("OEA"). The PDEA will discuss land use, hazardous material, hazardous waste sites, socioeconomic, geology & soils, water resources, biological resources, cultural resources, environmental justice, transportation (including the local road network and grade crossing delay & safety), air quality & climate, noise & vibration, energy resources, and proposed mitigation. Attached is a map of the proposed transaction.

CSXT is soliciting your input to assist us with the identification of possible economic, social, or environmental effects that should be considered in preparation of the PDEA. It is anticipated that the STB's OEA will use this information in preparing an Environmental Assessment ("EA") for the proposed transaction. The EA will be prepared pursuant to the National Environmental Policy Act and related environmental laws, including the National Historic Preservation Act. On behalf of CSXT, we request your input by August 1, 2011. Replies should be addressed to:

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,



Mark Wollschlager
Project Manager

Attachment



ONE COMPANY | *Many Solutions*

July 11, 2011

Board of Commissioners
Jackson County
111 S. Main Street
Brownstown, IN 47220

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

To the Board of Commissioners:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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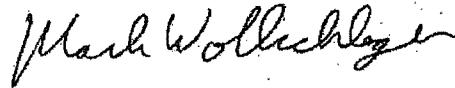
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HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Board of Commissioners
Johnson County
86 W. Court Street
Franklin, IN 46131

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

To the Board of Commissioners:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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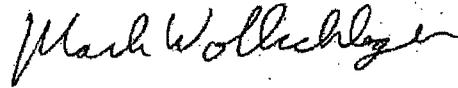
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701 Xenia Avenue South
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or by email to:
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Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large initial "M".

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Russell Bradley
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas
1107 Goldfinch Road
Horton, KS 66439

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Bradley:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Suite 600
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or by email to:
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Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large initial "M".

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Gilbert Salazar
Kickapoo Tribe of Oklahoma
P.O. Box 70
McLoud, OK 74851

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Salazar:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large initial "M".

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Jack Couch
Kentucky-Indiana Regional Planning & Development Agency
Executive Office
11520 Commonwealth Drive
Louisville, KY 40299

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Couch:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Minneapolis, MN 55416-3636
or by email to:
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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Greg Fischer
Louisville Metro
Mayor's Office
527 W. Jefferson Street
Louisville, KY 40202

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Fischer:

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Minneapolis, MN 55416-3636
or by email to:
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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Thomas Gamble
Miami Tribe of Oklahoma
P.O. Box 1326
Miami, OK 74355

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Gamble:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Richard Harnish
Midwest High Speed Rail Association
4765 N. Lincoln Avenue
Chicago, IL 60625

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Harnish:

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Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large initial "M".

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Gilbert Mitchell
National Oceanic & Atmospheric Administration
National Geodetic Survey, Geodetic Services Division
Room 9292 NGS12
1315 East-West Highway
Silver Spring, MD 20910

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Mitchell:

CSX Transportation, Inc. ("CSX1") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. John Ballard
Ottawa Tribe of Oklahoma
P.O. Box 110
Miami, OK 74355

Re: Finance Docket No.35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Ballard:

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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. John P. Froman
Peoria Tribe of Indians of Oklahoma
P.O. Box 1527
Miami, OK 74355

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Froman:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

The proposed project includes rehabilitation of the Line to FRA Class IV, which will allow freight trains to operate at up to 49 miles per hour and the movement of 286,000 lbs. (286K) carloads including double stack intermodal trains. The rehabilitation is planned to occur over a period of time that may be up to seven years. All of the rehabilitation will be limited to work upon and within existing railroad right of way.

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Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large initial "M".

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Matthew J. Wasaw
Pokagon Band of Potawatomi Indians
P.O. Box 180
Dowagiac, MI 49047

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Wasaw:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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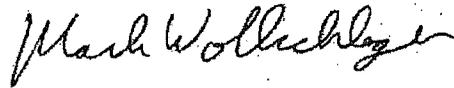
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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Steve Ortiz
Prairie Band of Potawatomi Nation
16281 Q Road
Mayetta, KS 66509

Re: Finance Docket No.35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Ortiz:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Mark Wollschlager
Project Manager

Attachment

July 11, 2011

Board of Commissioners
Scott County
One E. McClain Avenue
Scottsburg, IN 47170

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

To the Board of Commissioners:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Suite 600
Minneapolis, MN 55416-3636
or by email to:
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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Ron Sparkman
Shawnee Tribe
P.O. Box 189
Miami, OK 74354

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Sparkman:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Mark Wollschlager
Project Manager

Attachment

July 11, 2011

Mr. Michael W. Franke
State & Commuter Partnerships, Central (Amtrak)
National Railroad Passenger Corporation
525 W. Van Buren Street
Chicago, IL 60607

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Franke:

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Mark Wollschlager
Project Manager

Attachment

July 11, 2011

Mr. Ron Hoffman
Town of Edinburgh
Town Hall
P.O. Box 65
Edinburgh, IN 46124-0065

Re: Finance Docket No.35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Hoffman:

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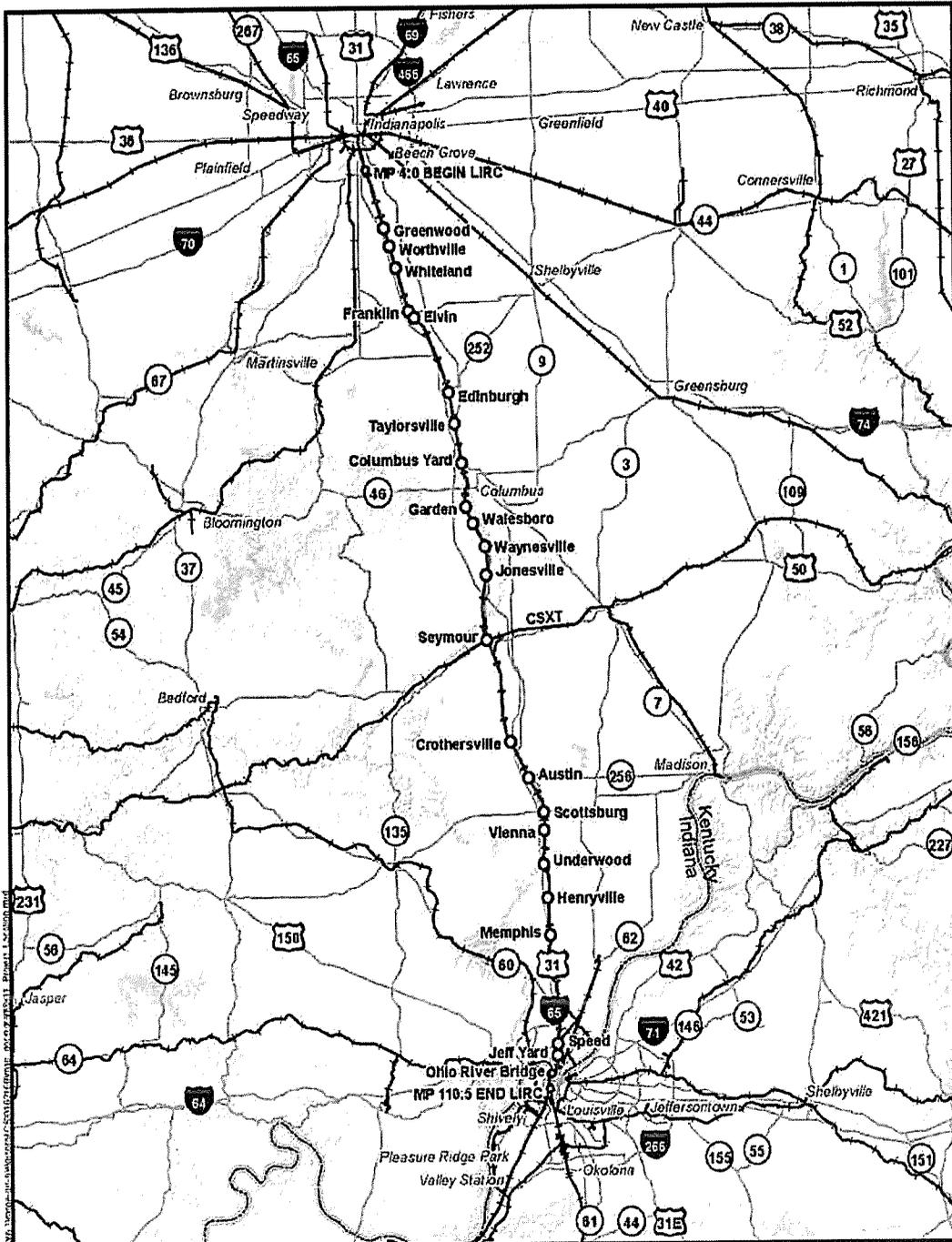
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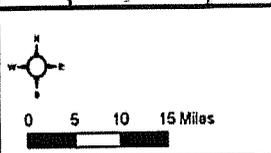
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Mark Wollschlager
Project Manager

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- Legend**
- Station
 - Point of Interest
 - LIRC
 - Other Railroad
 - ▭ State Boundary
 - ▭ Municipal Boundary

Project Location



July 11, 2011

Mr. Dennis Capozzi
Town of Whiteland
Town Hall
549 Main Street
Whiteland, IN 46184-1552

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Capozzi:

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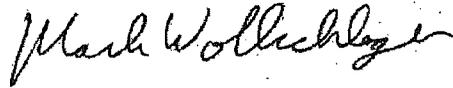
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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. David Vela
U.S. National Park Service
Southeast Region
100 Alabama Street, SW
Atlanta, GA 30303

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

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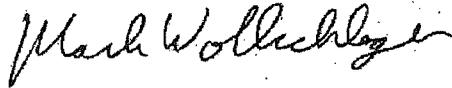
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Mark Wollschlager
Project Manager

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July 11, 2011

Mr. Michael Reynolds
U.S. National Park Service
Midwest Region
601 Riverfront Drive
Omaha, NE 68102-4226

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Reynolds:

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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Colonel Keith A. Landry
U.S. Army Corps of Engineers
Louisville District
P.O. Box 59
Louisville, KY 40201-0059

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Colonel Landry:

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Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large, prominent initial "M".

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Kurt Mason
U.S. Department of Agriculture
Natural Resources Conservation Service
1200 N. Bardstown Road
Mt. Washington, KY 40047-7669

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Mason:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

District Conservationist
U.S. Department of Agriculture
Natural Resources Conservation Service
6013 Lakeside Boulevard
Indianapolis, IN 46278

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear District Conservationist:

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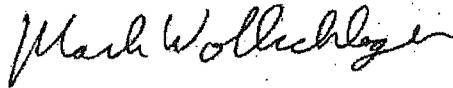
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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

District Conservationist
U.S. Department of Agriculture
Natural Resources Conservation Service
9608 Highway 62
Charlestown, IN 47111-9640

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

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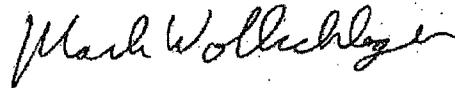
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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

District Conservationist
U.S. Department of Agriculture
Natural Resources Conservation Service
656 S. Boatman Road
Scottsburg, IN 47170-6866

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

District Conservationist
U.S. Department of Agriculture
Natural Resources Conservation Service
1350 Woodside Drive
Brownstown, IN 47220

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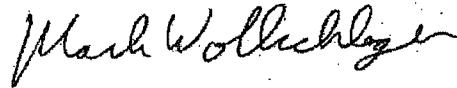
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Mark Wollschlager
Project Manager

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July 11, 2011

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U.S. Department of Agriculture
Natural Resources Conservation Service
1040 2nd Street
Columbus, IN 47201

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July 11, 2011

District Conservationist
U.S. Department of Agriculture
Natural Resources Conservation Service
3059 N. Morton Street
Franklin, IN 46131-9662

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July 11, 2011

District Conservationist
U.S. Department of Agriculture
Natural Resources Conservation Service
771 Corporate Drive
Suite 210
Lexington, KY 40503

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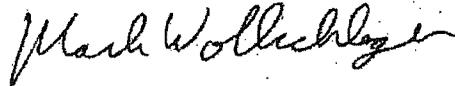
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Sincerely,



Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Wesley Hardegree
U.S. Environmental Protection Agency
Compliance Assistance & Enforcement
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-8960

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Hardegree:

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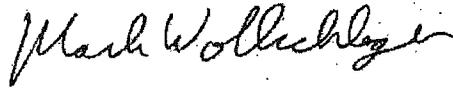
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Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Kenneth Westlake
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
77 W. Jackson Boulevard
Mail Code B-19J
Chicago, IL 60604

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Westlake:

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CSXT is soliciting your input to assist us with the identification of possible economic, social, or environmental effects that should be considered in preparation of the PDEA. It is anticipated that the STB's OEA will use this information in preparing an Environmental Assessment ("EA") for the proposed transaction. The EA will be prepared pursuant to the National Environmental Policy Act and related environmental laws, including the National Historic Preservation Act. On behalf of CSXT, we request your input by August 1, 2011. Replies should be addressed to:

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large, sweeping initial "M".

Mark Wollschlager
Project Manager

Attachment

July 11, 2011

Mr. Lee Andrews
U.S. Fish and Wildlife Service
Ecological Services - Kentucky
330 W. Broadway Suite 265
Frankfort, KY 40601

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Andrews:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

The proposed project includes rehabilitation of the Line to FRA Class IV, which will allow freight trains to operate at up to 49 miles per hour and the movement of 286,000 lbs. (286K) carloads including double stack intermodal trains. The rehabilitation is planned to occur over a period of time that may be up to seven years. All of the rehabilitation will be limited to work upon and within existing railroad right of way.

Once the rehabilitation is completed, CSXT intends to reroute trains from its other lines in the Illinois, Indiana, Ohio, Tennessee, and Kentucky region over the Line. The reroute of trains will reduce the use of certain parts of CSXT's current network, specifically that between Louisville, KY and Cincinnati, OH, and create additional capacity on that route. CSXT plans to add up to 15 trains per day between Indianapolis and Seymour, IN; 13 trains per day between Seymour and Jeff Yard, IN; and 16 trains per day between Jeff Yard, IN and Louisville, KY.

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CSXT is soliciting your input to assist us with the identification of possible economic, social, or environmental effects that should be considered in preparation of the PDEA. It is anticipated that the STB's OEA will use this information in preparing an Environmental Assessment ("EA") for the proposed transaction. The EA will be prepared pursuant to the National Environmental Policy Act and related environmental laws, including the National Historic Preservation Act. On behalf of CSXT, we request your input by August 1, 2011. Replies should be addressed to:

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive, flowing style.

Mark Wollschlager
Project Manager

Attachment



July 11, 2011

Mr. Scott Pruitt
U.S. Fish and Wildlife Service
Bloomington Field Office
620 S. Walker Street
Bloomington, IN 47403-2121

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Pruitt:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

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Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,

A handwritten signature in black ink that reads "Mark Wollschlager". The signature is written in a cursive style with a large initial "M".

Mark Wollschlager
Project Manager

Attachment

July 11, 2011

Mr. Leaford Bearskin
Wyandotte Nation
64700 East Highway 60
Wyandotte, OK 74370

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Bearskin:

CSX Transportation, Inc. ("CSXT") expects to be filing on or about September 1, 2011 with the Surface Transportation Board (the "STB") an application pursuant to 49 U.S.C. §11323 and 49 CFR Part 1180 to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line").

The proposed project includes rehabilitation of the Line to FRA Class IV, which will allow freight trains to operate at up to 49 miles per hour and the movement of 286,000 lbs. (286K) carloads including double stack intermodal trains. The rehabilitation is planned to occur over a period of time that may be up to seven years. All of the rehabilitation will be limited to work upon and within existing railroad right of way.

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CSXT is soliciting your input to assist us with the identification of possible economic, social, or environmental effects that should be considered in preparation of the PDEA. It is anticipated that the STB's OEA will use this information in preparing an Environmental Assessment ("EA") for the proposed transaction. The EA will be prepared pursuant to the National Environmental Policy Act and related environmental laws, including the National Historic Preservation Act. On behalf of CSXT, we request your input by August 1, 2011. Replies should be addressed to:

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636
or by email to:
csxtlirc@hdrinc.com

Sincerely,



Mark Wollschlager
Project Manager

Attachment

EXHIBIT 4D – PUBLIC COMMENTS

United States Department of Agriculture



Natural Resources Conservation Service
771 Corporate Drive, Suite 210
Lexington, KY 40503

August 2, 2011

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636

RE: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana
Railroad Company

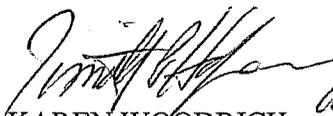
Dear Mr. Wollschlager:

The USDA-Natural Resources Conservation Service (NRCS) reviews proposed projects for potential impacts to prime farmland soils, farmlands of statewide importance, Wetland Reserve Program (WRP) easements and Grassland Reserve Program (GRP) easements. If prime farmland soils or farmlands of statewide importance are in or adjacent to a proposed project site, notification of farmland conversion may be warranted.

With regards to the above referenced project, the Kentucky NRCS does not anticipate this action will negatively impact prime farmland soils, additional farmlands of statewide importance, WRP easements, GRP easements, or PL-566 watershed structures in Kentucky. Therefore, NRCS has no further comments regarding rehabilitation of the existing Louisville & Indiana Railroad Company line in Kentucky.

If during implementation of the project, prime farmland soils or soils of statewide importance are impacted and federal dollars are to be used to convert them from agricultural uses to non-agricultural uses, NRCS would like the opportunity to comment.

Sincerely,


KAREN WOODRICH *acting*
State Conservationist *STC*

cc: Jacob Kuhn, ASTC, Lexington, KY

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STEVEN L. BESHEAR
GOVERNOR

TOURISM, ARTS AND HERITAGE CABINET
KENTUCKY HERITAGE COUNCIL

MARCHETA SPARROW
SECRETARY

THE STATE HISTORIC PRESERVATION OFFICE
300 WASHINGTON STREET
FRANKFORT, KENTUCKY 40601
PHONE (502) 564-7005
FAX (502) 564-5820
www.heritage.ky.gov

LINDY CASEBIER
ACTING EXECUTIVE DIRECTOR AND
STATE HISTORIC PRESERVATION OFFICER

August 1, 2011

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636

Re: Finance Docket No. 35523, CSX Transportation, Inc. – Acquisition-Louisville Indiana Railroad Co.

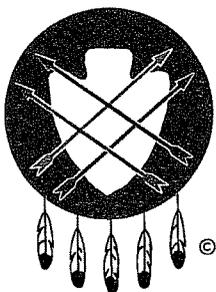
Dear Mr. Wollschlager:

Pursuant to Section 106 of the National Historic Preservation Act of 1966 (16 U. S. C. Sec. 470f) and implementing regulations at 36 C. F. R. Part 800, the Kentucky State Historic Preservation Office received for review and comment a letter with a preliminary description of the above-referenced project. The letter and enclosed map indicates that a small portion of the overall project takes place in Kentucky. Additional train traffic (16 trains per day) will be routed between Jeff Yard, Indiana and Louisville, Kentucky after the proposed track rehabilitation takes place. While it appears that the project is only dealing with the rehabilitation of existing track in the existing railroad right-of-way, there is the potential for direct and indirect effects to cultural resources along the path of the rail line. An area of potential effect (APE) will need to be determined with concurrence from our office, and a survey of above-ground resources over fifty years of age will need to be submitted for our review. In addition, any planned ground disturbance may require an archaeological survey. You can find specifications for conducting the fieldwork and generating such reports on our website at <http://heritage.ky.gov/envreview/>. The Indiana State Historic Preservation Office will need to be consulted on the portion of the project that takes place in Indiana. If you should have any questions, please contact Vicki Birenberg of my staff at (502) 564-7005, ext. 127.

Sincerely,

Lindy Casebier
Acting Executive Director and
State Historic Preservation Office

LC:vmb



PEORIA TRIBE OF INDIANS OF OKLAHOMA

118 S. Eight Tribes Trail (918) 540-2535 FAX (918) 540-2538

P.O. Box 1527

MIAMI, OKLAHOMA 74355

CHIEF
John P. Froman

SECOND CHIEF
Jason Dollarhide

August 9, 2011

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636

RE: Finance Docket No. 35523, CSX Transportation, Inc. – Acquisition-Louisville Indiana
Railroad Company

Thank you for notice of the referenced project. The Peoria Tribe of Indians of Oklahoma is interested in consulting on the project. Please include us on all mailing lists pertaining to this site. Please share all information concerning this project as it pertains to Native American interests.

Contact information is:

Frank Hecksher
Special Projects/NAGPRA Manager
118 S. Eight Tribes Trail
Miami, OK 74354
918-540-2535
fhecksher@peoriatribe.com

A handwritten signature in black ink, appearing to read 'JPF', is written above the typed name of the Chief.

John P. Froman
Chief

TREASURER
John Sharp

SECRETARY
Don Giles

FIRST COUNCILMAN
Carolyn Ritchey

SECOND COUNCILMAN
Jenny Rampey

THIRD COUNCILMAN
Alan Goforth



July 29, 2011

Mr. Mark Wollschlager
HDR Engineering, Inc.
704 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636

VIA E-MAIL AND US MAIL

Dear Mr. Wollschlager:

This refers to your letter of July 11, 2011, regarding the proposed STB filing by CSX Transportation, Inc. ("CSXT") to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line"), Finance Docket No. 35523. Amtrak would like to offer the following information on the economic, social, and environmental effects of the proposed transaction:

Currently, Amtrak has an operating agreement with the LIRC dated September 1, 1999, to operate intercity passenger trains over this route. Amtrak currently operates 1-2 annual excursion trains on this line and additional trips are contemplated in the future. In addition this route is part of the federally designated High Speed Rail Chicago Hub Network. Amtrak reserves all its rights under the operating agreement and statute. Since the proposal is to upgrade the LIRC trackage to FRA Class IV standards, Amtrak requests that its current operating agreement with LIRC be amended to reflect this upgrade and state that passenger trains can operate up to the maximum authorized speed on this line.

In addition, Amtrak currently operates the New York/Washington-Chicago *Cardinal* three days a week on CSXT's line between Cincinnati, OH and Indianapolis, IN, and Amtrak is working with CSXT to increase this service to daily. Amtrak's *Cardinal* and Indianapolis-Chicago *Hoosier State* together operate one daily round trip over CSXT between Indianapolis and Munster, IN. Your July 11 letter does not provide any information regarding the environmental impacts (e.g., number of trains per day added or reduced) of the proposed transaction on these line segments, or on other CSXT lines over which Amtrak currently operates that may be affected by the transaction. Absent such information, the potential impacts of the transaction on Amtrak's services, and the associated environmental impacts that may need to be addressed via conditions on approval of the transaction, cannot be assessed.

To the degree that this transaction reduces freight train delays to Amtrak trains, and that additional Amtrak frequencies are accommodated as a result of this proposal, Amtrak ridership may potentially increase due to people switching from other modes to train travel, thereby providing environmental benefits.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Vilter". The signature is fluid and cursive, with a large initial "P" and "V".

Paul Vilter
AVP Host Railroads

Cc: Mike Franke



August 10, 2011

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MC 55416-3636

Re: Indianapolis Metropolitan Planning Organization Comments
Finance Docket 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad
Company

Dear Mr. Wollschlager:

Thank you for providing the opportunity to comment on the above-referenced project, which has strong importance to central Indiana. As referenced in my e-mail message dated August 4, 2011, the City of Indianapolis did not receive your letter dated July 11, 2011 and the Indianapolis Metropolitan Planning Organization (MPO) received it on August 1, 2011, the day comments were due. We thus appreciate the acceptance of these comments beyond the specified due date.

The City of Indianapolis and the Indianapolis MPO both recognize the importance of the rail network to our regional economy and livelihoods. The Louisville-Indiana Railroad Company (LIRC) is identified in the MPO's regional freight planning documents, and we hope that CSX's acquisition will serve to enhance our future prosperity.

We trust that in planning for this acquisition, CSX is intending to minimize potential negative community impacts to the extent feasible, particularly where the rail corridor intersects at-grade with our region's surface transportation network. Significantly, it is not clear what secondary impacts might result to the freight rail system outside of the proposed corridor; some rail-roadway surface intersections already experience considerable motor vehicle delay (e.g., New York and Michigan Streets on the east side of the downtown), and we would like to know the extent to which this proposal might exacerbate those problems. The MPO has considerable information resources at its disposal that you might find useful in estimating these impacts, including recent aerial photography (both orthophotographs and oblique angles), planimetric information, traffic counts and traffic volume estimates, and noise receptors (including the 2010 Census by block, and NuStats business location data for 2010). We would welcome the opportunity to work with you further on this issue.

Phone: 317.327.3601	Office of the Mayor
Fax: 317.327.3980	2501 City County Building
TDD: 317.327.5186	200 E. Washington Street
	Indianapolis, Indiana 46204
	www.indy.gov

Beyond these local impacts, however, lies an urgent need for coordination of regional transportation plans with the proposal. Our recently completed long-range regional transportation plan (approved in March, 2011; documents can be found at <http://www.indympo.org/Plans/Regional/Pages/home.aspx>) has identified the LIRC as an opportunity for future passenger rail service from downtown Indianapolis south to Franklin, Indiana. Please include this proposal in your planning process, and keep us advised of any proposed changes in infrastructure and/or service levels that may affect its implementation.

Another potential issue emerges where the LIRC merges with the main east-west CSX line in downtown Indianapolis, as this location corresponds to the terminus (at Union Station) of the Northeast Corridor fixed guideway transit service (currently undergoing an Alternatives Analysis process, with a locally-preferred alternative to be selected early next year). We have been in close contact with Larry Ratcliffe, Jake Hunter and other CSX staff in the Jacksonville, FL office over the past three years regarding these regional activities, and request that you leverage those discussions into your planning process.

Pertinent to the downtown Indianapolis rail confluence is a study on the relocation of downtown rail traffic to the rail "belt" which skirts the east, south, and west sides of the downtown. The MPO intends to initiate this study towards the end of the year; preliminary analysis suggests that upgrading the "belt" to accommodate 40-mph rail traffic and relocating downtown service to this facility would actually result in lower freight travel times (and potential savings) for CSX. We propose to include CSX in the study review team for this project, and to jointly examine the issues of freight traffic, passenger rail service, and downtown economic development, with mutual gains as our goal.

Our organizations, along with several of our partner organizations (including the Indianapolis Public Transportation Corporation and the Central Indiana Regional Transportation Authority) and the MPO's governing body, the Indianapolis Regional Transportation Council, are eager to engage in this dialogue. Please let us know the best way to proceed.

Sincerely,



Gregory A. Ballard, Mayor
City of Indianapolis
Chair, Indianapolis Regional Transportation Council



Lori Miser, AICP
Executive Director
Indianapolis MPO

cc: Robin Thoman, Mayor of Southport; Member, Indianapolis Regional Transportation Council
Charles Henderson, Mayor of Greenwood; Member, Indianapolis Regional Transportation Council
Fred Paris, Mayor of Franklin; Member, Indianapolis Regional Transportation Council
Luke Mastin, Johnson County Engineer; Member, Indianapolis Regional Transportation Council
Ehren Bingamann, Executive Director, Central Indiana Regional Transportation Authority and member of the Indianapolis Regional Transportation Council
Michael Terry, CEO, Indianapolis Public Transportation Corporation and member of the Indianapolis Regional Transportation Council
Steve Van Soelen, Director of Real Estate and Strategic Facilities Planning, Eli Lilly & Company



Division of Historic Preservation & Archaeology • 402 W. Washington Street, W274 • Indianapolis, IN 46204-2739
Phone 317-232-1646 • Fax 317-232-0693 • dhpa@dnr.IN.gov



August 9, 2011

Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South, Suite 600
Minneapolis, Minnesota 55416-3636

Federal Agency: Surface Transportation Board

Re: Project information regarding CSX Transportation, Inc.'s acquisition of over 106.5 miles of the Louisville Indiana Railroad Company between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (DHPA #11979)

Dear Mr. Wollschlager:

Pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) and 36 C.F.R. Part 800, the staff of the Indiana State Historic Preservation Officer ("Indiana SHPO") has conducted an analysis of the materials dated July 11, 2011 and received on July 13, 2011, for the above indicated project from Indianapolis to Jeffersonville, Indiana.

Thank you for notifying the Indiana SHPO of the proposed undertaking. It is our understanding that an environmental assessment and historic properties report are currently being prepared and will be provided to the Indiana SHPO for review and comment. In preparation of the report, we would recommend that the Indiana Survey of Historic Sites and Structures be referenced by viewing the applicable county interim reports and our online database. Published county interim reports may be viewed at our office; local, university, or state library; or may be available for purchase through Indiana Landmarks at (317) 639-4534. The State Historic Architectural and Archaeological Research Database (SHAARD) may be accessed at www.in.gov/dnr/historic/4505.htm. In addition, we recommend that you review the list of properties included in the Indiana Register of Historic Sites and Structures (www.in.gov/dnr/historic/2823.htm). Indiana properties included in the National Register of Historic Places may be accessed through the DHPA website, or by visiting the National Park Service database at www.nps.gov/history/nr/.

In terms of archaeology, multiple archaeological sites and cemeteries have been recorded adjacent to the existing railroad, including but not limited to sites 12Ma310, 12Jo200, 12Jo201, 12Jo227, 12B362, 12S23, 12S59, 12Cl333, Jonesville Cemetery, Old Franklin Cemetery, Riverview Cemetery, Seymour City Cemetery, Pigeon Roost Memorial Cemetery, and a cemetery in Scottsburg.

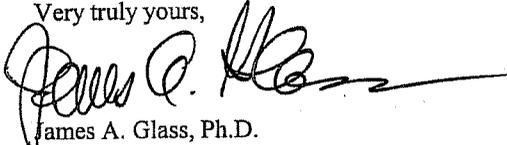
While it is our understanding that the current project is limited to acquisition of an existing railroad and will not involve any construction, please be advised that if any archaeological artifacts or human remains are uncovered during construction, demolition, or earthmoving activities, state law (Indiana Code 14-21-1-27 and 29) requires that the discovery must be reported to the Department of Natural Resources within two (2) business days. In that event, please call (317) 232-1646. Be advised that adherence to Indiana Code 14-21-1-27 and 29 does not obviate the need to adhere to applicable federal statutes and regulations.

We look forward to receiving a copy of the draft environmental assessment, including information on cultural resources within the area of potential effects for our review and comment. Once this information is received, the Indiana SHPO will resume identification and evaluation procedures for this project. Please keep in mind that additional information may be requested in the future.

Mark Wollschlager
August 9, 2011
Page 2

A copy of the revised 36 C.F.R. Part 800 that went into effect on August 5, 2004, may be found on the Internet at www.achp.gov for your reference. If you have questions about archaeological issues please contact Cathy Draeger-Williams at (317) 234-3791 or cdraeger-williams@dnr.IN.gov. If you have questions about buildings or structures please contact Chad Slider at (317) 234-5366 or cslider@dnr.IN.gov. Additionally, in all future correspondence regarding the above indicated project, please refer to DHPA #11979.

Very truly yours,

A handwritten signature in black ink, appearing to read "James A. Glass", with a long horizontal flourish extending to the right.

James A. Glass, Ph.D.
Deputy State Historic Preservation Officer

JAG:CDW:CWS:cws

cc: David C. Navecky, Surface Transportation Board

Johnson County Highway Department

1051 Hospital Road ♦ Franklin, Indiana 46131 ♦ Phone: (317) 346-4630 ♦ Fax: (317) 738-5378

Lucas M. Mastin
Director

Michael P. Pelham, P.E.
Engineer

August 22, 2011

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South, Suite 600
Minneapolis, MN 55416-3636

RE: CSXT - Acquisition and Upgrade of Louisville Indiana Railroad
Preliminary Draft Environmental Assessment Comments

Dear Mr. Wollschlager,

Johnson County has recently been informed of the possible rehabilitation of the existing Louisville Indiana Railroad line between Louisville, Kentucky and Indianapolis, Indiana by CSX Transportation, Inc. (CSXT). It is our understanding that your firm is currently soliciting comments for inclusion in the Preliminary Draft Environmental Assessment (PDEA) document. While Johnson County was not directly contacted to provide comments for the PDEA being developed for this project, we would appreciate your consideration and inclusion of the following comments.

- It is our understanding that upgrades proposed by CSX Transportation, Inc. would allow the rail line to accommodate up to 15 trains per day in this area over the current train traffic volume at speeds up to 49 miles per hour. There are currently eight locations where the Louisville Indiana Railroad line crosses county roads within Johnson County's jurisdiction. All of these crossings are at-grade, not separated. Each of the crossings is stop-controlled for vehicular traffic through the use of stop signs. However, all of these crossings have sight-distance issues caused by substantial grade changes between the road and rail line elevations, or by poorly maintained vegetation along the fence lines delineating the railroad right-of-way. Prior to increasing the volume and speed of trains passing through these at-grade crossings, we would encourage CSXT to review these locations and take appropriate actions, whether through active crossing warning devices, adjustments in road grade, providing clear line-of-sight for vehicular traffic, or a combination of these and other solutions, to ensure that these crossings can continue to be operated safely by both train and vehicular traffic in the future.

- The Indianapolis Regional Transportation Council and the Indianapolis Metropolitan Planning Organization have identified the Louisville Indiana Railroad line as a key component for future passenger rail services in their Long-Range Regional Transportation Plan. While no details have been finalized at this time, we would ask that you consider this potential key component in the Indianapolis region's future

transportation plan in your PDEA. The transportation needs of the Indianapolis area will only continue to increase as the region grows, and passenger rail service will be a key component in meeting future travel demands.

We appreciate the opportunity to provide comments for the preparation of this project's PDEA. Please do not hesitate to contact us with any questions or comments you may have. We look forward to working with you as your project moves forward.

Sincerely,

Johnson County Highway Department

A handwritten signature in black ink, appearing to read 'LM', with a long horizontal flourish extending to the right.

Lucas M. Mastin, Director

Cc: Johnson County Board of Commissioners
File



**THE COUNCIL
CITY OF INDIANAPOLIS
MARION COUNTY**

Jack Sandlin
Councillor, District 24

19 August 2011

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Minneapolis, MN 55416-3636

Re Finance Docket No 35523 CSX Transportation, Inc-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Wollschlager:

Recently I became aware of this project and that you are the person who is collecting comment regarding the use of 106.5 miles of the Louisville & Indiana Railroad Company between Indianapolis, IN and Louisville, KY.

This track travels through a portion of my Indianapolis City-County Council District. As such I wanted to take the opportunity to express my concerns on a couple of issues regarding this route. First at the East Southport Road crossing there is very limited sight either up or down the tracks due to building construction. Additionally at Thompson Road and Banta Road there is a limited view of the tracks. At Edgewood Avenue there is a better view but this is a major route for our school buses.

Due to the safety concerns I believe that there should be crossing arms at all of these locations. In addition the Southport crossing is in very poor shape and the Louisville & Indiana Railroad Company had previously expressed that they would upgrade this crossing. I am very concerned that with this pending proposal that this will be long delayed. This crossing needs upgraded now and many believe its condition contributed to a fatality accident there a year ago.

Thank you for your consideration.

Jack E. Sandlin
City-County Councillor
District 24

UNIVERSITY *of*
INDIANAPOLIS.

Office for Community Relations
1400 East Hanna Avenue
Indianapolis, Indiana 46227

(317) 788-3297
Fax: (317) 788-2518
www.uindy.edu

August 23, 2011

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South, Suite 600
Minneapolis, MN 55416-3636

RE: Finance Docket No. 35523, CSX Transportation, Inc. / Acquisition of Louisville and
Indiana Railroad Company.

Dear Mr. Wollschlager,

I recently received notice about the CSX application to acquire perpetual non-exclusive overhead freight operating easement for joint use of the Louisville & Indiana Railroad. I am hoping to have my comments included in any reports about the feasibility of the project.

The University of Indianapolis supports the economic development of this entire region. We understand that rail freight is cheaper, safer, and perhaps more environmentally friendly than freight shipped via trucks. So, the improvement of the rail bed and lines on the L&I track is a good idea for many reasons.

We have concerns as well, though, about safety to our campus that we wish to have noted. We sit immediately to the east of the rail line. In fact, at one point it abuts our property. We have 5,000 students and 600 employees on campus, in addition to our many neighbors living in the residences nearby. Their safety is paramount.

First, we are concerned about the kind of freight carried on those rails. We are aware that Homeland Security rules will not allow us to know when and what kind of freight will pass our campus each day. Given the number of people who could be affected by the contents of such freight, we worry about how we would respond to accidents and spillage. At the same time, we realize that rail traffic is safer than truck traffic and the likelihood of an accident is probably low. Still, even with the low probability, the potential effects could be quite serious.

Our second concern is much more likely scenario. The trains that are intended to pass our campus will contain more and larger cars than they do now. In fact, the trains could be so long, that no emergency vehicle would be able to access our campus for several miles. Every east-west street has an at-grade crossing, so there is no way to re-route emergency responders to our campus without going miles out of the way. With that, responders would have to predict how far in advance or behind they will have to be in order avoid an intersection blocked by the train.

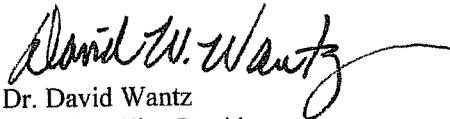
Because we will not know when any particular train will be passing by, it will be impossible for emergency dispatchers to predict and direct responders to our campus. I have witnessed on several occasions a fire engine sitting on the road with its red lights activated waiting for a train to clear the crossing. Longer and more frequent trains make it more likely we will have emergency vehicles cut off from our campus until the trains pass. That presents us with a potentially serious situation.

Emergency responders could be sent from other locations, but dispatchers would not know to do that automatically since the train schedule is unpredictable. Given the long distance that responders from the east must travel, the delays could have grave consequences.

I speak for the President and Board of Trustees of the University of Indianapolis. We would like assurances that some kind of alert could be given to our local police, fire, and EMS officials that a CSX train is approaching our campus, so the responders could find an alternate route.

Please add me to any contact list that you might be developing, so I may continue to be involved in this approval process.

Sincerely,

A handwritten signature in black ink that reads "David W. Wantz". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.

Dr. David Wantz
Associate Vice President

VERIFICATION

I, Christopher Maffett, declare under penalty of perjury that the foregoing is true and correct, with respect to CSX Transportation, Inc. Further, I certify that I am qualified and authorized to make this verification and to file this Application.



Christopher Maffett
May 30, 2013



**OFFICE OF THE GOVERNOR
KENTUCKY OFFICE OF HOMELAND SECURITY**

Steven L. Beshear
Governor

200 Mero Street
Frankfort, KY 40622
Phone 502-564-2081
Fax 502-564-7764
www.homelandsecurity.ky.gov

Eugene L. Kiser
Acting Executive Director

July 20, 2011

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Wollschlager:

In reference to your letter of July 11, 2011 regarding the above stated acquisition and the Preliminary Draft Environmental Assessment. This office is unable to identify any possible economic, social or environmental effects that should be considered in the preparation of the Assessment.

Should you have additional questions or comments, please do not hesitate to contact with me.

Sincerely,

A handwritten signature in black ink that reads "Eugene L. Kiser".

Eugene L. Kiser



Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Ave South – STE 600
Minneapolis, MN 55416-3636

July 18, 2011

Re: Finance Docket 35523 – CSX Transportation, Inc – Louisville & Indiana Railroad

Dear Mr. Wollschlager,

In response to your letter regarding the pending Surface Transportation Board application by CSX Transportation, Inc. (CSX) to acquire a perpetual non-exclusive overhead freight operating easement and joint use of the Louisville & Indiana Railroad (L&I) line between Louisville and Indianapolis, the Policy Board of the Columbus Area Metropolitan Planning Organization would like to express their support for this project.

The Louisville & Indiana Railroad provides vital transportation services to a range of businesses in the region. At the same time we understand that capital funding is a challenge not only for the L&I but for many short line railroads across the nation. This partnership between the L&I and CSX will provide a much needed infusion of capital into the L&I line thus greatly boosting the long term economic outlook of rail in the region. This project represents a positive development for CSX, the L&I, existing businesses located along the L&I, regional future economic development, and for the State of Indiana.

This project has our full support.

Sincerely,

Handwritten signature of Zack Ellison in black ink.

Zack Ellison
Policy Board President

Handwritten signature of Fred Armstrong in black ink.

Fred Armstrong
Mayor of Columbus
Policy Board Secretary

Handwritten signature of Kent Anderson in black ink.

Kent Anderson
Director

COLUMBUS AREA METROPOLITAN PLANNING ORGANIZATION

123 Washington St., Columbus, IN 47201-6774 | Tel: 812-376-2502 | Fax: 812-376-2643 | www.campo.in.gov



Department of Community Development Services

Division of Engineering

August 1, 2011

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Zenia Avenue South
Suite 600
Minneapolis, MN 55416-3636

Re: City of Greenwood, Indiana Comments
Finance Docket No. 35523

Dear Mr. Wollschlager:

The City of Greenwood ("City") herewith provides comments requested in your July 11, 2011 letter to Mayor Charles E. Henderson which solicited the City's input to assist with the identification of possible economic, social, or environmental effects that may result from the CSX Transportation, Inc. ("CSXT") acquisition of a perpetual non-exclusive overhead freight operating easement of 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0 and Louisville, KY, milepost 110.5 (the "Line"). This Line is located within the municipal limits of the City between County Line Road (boundary between Greenwood and Indianapolis) and a point approximately ½ mile south of Pushville Road (County Road 700 North). The Line is approximately 4.6 miles in length within the City municipal boundary.

It is understood from your letter that CSX intends to rehabilitate the Line to allow an increase in speed of freight trains at up to 49 mph and increase loading of rail cars at up to 286,000 lbs. CSXT will also reroute trains from other lines in the Midwest to the Line. The City has a number of concerns related the impact of this project on safety, traffic delays, environment (including noise), and the regional transit plan.

1. City streets currently cross the Line at seven (7) locations ("Crossings"), not including County Line Road which is under the jurisdiction of Indianapolis. The Crossings are, in some cases, equipped with automated warning flashers and bells to signal the approach of a train. None of the Crossings have gates to prevent motorists from crossing the Line when a train is approaching. Because both the speed of the trains and the frequency of use will increase, the City believes that CSXT should be required to upgrade ALL Crossings within the City municipal boundary to include automated warning flashers and bells (where not currently installed), install automated gates to prevent crossing of the Line at all Crossings, and upgrade all pavement within the Line right-of-way to meet INDOT standards for rail crossings of State highways.

Mark A. Richards, P.E.
Director of Community
Development Services and
City Engineer
richardma@greenwood.in.gov

225 South Emerson Avenue
Suite C
Greenwood, Indiana 46143
(317) 881-8698
FAX (317) 887-5616
www.greenwood.in.gov

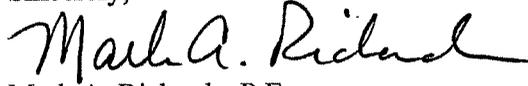
Paul D. Peoni
Senior Technician
peonip@greenwood.in.gov

2. The Line passes through a number of residential neighborhoods which will be adversely impacted by the additional number of trains, the higher rate of speed at which those trains will travel, and an expected increase in the number of cars per train. The additional noise will disturb those residents. The City believes that CSXT should install barriers along the Line right-of-way within residential neighborhoods that will minimize noise impacts to residents, or develop policies and procedures in consultation with the City to minimize noise impacts (e.g. speed reduction, scheduling).
3. Unauthorized pedestrian access to the Line may result in personal injury or death. The City suggests that access barriers (e.g. chain link fence) be installed in those residential areas where pedestrians may attempt to cross the Line.
4. Six (6) of the local roads and streets crossed by the Line are oriented east-west. Automobile traffic within the City generally suffers from congestion during peak hours along those east-west corridors. An increase in the frequency of trains will adversely impact traffic movement within the City unless efforts are made to coordinate the scheduling of freight movement along the Line to minimize the traffic impacts. The City suggests that CSXT be required to obtain the approval of City officials for scheduling of trains and any deviation from said schedule.
5. The City is in the design and right-of-way acquisition phases of a project that will improve Worthsville Road from a 2-lane County Road to a 4-lane section with raised median, turn lanes, and multi-use pathways. Improvements to the Line by CSXT should include the design and construction within the Line right-of-way necessary for the Worthsville Road project.
6. The Indianapolis Metropolitan Planning Organization ("MPO") and other organizations in the region have developed a mass transit plan which proposes the addition of passenger rail service on the Line between Indianapolis and Franklin, Indiana. The City is concerned that, by increasing freight traffic on the Line, passenger service would not be possible or would be significantly reduced. The City believes that passenger rail is a critical component of the overall transit strategy in the region, and should be preserved. The City therefore suggests that a provision for passenger rail on the Line be included as a part of any approval granted to CSXT.
7. The Line currently does not provide any freight service to the City, nor is infrastructure in place to allow such service. The City suggests that a rail spur be constructed as a condition of approval to serve industrial users in the southern part of the City, specifically between Worthsville and Pushville Roads.

Mr. Mark Wollschlager
August 1, 2011
Page 3

I trust that the comments provided herewith will be considered in the review by the Surface Transportation Board of CSXT's application. Should you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink that reads "Mark A. Richards". The signature is written in a cursive style with a large, prominent "M" and "R".

Mark A. Richards, P.E.
Directory, Community Development Services
and City Engineer

cc: Charles E. Henderson, Mayor
Brent Corey, President – Greenwood Common Council
Stephen Watson, Greenwood RDC Counsel
Lori Miser, Indianapolis MPO

United States Department of Agriculture



Natural Resources Conservation Service
6013 Lakeside Blvd.
Indianapolis, IN 46278

July 25, 2011

Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Ave. South
Suite 600
Minneapolis, MN 55416-3636

Dear Mr. Wollschlager:

The proposed project to rehabilitate railroad line in several counties from Indianapolis, Indiana to Louisville, Kentucky, as referred to in your letter received July 7, 2011, will not cause a conversion of prime farmland

If you need additional information, please contact Lisa Bolton at 317-290-3200, extension 342.

Sincerely,

ACTING FOR

A handwritten signature in black ink that reads "Roger A. Bolt".

JANE E. HARDISTY
State Conservationist

Helping People Help the Land

An Equal Opportunity Provider and Employer



United States Department of the Interior
Fish and Wildlife Service



Bloomington Field Office (ES)
620 South Walker Street
Bloomington, IN 47403-2121
Phone: (812) 334-4261 Fax: (812) 334-4273

July 28, 2011

Mr. Mark Wollschlager
HDR Engineering
701 Xenia Avenue South, Suite 600
Minneapolis, Minnesota 55416-3636

Dear Mr. Wollschlager:

This responds to your letter dated July 11, 2011 requesting U.S. Fish and Wildlife Service review of a proposed railroad rehabilitation project between Indianapolis, Indiana and Louisville, Kentucky.

These comments represent the Service's Indiana and Kentucky field offices, and are consistent with the intent of the National Environmental Policy Act of 1969, the Endangered Species Act of 1973, and the U. S. Fish and Wildlife Service's Mitigation Policy.

Your letter states that the project includes rehabilitation of 106.5 miles of railroad line to increase capacity and allow for higher speeds. The project corridor crosses numerous streams and rivers and likely passes near wetlands. Because all work will be within existing right-of-way our main concerns are for potential impacts on wildlife habitat from equipment access and staging, and adverse impacts on wetlands and streams during construction. We recommend the following measures to avoid or minimize impacts on wildlife and habitats:

1. Locate work areas and access routes to minimize tree removal and avoid wetland disturbance.
2. Avoid discharge of demolition debris, waste material, or other pollutants into streams or wetlands.
3. If earthmoving is required, use best management practices to contain disturbed soils and prevent soil runoff to waterways or wetlands.
4. If bridge reconstruction is required, minimize disturbance of stream channels and avoid work in perennial and large intermittent streams during the primary fish spawning season (April 1 – June 15).

Endangered Species

The proposed project is within the range of the federally endangered Indiana bat (*Myotis sodalis*) and gray bat (*M. grisescens*). Indiana bats hibernate in caves, then disperse to reproduce and forage in relatively undisturbed forested areas associated with water resources during spring and summer. Young are raised in nursery colony roosts in trees, typically near drainageways in undeveloped areas. There is suitable summer habitat and several summer records for this species along the project corridor. The project will not eliminate enough habitat to affect this species, but to avoid incidental take from removal of an occupied roost tree we recommend that tree-clearing be avoided in the Indiana portion of the project during the period April 1 - September 30. If this measure is implemented we concur that the proposed project is not likely to adversely affect this listed species.

The gray bat inhabits caves year-around and typically migrates between winter hibernation caves and summer cave roosts used for reproduction and foraging. Preferred foraging habitat is typically along wooded stream corridors and their forage base often includes a high percentage of aquatic insects. The project is not likely to adversely affect the gray bat.

The corridor is also within the range of the rayed bean mussel (*Villosa fabalis*) and snuffbox mussel (*Epioblasma triquetra*) (Johnson County, Indiana only) and the sheepnose mussel (*Plethobasus cyphus*) (Ohio River), which are currently proposed for federal listing as endangered. If best management practices are used to protect water quality in streams the project is not likely to adversely affect these species.

This precludes the need for further consultation on this project as required under Section 7 of the Endangered Species Act of 1973, as amended. If project plans change significantly it will be necessary for the Federal agency to reinitiate consultation.

For further discussion, please contact Mike Litwin at (812) 334-4261 ext. 205.

Sincerely yours,


 Scott E. Pruitt
Field Supervisor

cc: James Gruhala, USFWS, Frankfort, KY



July 29, 2011

Mr. Mark Wollschlager
HDR Engineering, Inc.
704 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636

VIA E-MAIL AND US MAIL

Dear Mr. Wollschlager:

This refers to your letter of July 11, 2011, regarding the proposed STB filing by CSX Transportation, Inc. ("CSXT") to acquire a perpetual non-exclusive overhead freight operating easement for joint use over 106.5 miles of the Louisville & Indiana Railroad Company ("LIRC") between Indianapolis, IN, milepost 4.0, and Louisville, KY, milepost 110.5 (the "Line"), Finance Docket No. 35523. Amtrak would like to offer the following information on the economic, social, and environmental effects of the proposed transaction:

Currently, Amtrak has an operating agreement with the LIRC dated September 1, 1999, to operate intercity passenger trains over this route. Amtrak currently operates 1-2 annual excursion trains on this line and additional trips are contemplated in the future. In addition this route is part of the federally designated High Speed Rail Chicago Hub Network. Amtrak reserves all its rights under the operating agreement and statute. Since the proposal is to upgrade the LIRC trackage to FRA Class IV standards, Amtrak requests that its current operating agreement with LIRC be amended to reflect this upgrade and state that passenger trains can operate up to the maximum authorized speed on this line.

In addition, Amtrak currently operates the New York/Washington-Chicago *Cardinal* three days a week on CSXT's line between Cincinnati, OH and Indianapolis, IN, and Amtrak is working with CSXT to increase this service to daily. Amtrak's *Cardinal* and Indianapolis-Chicago *Hoosier State* together operate one daily round trip over CSXT between Indianapolis and Munster, IN. Your July 11 letter does not provide any information regarding the environmental impacts (e.g., number of trains per day added or reduced) of the proposed transaction on these line segments, or on other CSXT lines over which Amtrak currently operates that may be affected by the transaction. Absent such information, the potential impacts of the transaction on Amtrak's services, and the associated environmental impacts that may need to be addressed via conditions on approval of the transaction, cannot be assessed.

To the degree that this transaction reduces freight train delays to Amtrak trains, and that additional Amtrak frequencies are accommodated as a result of this proposal, Amtrak ridership may potentially increase due to people switching from other modes to train travel, thereby providing environmental benefits.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Vilter". The signature is fluid and cursive, with a large initial "P" and "V".

Paul Vilter
AVP Host Railroads

Cc: Mike Franke

Merchan Paniagua, Sara

From: Jason Ross [JRoss@delawarenation.com]
Sent: Wednesday, July 20, 2011 1:30 PM
To: csxtlirc
Subject: re: Finance Docket No. 35523, CSX Transportation, Inc.

Follow Up Flag: Follow up
Flag Status: Flagged

Hello Mr. Wollschlager,

The Delaware Nation Cultural Preservation Office recently received your correspondence regarding – *Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company. **The Cultural Preservation Director, Ms. Tamara Francis has reviewed the information provided and has determined in order for the Delaware Nation to make a more thorough determination that the Delaware Nation will be needing a list of counties where the project is being constructed because the map provided is unclear.***

Thank you again for taking the time and effort to properly consult and we look forward to hearing back from you on the project info.

Best Regards,

Jason Ross

Museum/Section 106 Assistant

Cultural Preservation Department

The Delaware Nation

P.O. Box 825

Anadarko, OK 73005

PH# 405) 247-2448

FAX# 405) 247-8905

From: [Baughn, Brad](#)
To: [csxtlirc](#)
Subject: Indiana Department of Environmental Managment EA Review
Date: Monday, August 01, 2011 10:18:21 AM

Mr. Wollschlager:

This email is in response to your letter dated July 11, 2011 regarding Finance Docket No. 35523. You requested input from the Indiana Department of Environmental Management (IDEM) for your Environmental Assessment. To satisfy NEPA, IDEM has created a streamlined online process for these requests. By filling in the fields on this webpage, <http://www.in.gov/idem/5283.htm>, an environmental review letter is automatically generated that satisfies the requirements of NEPA and serves as IDEM's comments. The letter lists issues pertaining to air, land, and water quality that project managers should consider before moving forward with the project.

If you have any questions, please do not hesitate to contact me.

Thank you,

Brad Baughn
Business and Legislative Liaison
IN Department of Environmental Management
(317) 234-3386

Merchan Paniagua, Sara

From: Edgeworth, Jeremy (KYTC) [Jeremy.Edgeworth2@ky.gov]
Sent: Wednesday, July 27, 2011 8:05 AM
To: csxtlirc
Subject: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Mr. Wollschlager,

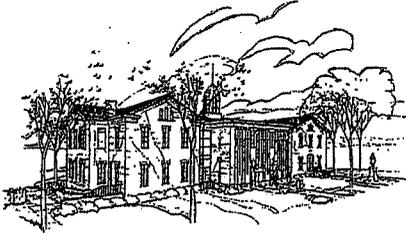
In response to your letter to Mike Hill with the Kentucky Transportation Cabinet regarding the above referenced project, we need a more detailed map of the portion of the project that impacts Kentucky. We understand that only a small portion of the overall project is within Kentucky, but in order for our Environmental Review staff to weigh in as requested, a more detailed map is required. This can be provided to me by email or regular mail at the address below.



Jeremy R. Edgeworth

Freight, Rail, and Waterways Coordinator
Division of Planning
200 Mero Street, 5th Floor West
Frankfort, Kentucky 40622
W-502.564.9900 x3289
C-502.229.5333
F-502.564.2865
jeremy.edgeworth2@ky.gov

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SCOTT COUNTY COMMISSIONERS

Scott County Courthouse
One East McClain Avenue ♦ Suite 130 ♦ Scottsburg, IN 47170
Office (812) 752-8408 ♦ Fax (812) 752-7914

Mark Hays Larry Blevins Robert C. Tobias

July 29, 2011

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South, Suite 600
Minneapolis, MN 55416-3636

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company

Dear Mr. Wollschlager,

In response to your request of July 11, 2011, and on behalf of the Scott County Indiana Board of Commissioners, the following list was compiled to represent some of the major problems that we would experience if the rail traffic increases, as indicated in your communication.

Most of the traffic issues, obviously, would be in our two cities, Austin and Scottsburg. The location of the railroad in Austin is very close to the *single* stoplight at Hwy 256 and Hwy 31. Passing trains halt the flow of the East and West bound traffic and soon affects the flow of traffic in all directions through the intersection. Scottsburg has two intersections close to the tracks, so increased rail traffic means backed up traffic on Hwy 56, one of the city's most traveled streets.

Noise pollution is always a problem, day or night.

The railroad line passes through our most populated areas and geographically divides our County in half. Increased rail traffic would be a safety issue during emergencies. The access for emergency assistance, such as ambulances, law enforcement and fire, would be cut off for parts of the cities and county.

A substantial increase in railcar traffic, as outlined in your letter, would be a detriment to the citizens of Scott County in many ways. Should you need to contact me, please email me at ldblevins@hotmail.com or call the Scott County Auditor's Office at 812-752-8408 and I will return your call.

Sincerely,
Larry D. Blevins

Larry Blevins
President
Scott County Board of Commissioners

Merchan Paniagua, Sara

From: Dennis Capozzi [dcaozzi@townofwhiteland.com]
Sent: Thursday, July 28, 2011 1:00 PM
To: csxtlirc
Subject: Input on Rail Upgrade - CSX/Louisville-Indiana Rail Co.

Mr. Mark Wollschlager
HDR Engineering, Inc.
701 Exenia Avenue South, Suite 600
Minneapolis, MN 55416-3636

I have a concern about a bridge on the rail line that crosses the Brewer Ditch legal drain in Whiteland. It is a stone bridge that goes over a legal drain, but more importantly, bridges over a natural waterway and legal floodway that, over the years, perhaps has weakened the foundation as the depths of the water in that area has come up to almost the arch of the bridge on numerous occasions. I believe this would be a concern if the rail is going to be upgraded and the weight of the cargo could be up to 286,000 pounds, and speeds up to 49 miles per hour. This bridge is close to a spur that runs to Kelsay Grain Elevator between the Williamson Street and Tracy Road crossings.

Additionally, rail crossings at Town streets, specifically, Paul Hand Blvd. (CR400N), Main Street, Williamson Street, and Tracy Road should all have crossing signalization ,or upgrades, and crossing gates, as a number of school buses cross all of these during the course of their routes, and especially if the number of trains will increase to possibly 15 per day.

Thank you for the opportunity to input the Town of Whiteland, IN concerns.

Exceptional Municipal Service	
Dennis Capozzi <i>Town Manager</i>	Town of Whiteland 549 Main Street Whiteland, Indiana 46184- 1552
	tel: (317) 535-5531 x 222
dcaozzi@townofwhiteland.com	fax: (317) 535-8724
www.townofwhiteland.com	mobile: (317) 339-3106
Want to always have my latest info? Want a signature like this?	



ENERGY AND ENVIRONMENT CABINET

Steven L. Beshear
Governor

DEPARTMENT FOR ENVIRONMENTAL PROTECTION
300 FAIR OAKS LANE
FRANKFORT, KENTUCKY 40601
PHONE (502) 564-2150
FAX (502) 564-4245
www.dep.ky.gov

Leonard K. Peters
Secretary

R. Bruce Scott
Commissioner

July 31, 2011

Mark Wollschlager
HDR Engineering, Inc.
701 Xenia Avenue South
Suite 600
Minneapolis, MN 55416-3636

Re: Finance Docket No. 35523, CSX Transportation, Inc.-Acquisition-Louisville Indiana Railroad Company
(SERO 2011-28)

Dear Mr. Wollschlager,

The Energy and Environment Cabinet serves as the state clearinghouse for review of environmental documents generated pursuant to the National Environmental Policy Act (NEPA). Within the Cabinet, the Commissioner's Office in the Department for Environmental Protection coordinates the review for Kentucky state agencies.

We received your letter dated July 11, 2011. Based on a review of the letter and project map, we do not anticipate any environmental concerns within the Commonwealth of Kentucky. We look forward to reviewing the Environmental Assessment when it is prepared.

If you should have any questions, please contact me at (502) 564-2150, ext. 112.

Sincerely,

Larry C. Taylor
State Environmental Review Officer

Exhibit 15-Minor Transaction Operating Plan.

The L&I will be responsible for maintaining and dispatching the Line. L&I will retain all local and overhead service on the Line and CSXT will operate overhead service on the Line.

CSXT will operate over the Line seven days per week with trains entering/exiting the Line to/from CSXT's Louisville Secondary at Mile Post 4.0+/- ("MP 4") south of Indianapolis, IN; to/from CSXT's Indiana Subdivision at Seymour, IN; and to/from CSXT's Louisville Terminal Subdivision at 11th Street in Louisville, KY. In addition, CSXT will continue to operate trains between Louisville and the connection to the CSXT Nabb Branch in Jeffersonville, IN, pursuant to a separate, existing trackage rights agreement.

Because of the initial lack of sidings or the capability on the Line, CSXT will operate over the Line without stopping. As volume increases warrant, L&I or its contractor will construct sidings and additional capacity improvements so that trains can efficiently operate in both directions on the Line. Siding locations will be determined based on operating needs and to minimize impact on the public.

Northward Trains. CSXT trains that will operate northward on the Line will operate through the Louisville Terminal to the connection with the Line at 11th Street in Louisville. Once on the Line, trains will operate to the CSXT connection at Seymour, IN or to the CSXT connection at MP 4 near Indianapolis, IN.

Trains operating to the CSXT connection at Seymour will then operate east on the CSXT Indiana Subdivision approximately 87 miles to Cincinnati, OH where CSXT has a junction of several routes. Most of the trains from the Line that operate across the Indiana Subdivision will

operate northward from Cincinnati to points in the Midwestern Region, Northeast, or Mid-Atlantic regions of the United States.

Trains operating to the CSXT connection at MP 4 will operate into Indianapolis where they may then operate to the east or west. Trains operating to the east will operate on CSXT's Indianapolis Line to points in the Midwestern Region, Northeast, or Mid-Atlantic regions of the United States. Trains operating to the west may operate to St. Louis or Chicago, or may operate approximately 16 miles to CSXT's major hump yard at Avon, IN for further classification.

Southward Trains from Indianapolis, IN. Trains that will operate in a southward direction on the Line would enter the line at MP 4 near Indianapolis, IN. Trains entering the Line at MP 4 may come from several directions into Indianapolis. Some trains entering the Line near Indianapolis will operate from points east of Indianapolis in the Midwestern Region, Northeast, and Mid-Atlantic regions. Some trains entering the Line near Indianapolis will come from CSXT's St. Louis Line or from the northwest Indiana / Chicago region. Other trains may originate at CSXT's major hump yard at Avon, IN.

Southward Trains from Seymour, IN. Trains that will operate in a southward direction on the Line may also enter the line at Seymour, IN. Trains entering the Line at Seymour will operate from Cincinnati, OH which is a junction point of several CSXT routes. Most trains operating to Seymour from Cincinnati will operate from the Cincinnati Terminal or will operate from the Midwestern Region, Northeast or Mid-Atlantic and will operate into Cincinnati from the north.

Exhibit 22

VERIFIED STATEMENT OF LAWRENCE L. RATCLIFFE

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 35523

**CSXT TRANSPORTATION, INC.—JOINT USE—LOUISVILLE & INDIANA
RAILROAD COMPANY**

VERIFIED STATEMENT OF LAWRENCE L. RATCLIFFE

My name is Lawrence L. Ratcliffe. I am Director Network Planning for CSX Transportation, Inc. (“CSXT”), a Class I Railroad. The purpose of this Verified Statement is to explain CSXT’s proposed operations, the competitive impact, and the benefits of the Proposed Transaction.

CSXT is seeking authority to jointly use approximately 106.5 miles of the Louisville & Indiana Railroad Company (“L&I”) from the L&I connection with CSXT in Indianapolis, IN, milepost 4.0±, to the L&I connection with CSXT in Louisville, KY, milepost 110.5± (the “Line”). CSXT seeks to use the Line through the acquisition of a perpetual, non-exclusive railroad operating easement. A map is in Exhibit 1 to the Application.

I have over 30 years of experience in the rail industry and have served in my current position since 2004. As Director Network Planning, my responsibilities include analysis and planning of CSXT’s rail network to position CSXT with rail infrastructure necessary to meet current and future volume and service requirements. My prior railroad work experience has included field transportation operations, field engineering work, facility design, service design, joint facility negotiations and administration, capital planning, network operations, and strategic planning. My business address is 500 Water Street, Jacksonville, Florida 32202.

SUMMARY

CSXT is seeking approval from the Surface Transportation Board for CSXT to acquire an easement that will allow CSXT to jointly use the 106.5-mile railroad line owned by L&I between milepost 4.0 and milepost 110.5 (the “Proposed Transaction”). The Proposed Transaction is part of CSXT’s efforts to drive operational excellence, to improve network efficiency, and to create greater capacity and improved service in order to meet current and future customer needs. CSXT will jointly use the Line with the L&I. CSXT will use the Line to operate some of its own overhead rail traffic that moves between Louisville and the north, east, and west. CSXT expects to improve the efficiency of its operations by reducing the time it takes trains to travel to and from Louisville.

Prior to the L&I’s acquisition of the Line, it was owned by Consolidated Rail Corporation (“Conrail”). The Line was the principle Conrail route between Indianapolis and Louisville. And in the Final System Plan that created Conrail, the Line was considered to have heavy traffic density and projected to carry between ten and twenty million gross tons per year. *See Final System Plan Part II page 216.*

The Proposed Transaction will not adversely impact competition. To the contrary, it will provide CSXT with improved efficiencies that enhance the ability of CSXT to more effectively compete with other railroads and with other modes of transportation, such as long haul trucking companies. CSXT will fund and own a significant upgrade of the Line. The upgrade of the Line will include: a) improving the track structure to Federal Railroad Administration (“FRA”) Class 4 track allowing operations at speeds up to 60 miles per hour where signaling and track geometry permit, b) replacing Bridge No. 40.19 at Columbus, IN, c) modernizing the train dispatching system, and d) removing weight restrictions to permit the handling of 286,000 pound gross

weight on rail (“GWOR”) cars (the “Upgrade”). CSXT envisions completing the Upgrade within seven years of closing. The Upgrade will increase fluidity that will enable CSXT to operate more efficiently in the markets it already serves.

CSXT will purchase the Easement from L&I for \$10,000,000. CSXT estimates it will invest between \$70,000,000 and \$90,000,000 for the Upgrade within seven years of the closing of the Proposed Transaction. CSXT pay for the Upgrade as part of its ongoing capital expenditures. CSXT will not have to borrow in order to fund either the purchase price for the Easement or the capital costs of the Upgrade.

In order to jointly use the Line with L&I, CSXT will pay L&I a reduced per-car-mile fee to operate over the Line. L&I and CSXT will pay for maintenance, dispatching and other joint facilities on the Line based on usage as provided in the Operating Agreement.

Louisville is the center of CSXT’s automotive network. Louisville is currently - and is expected to remain - the primary collection and distribution point for automotive traffic moving throughout CSXT’s service network. As such, CSXT’s ability to efficiently handle automotive traffic to and from its primary automotive classification hub at Louisville is critical to providing the level of service required by automotive manufacturers. A large number of the trains that will use the Line will be automotive trains moving freight between Louisville and automotive production and distribution facilities across CSXT’s network.

Today the vast majority of the trains that operate between Louisville and points to the east and north of Louisville move over the CSXT line between Louisville and Cincinnati (“LCL Subdivision”). This overhead traffic does not originate or terminate on the LCL Subdivision. The LCL Subdivision is CSXT’s primary automotive and double stack route to and from Louisville from the north and east. But for one or two automotive trains that operate via trackage

rights on the southern portion of the Line, the rest of the automotive trains and all of the intermodal trains operate via the LCL Subdivision. The capacity of the LCL Subdivision is limited by grade and curvature constraints and it is impractical to add capacity on the LCL Subdivision, as discussed further below. The Proposed Transaction offers an alternative overhead option for moving trains between Louisville and points north and east of Louisville that will not be limited by grade and curvature constraints.

Additionally, there are a limited number of Ohio River railroad crossings available to CSXT, thereby limiting efficient north-south routings. CSXT currently has two Ohio River crossings on its primary north-south corridors: one at Henderson, KY/Evansville, IN and one at Cincinnati, OH/Covington, KY. The Proposed Transaction will give CSXT an additional crossing at Louisville, KY, enabling CSXT to maintain its north/south connectivity without incurring additional costs and delays in routing trains around the region. The crossing of the Ohio River at Louisville will provide CSXT with another direct route to and from Louisville from the north and east versus the current routes where traffic must move through Henderson/Evansville or Cincinnati/Covington before reaching Louisville.

Joint use of the Line will also give CSXT greater capability for the handling of its traffic between Louisville and Indianapolis. CSXT's use of the Line will provide CSXT with a more direct route between the two cities, great routing flexibility and increased rail capacity that will allow CSXT trains to move more quickly through the Midwestern Region of the CSXT Network.

THE PROPOSED TRANSACTION WILL IMPROVE CONNECTIVITY BETWEEN LOUISVILLE AND POINTS NORTH AND EAST OF LOUISVILLE

Acquiring the Easement to jointly use the Line with L&I will allow CSXT to reduce delays and increase the fluidity of its train movements across its system - particularly between points north and east of Louisville and Louisville.

As mentioned above, the LCL Subdivision is CSXT's only proprietary automotive and double stack capable route between Louisville and points north and east. The LCL Subdivision's significant grades (over 1%) and 8 degree maximum curvature make it impractical to add capacity on this route. These physical characteristics result in train speeds which average about 15 miles per hour. Furthermore, siding limitations result in train length restrictions of approximately 7,500 feet.

The siding limitations on the LCL Subdivision cause CSXT to operate smaller, less efficient trains between Louisville and Cincinnati. These smaller trains create inefficiencies throughout CSXT's network in terms of additional resources, terminal congestion, and track occupancy. Operating limitations (i.e. shorter trains at slower speeds) require additional resources and train starts, which result in more trains moving across an already capacity constrained corridor and more trains moving through the Cincinnati, Ohio Terminal area which encompasses CSXT's Queensgate Yard, a major hump classification facility.

CSXT's use of the Line will create routing flexibility and performance improvements in CSXT's network in the Midwestern Region. Most of the trains utilizing CSXT's LCL Subdivision originate or terminate outside of the Midwestern Region. As such, the ability to route trains around the LCL Subdivision and avoid traversing the Cincinnati Terminal will improve transit times, efficiencies, and terminal fluidity on traffic throughout CSXT's system.

There are four CSXT routes that handle CSXT traffic moving to or from Louisville that will be affected by the Proposed Transaction. They are i) Louisville - Sidney, OH (via the LCL Subdivision), ii) Louisville - Sidney, OH (via L&I – Seymour, IN – Cincinnati), iii) Louisville - East St. Louis, and iv) Louisville - Indianapolis.

Louisville – Sidney, OH (via the LCL Subdivision). There are 9 trains a day that run over this route that would be affected by the Proposed Transaction. Trains move from Louisville over the Louisville Terminal Subdivision for 8.6 miles to the connection with the LCL Subdivision then 101.6 miles over the LCL Subdivision to the Cincinnati Terminal Subdivision, where they cross the Ohio River. At Cincinnati trains move over the Cincinnati Terminal Subdivision for 26.5 miles to Hamilton, OH. From Hamilton, trains move over the Toledo Subdivision for 71.2 miles to Sidney, OH.¹ This 207.9 mile route takes approximately 17.4 hours, including dwell at both Louisville and Cincinnati per train and must move over the LCL Subdivision and through Queensgate Yard.

Under the Proposed Transaction, trains will move over the Louisville Subdivision in Louisville for 3.0 miles to the joint use Line for 106.5 miles to the connection with CSXT in Indianapolis, at milepost 4.0. From Indianapolis, trains would move over the Indianapolis Terminal Subdivision for 14.4 miles to the Indianapolis Line Subdivision, which extends to the east for 109.9 miles to Sidney. While this 233.8 mile route is slightly longer than the current Louisville to Sidney route, it is expected to save approximately 8.4 hours over the current route because the trains can move faster over the Line than they can over the LCL Subdivision and would avoid congestion in the Cincinnati Terminal. This route also allows trains to avoid the operational challenges of using Queensgate Yard.

¹ From Sidney, trains will move on their existing routes to destination.

Louisville - East St. Louis. There is one train each day that operates over this route that would be affected by the Proposed Transaction. This train operates over the Louisville, Henderson, and St. Louis Subdivision (“LH & STL”) for 136 miles between Louisville and Henderson, KY where the LH&STL connects with the Henderson Subdivision. The train uses 8.3 miles of the Henderson Subdivision to cross the Ohio River, 16.1 miles of the Evansville Terminal Subdivision, and 39.9 miles on the CE&D Subdivision to Vincennes, IN. From Vincennes the train moves over the Illinois Subdivision for 147.4 miles between Vincennes and East St. Louis. This 347.7 mile route takes approximately 22.6 hours per train, inclusive of running time and yard dwell.

Under the Proposed Transaction, the train will move from Louisville over Louisville Terminal Subdivision in Louisville for 3.0 miles to the Line. The train would then move north from Louisville over the Line for 106.5 miles to the connection with CSXT in Indianapolis at milepost 4.0. From the connection, the train would move over the Indianapolis Terminal Subdivision for 14.4 miles to Avon, IN.² From Indianapolis the train would move west over the St. Louis Line Subdivision for 226.1 miles to East St. Louis. This route is essentially the same distance as the current Louisville to East St. Louis route, but will be faster. This route will save approximately 4 hours per train over the current route.

Louisville – Sidney, OH (via Seymour, IN). There are two trains a day that operate between Louisville and Sidney, by utilizing existing trackage rights over the Line between Louisville and Seymour and then east over CSXT’s line to Cincinnati en route to Sidney. Trains operating over this route start in Louisville and operate over 3.0 miles of the Louisville Terminal Subdivision and then over the L&I for 46.8 miles to Seymour. Thence, trains operate east over

² The Avon Yard is CSXT’s major classification terminal and hump yard in the Indianapolis, IN area.

the Indiana Subdivision for 85.8 miles where these trains enter or bypass Queensgate Yard. From Cincinnati trains move north over the Cincinnati Terminal Subdivision for 24.1 miles to Hamilton, OH. From Hamilton, trains move north over the Toledo Subdivision for 71.2 miles to Sidney. This 230.9-mile trip takes approximately 15.4 hours, including dwell time.

Under the Proposed Transaction, the two trains will move over the Louisville Subdivision in Louisville for 3.0 miles to the joint use Line for 106.5 miles north to the connection with CSXT in Indianapolis, at milepost 4.0. From Indianapolis, trains would east move over the Indianapolis Terminal Subdivision for 14.4 miles to the Indianapolis Line Subdivision, which extends to the east for 109.9 miles to Sidney. While this 233.8 mile route is about the same distance as the current Louisville to Sidney route (via Seymour, IN), it will save approximately 6.4 hours in travel time over the current route because the trains can move faster over the Line than they can over the LCL Subdivision and would avoid delay at Cincinnati. This reroute also allows trains to avoid the Queensgate Yard.

As a result of the Proposed Transaction, CSXT will eliminate two trains that it currently operates over its Indiana Subdivision (between Seymour and Cincinnati) and these trains will operate over the entire Line between Louisville and Indianapolis. CSXT will maintain the ability to enter and exit the Line at Seymour. CSXT has no plans to discontinue service over or abandon the Indiana Subdivision. As a result of the Proposed Transaction, and more specifically the capacity it creates on the LCL Subdivision, CSXT will be able to utilize the LCL Subdivision to accommodate future volume increases and operating needs.

Indianapolis - Louisville. Currently, CSXT does not operate any trains between Indianapolis (Avon Yard) and Louisville. Instead, CSXT traffic that could be more efficiently handled over the Line is routed circuitously between Indianapolis and Louisville, often incurring

additional handlings and costs which impact customer service and transit time. From Indianapolis, the traffic moves over Indianapolis Terminal for 11.8 miles to the connection to the Indianapolis Subdivision, and then 98.2 miles east to Hamilton, OH. The traffic then moves 26.5 miles over the Cincinnati Terminal Subdivision, 101.6 miles on the LCL Subdivision to Louisville, and 8.6 miles over the Louisville Terminal Subdivision. This 246.7 mile route takes approximately 23.6 hours per train (including dwell time) and must move over the LCL Subdivision and through Queensgate Yard. This route takes trains east to Cincinnati to cross the Ohio River only to double back west to Louisville, which is almost directly south of Indianapolis.

Under the Proposed Transaction, CSXT would move enough traffic to operate three new trains per day between Indianapolis and Louisville (one of which will operate to East St. Louis). The trains would move from Avon via the Indianapolis Terminal Subdivision for 14.4 miles to the joint use Line for 106.5 miles to Louisville and over the Louisville Terminal Subdivision for 3.0 miles. This 123.9 mile route is significantly shorter than the routing via Cincinnati and would save CSXT 12.7 hours per train over the current route. Traffic routed this way would also avoid the LCL Subdivision, with its lower speeds, and the congestion associated with Queensgate Yard. Additionally, the route under the Proposed Transaction would provide a much more direct route to Louisville by allowing CSXT to take advantage of the Ohio River crossing at Louisville instead of having to go east to Cincinnati to cross the Ohio River.

As a result of the Proposed Transaction, CSXT will be able to increase its train lengths north and east of Louisville to 10,000 feet. This increase in train length will provide operating economies for CSXT. CSXT also expects use of the faster routes to reduce service times

through the Midwestern Region by about 130.5 hours per day, with annual savings of about \$11.8 million. Additionally, CSXT's use of the Line will allow CSXT to avoid circuitous routes and the longer routings that are currently required to cross the Ohio River. These efficiencies will improve car utilization and reduce fuel consumption.

THE PROPOSED TRANSACTION WILL ENHANCE COMPETITION

Based on my knowledge of the railroad industry, the Proposed Transaction will not have any anticompetitive effects. The Proposed Transaction is unlikely to cause a substantial lessening of competition or to create a monopoly or restraint of trade. Currently there are no shippers on the Line that are jointly served by L&I and CSXT. Any local shippers on the Line will continue to be served by L&I.

There will not be a reduction in product or geographic competition. Shippers will continue to have the same shipping options that they do today. L&I will continue to provide overhead and local service over the Line, while CSXT will continue to provide overhead service only. L&I and CSXT will be able to operate more efficiently in the markets they already serve once the Upgrade is completed. The Proposed Transaction will improve the efficiency, consistency, and reliability of L&I's and CSXT's train operations.

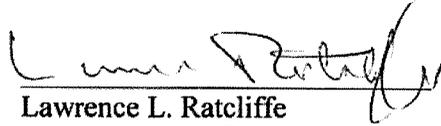
The Proposed Transaction will not result in a reduction in the number of rail carriers serving any shipper. This Proposed Transaction will not alter the competitive balance between CSXT and L&I, or between CSXT and any other Class I railroad.

CONCLUSION

The Proposed Transaction provides more flexible and efficient freight rail routes for CSXT traffic. The Proposed Transaction will not reduce competition. The Proposed Transaction will increase efficiency and result in annual savings to CSXT from that efficiency of about \$11.8 million.

I, Lawrence L. Ratcliffe, declare under penalty of perjury that the foregoing is true and correct.

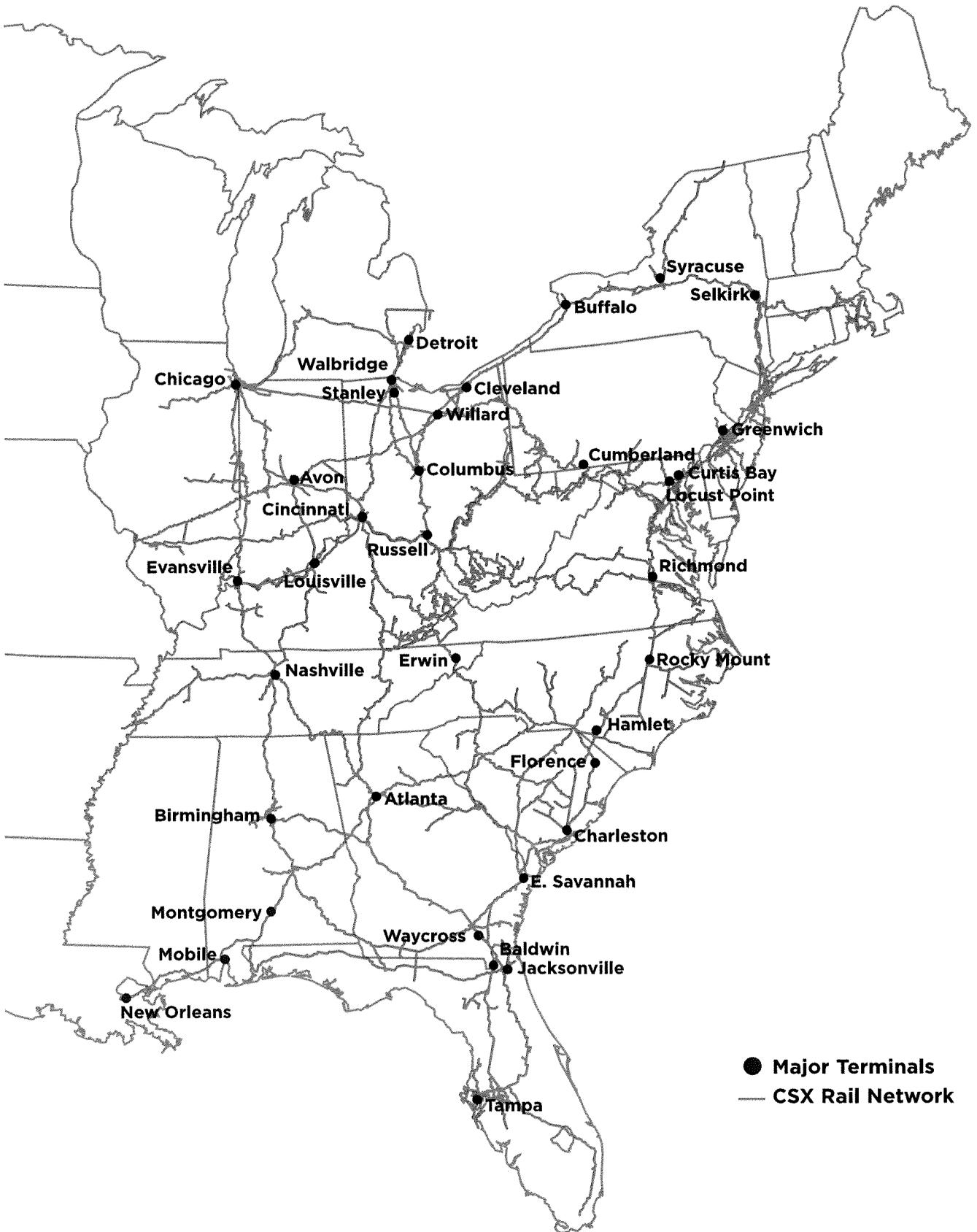
Further, I certify that I am qualified and authorized to file this Verified Statement.

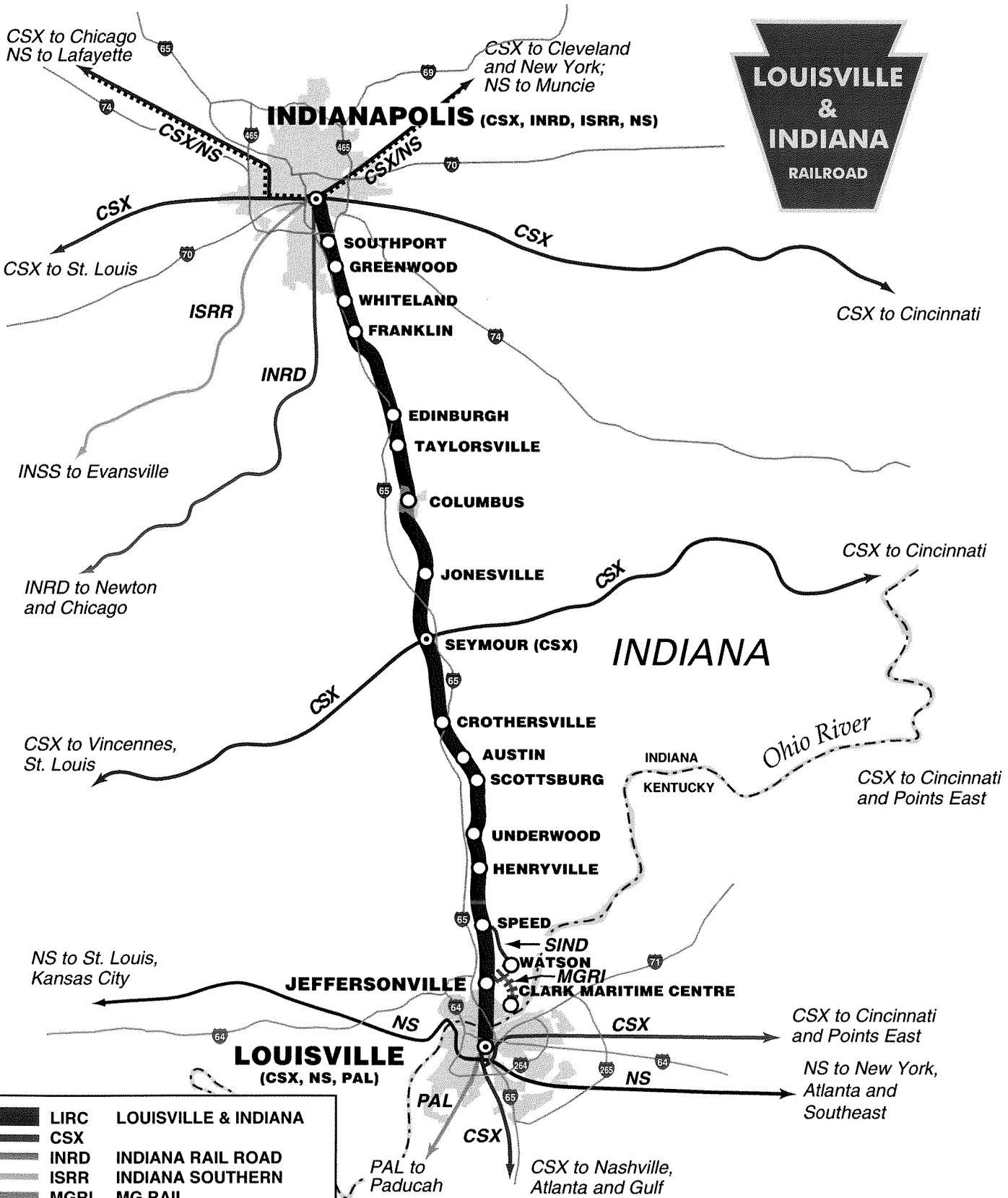


Lawrence L. Ratcliffe
Executed June 10, 2013

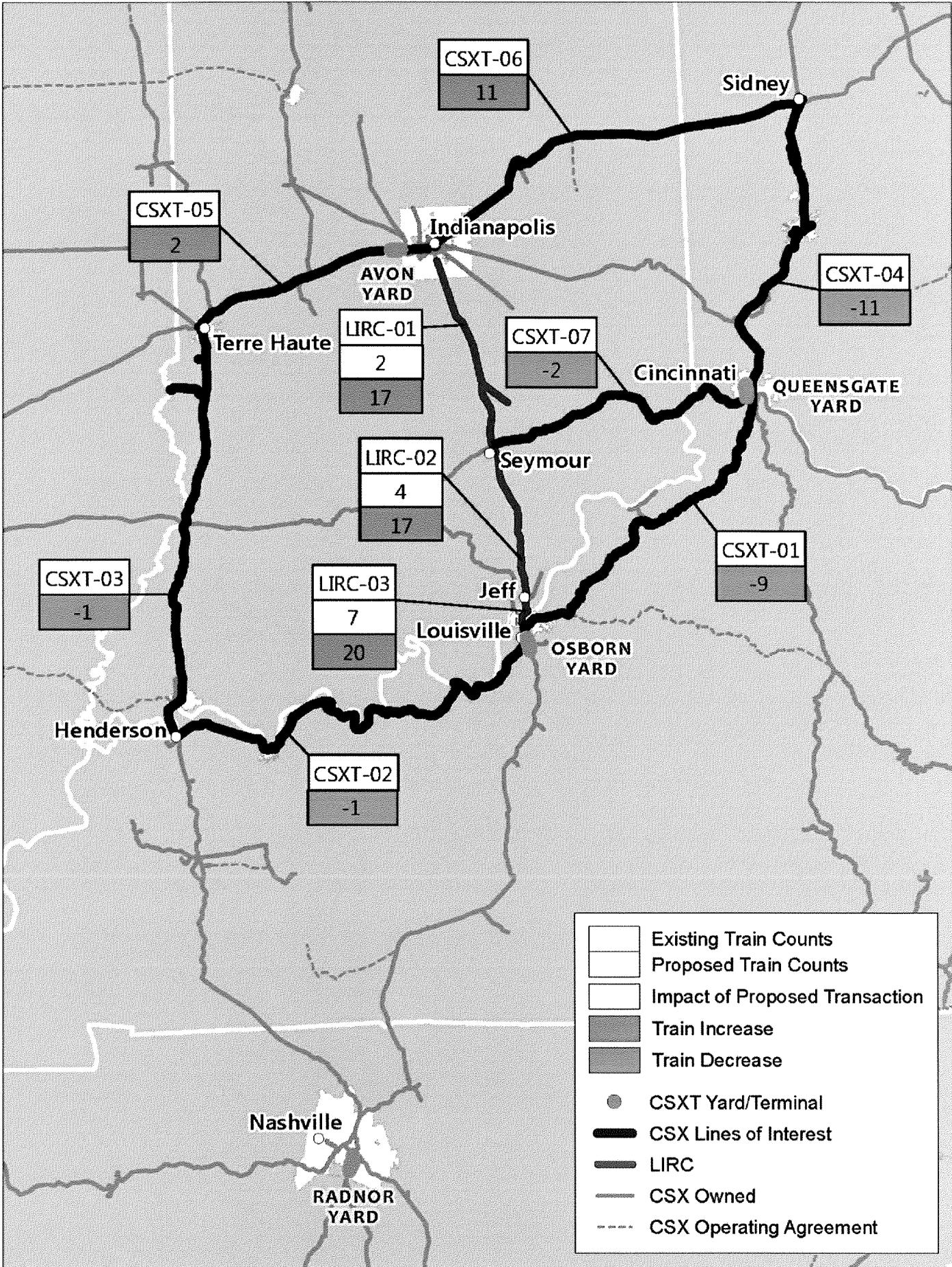
**EXHIBIT 1 - MAPS
(IN COLOR)**

CSX SYSTEM MAP





	LIRC	LOUISVILLE & INDIANA
	CSX	
	INRD	INDIANA RAIL ROAD
	ISRR	INDIANA SOUTHERN
	MGRI	MG RAIL
	NS	NORFOLK SOUTHERN
	PAL	PADUCAH & LOUISVILLE
	SIND	SOUTHERN INDIANA RY.
		INTERCHANGE



BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35523

CSX TRANSPORTATION, INC.—JOINT USE—LOUISVILLE & INDIANA RAILROAD
COMPANY, INC.

APPLICATION

VOLUME II
EXHIBIT 2- AGREEMENTS BETWEEN CSXT AND L&I
PUBLIC

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Attorneys for: Louisville &
Indiana Railroad Company, Inc.

Attorneys for: CSX Transportation, Inc.

Dated: June 14, 2013

Transaction Agreement

Easement Agreement

Exhibit A-1 – Easement Premises – Additional Description

Exhibit A-2 – Legal Description of Easement ROW – Under Negotiation

Exhibit B – Map of Easement Premises – Under Negotiation

Exhibit C – Quitclaim Deeds – Under Negotiation

Joint Use Operating Agreement

Attachment A – Dispatching Protocols

Attachment B – Passenger Principles

Attachment C – Cost Sharing – Under Negotiation

Attachment D – Upgrade of L&I Line

Attachment E – Other Joint Expenses Plan – Under Negotiation

Attachment F – Inspection Procedures

Exhibit 1 – Map

Exhibit 2 – Liability Allocation Agreement

Exhibit 3 – Third Party Operating Agreement

TRANSACTION AGREEMENT

Between

CSX Transportation, Inc.

and

Louisville & Indiana Railroad Company, Inc.

dated as of

May 30, 2013

This **TRANSACTION AGREEMENT** is made as of this 30th day of May, 2013, by and between CSX Transportation, Inc., a Virginia corporation (“CSXT”) and Louisville & Indiana Railroad Company, Inc., an Indiana corporation (“L&I”). CSXT and L&I are sometimes referred to herein collectively as the “Parties” and individually as a “Party.”

WITNESSETH:

WHEREAS, L&I is the owner of, or has a right-of-way across, the approximately 106.5-mile line of railroad, including all tracks, rails, ties, ballast, other track materials, switches, signals, crossings, bridges, culverts, crossing warning devices and any and all improvements or fixtures that are affixed thereto extending from mile post 4.0± located at or near the CSXT connection at Indianapolis, Indiana to mile post 110.5± located at the CSXT connection at or near Eleventh Street in Louisville, Kentucky (the “L&I Line”);

WHEREAS, it is CSXT’s goal in entering into this transaction to improve the efficiency of its operations through the acquisition of a non-exclusive freight railroad operating easement over the L&I Line and to agree to arrangements for CSXT to fund and own improvements to the L&I Line (the “Upgrade” as hereinafter defined) and appurtenances thereto (the “Easement”), and it is L&I’s desire to sell the Easement to CSXT;

WHEREAS, it is the desire of CSXT and L&I to agree to arrangements for CSXT to fund and hold title and beneficial ownership of certain improvements to the L&I Line, which improvements are more particularly described on Attachment D to the Joint Use Operating Agreement (the “Upgrade”); and

WHEREAS, L&I and CSXT desire to continue to jointly operate over the L&I Line with CSXT providing overhead service, with the right to also enter and exit the L&I Line at Seymour, IN, and for L&I to provide local and overhead service over the L&I Line.

NOW, THEREFORE, in consideration of the premises, the mutual covenants, and the other good and valuable consideration set forth herein, CSXT and L&I, intending to be bound, agree as follows:

1. Agreements. Subject only to the fulfillment of the conditions set forth in Section 5 hereof, CSXT and L&I agree to enter into the transactions set forth in the following agreements: (A) Easement Agreement, in the form appended hereto as Exhibit A; (B) Joint Use Operating Agreement, in the form appended hereto as Exhibit B (the “Operating Agreement”); and (C) the Liability Allocation Agreement, in the form appended hereto as Exhibit C (together, the “Transaction Documents”).

2. Regulatory Approval.

A. CSXT shall take all necessary steps to obtain the approval of the U.S. Surface Transportation Board (the “STB”) of the joint use of the L&I Line by CSXT and L&I and of CSXT’s purchase of the Easement, with L&I’s full and reasonable cooperation. L&I shall have the right to reasonably review and approve any such application prior to its submission to the STB. Except as set forth in Section 2.B, below, CSXT is responsible for ensuring compliance with any requirements of 49 U.S.C. § 11323 and 49 C.F.R. § 1180 prior to commencement of operations under the Transaction Documents.

B. Each Party shall be solely responsible for any protective conditions or benefits imposed by any judicial, regulatory or governmental body, for the benefit of its own employees or the employees of any of its subsidiaries or affiliates, or who are otherwise required to be paid under its collective bargaining or other agreements, howsoever arising, including, as a consequence of the approval of the transactions contemplated in this Transaction Agreement and the Transaction Documents or the exercise or performance by CSXT or L&I of any rights or obligations under this Transaction Agreement or the Transaction Documents; and each Party shall defend, indemnify and hold harmless the other from and against any and all such liability, cost or expense.

C. CSXT and L&I shall cooperate in complying with any environmental or historic mitigation, whether (i) voluntarily agreed to in writing by CSXT and L&I, or (ii) imposed by the STB as a condition to granting approval of the joint use of the

L&I Line by CSXT and L&I and of CSXT's purchase of the Easement or as subsequently imposed by the STB pursuant to its retained jurisdiction (clauses (i) and (ii) above, collectively the "STB Mitigation"). CSXT shall be solely responsible for the cost of compliance with the STB Mitigation.

3. Tax Issues.

A. CSXT and L&I shall cooperate in obtaining a private letter ruling from the Internal Revenue Service that the transactions described in the Transaction Documents will receive the tax treatment set forth in Exhibit D, Tax Treatment and Procedure, appended hereto (such private letter ruling shall be referred to herein as the "IRS Ruling"); *provided, that*, Exhibit D may be amended or supplemented as agreed to in writing by the Parties.

B. The Parties acknowledge and understand that the process of obtaining the IRS Ruling likely will take several months, and the Parties agree to participate and cooperate in obtaining the IRS Ruling, in accordance with the procedures set forth in Exhibit D appended hereto.

4. Closing. The purchase price for the Easement shall be Ten Million Dollars (\$10,000,000.00) (the "Purchase Price"). Subject to Section 6, below, upon fulfillment or mutual written waiver (unless a waiver would be unlawful) of the conditions set forth in Section 5 hereof, (A) the Parties shall exchange executed originals of the Transaction Documents, and (B) CSXT shall deliver to L&I the Purchase Price by wire transfer or other means satisfactory to L&I, and any and all other consideration then due to L&I from CSXT (clauses (A) and (B) together shall be referred to as the "Closing").

5. Conditions to Closing. Each Party covenants to the other Party to use good faith efforts to cause the fulfillment of the Conditions to Closing (as defined below). As a condition to the Closing, the following events or conditions (the "Conditions to Closing") shall have occurred:

- A. The Parties shall have obtained the IRS Ruling in a form and substance acceptable to both Parties;
- B. The STB shall have approved the joint use of the L&I Line by CSXT and L&I and CSXT's purchase of the Easement, subject to the conditions for the protection of railroad employees set out in *Norfolk and Western Railway Co.—Trackage Rights—Burlington Northern, Inc.*, 354 I.C.C. 605, 610-15 (1978), as modified in *Mendocino Coast Railway, Inc.—Lease & Operate—California Western Railroad*, 360 I.C.C. 653, 664 (1980), and shall not have imposed any conditions, including without limitation labor protective conditions, which either Party in its sole and absolute discretion deems unacceptable;
- C. The Parties shall have complied with the conditions, if any, imposed by the STB, in its approval, to the extent required by the STB's decision to be performed prior to closing;
- D. The approval of the STB shall not have been stayed or enjoined by the STB or by any court of competent jurisdiction;
- E. No claim, litigation, arbitration, administrative proceeding, labor dispute or work stoppage shall be threatened in writing or pending that, if adversely determined, would substantially restrict either Party from consummating the transaction contemplated by this Agreement, or would deprive such Party substantially of the benefit of the bargain negotiated by such Party.
- F. On or before November 30, 2013, pursuant to the Operating Agreement the Parties shall have established Approved Maintenance, DATS, Dispatching, and Operating Expenses Plans for the Year 2014;
- G. On or before November 30, 2013, the Parties shall agree on the engineering firm that will act as general contractor on behalf of L&I for the Upgrade, pursuant to Attachment D of the Operating Agreement;
- H. On or before November 30, 2013, the Parties, pursuant to Attachment D of the Operating Agreement, shall have agreed upon the L&I dispatching system enhancements that will be part of the Upgrade; and
- I. As provided in Section 8.8 of the Agreement between the National Railroad Passenger Corporation ("Amtrak") and The Louisville and Indiana Railroad Company dated September 1, 1999 (the "Amtrak Agreement"), L&I shall have given Amtrak, on September 3, 2013, notice to terminate the Amtrak

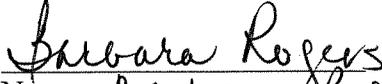
Agreement upon expiration of the twelve-month notice period set forth in the Amtrak Agreement .

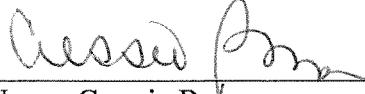
6. Failure to Close. In the event that one or more of the Conditions to Closing has not been satisfied or waived by both Parties as of December 31, 2013, the Closing shall be deferred until such time as all Conditions to Closing have been satisfied or waived by both Parties, at which time the Parties shall promptly take all appropriate actions to close; provided however, that if all Conditions to Closing have not been satisfied or waived by March 31, 2014, then this Transaction Agreement, other than Section 8 hereof, and the Transaction Documents shall all be considered null and void, and neither Party shall have any liability or obligation to the other with respect to the transactions contemplated hereby.
7. Termination. This Transaction Agreement shall terminate upon Closing and have no further force and effect after that time; *provided, that*, the undertakings and obligations of the Parties in Section 2.B, Section 2.C and the last sentence in Section 2.A shall expressly survive the Closing.
8. Counterparts. This Transaction Agreement may be executed in separate counterparts, each of which when so executed and delivered shall be an original for all purposes, but all such counterparts shall constitute but one and the same agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this TRANSACTION AGREEMENT be executed as of the day and year first above written.

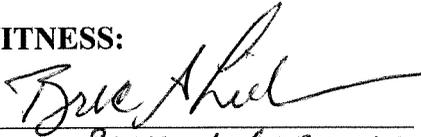
CSX Transportation, Inc.

WITNESS:


Name: Barbara Rogers
Title: Administration Assistant


Name: Cressie Brown
Title: Vice President Service Design

WITNESS:


Name: BRUCE A. LIEBERMAN
Title: CFO

Louisville & Indiana Railroad Company, Inc.

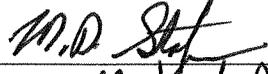

Name: Michael D. Stolzman
Title: President

EXHIBIT D

TAX TREATMENT AND PROCEDURE

A. Tax Treatment

- 1) CSXT shall be treated as holding title and beneficial ownership of the Upgrade.
- 2) The Upgrade shall be depreciable by its owner CSXT under Sections 167 and 168 of the Internal Revenue Code of 1986 ("Code").
- 3) L&I may treat the purchase price of the Easement as the amount realized from the sale or exchange of a capital asset or a Section 1231 asset for purposes of Section 1221 et seq. of the Code.
- 4) L&I shall not be treated as realizing gross income as a result of the construction of the Upgrade on the L&I Line either at the time of such construction or on termination of the Easement or its abandonment by CSXT.
- 5) CSXT may deduct any amounts paid to L&I for operating and maintaining the Upgrade.
- 6) To the extent L&I acts as an independent contractor in the construction or maintenance of the Upgrade, it must include in gross income amounts paid by CSXT or accrued by L&I in accordance with its method of accounting with respect to the construction and maintenance of the Upgrade.
- 7) To the extent L&I acts as an independent contractor, L&I may deduct all ordinary and necessary expenses incurred in that capacity in constructing and maintaining the Upgrade.

B. Procedure

The Parties shall jointly communicate with the IRS, orally and in writing, unless otherwise agreed.

[For Indiana] CROSS-REFERENCE: In accordance with Ind. Code §32-23-2-5(a), the easement described herein burdens real estate acquired by the grantor by deed dated _____, _____, and recorded in the Office of the Recorder of _____ County, Indiana, in [Deed Book _____, Page _____ OR as Instrument No. _____] on _____.

[For Kentucky] CROSS-REFERENCE: In accordance with Kentucky Revised Statutes 382.110, the easement described herein burdens real estate acquired by the grantor by deed dated March 11, 1994, and recorded in the Office of the Clerk of Jefferson County, Kentucky, in Deed Book 6432, Page 897, on March 23, 1994.

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this "Agreement"), made and entered into as of the ____ day of _____, 2013 (the "Effective Date"), by and between Louisville & Indiana Railroad Company, Inc., an Indiana corporation, having an address at 500 Willinger Lane, Jeffersonville, IN 47130 ("Grantor" or "L&I"), and CSX Transportation, Inc., a Virginia corporation, having an address at c/o CSX Real Property, Inc. – J915, 6737 Southpoint Drive S, Jacksonville, Florida 32216-6177 ("Grantee" or "CSXT"). As used in this Agreement, the term "Party," refers to either Grantor or Grantee, as the context requires, and the term "Parties" refers collectively to both of Grantor and Grantee.

WITNESSETH:

1. Grant of Easement. Grantor, for and in consideration of Ten Dollars (\$10.00) and such other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and the mutual covenants contained herein, hereby grants to Grantee and to Grantee's successors and permitted assigns, a non-exclusive easement for overhead freight rail operations over, upon, across and in an approximately 106.5-mile railroad right-of-way from L&I Mile Post 4.0± located near Indianapolis, Marion County, Indiana to L&I Mile Post 110.50± located in Louisville, Jefferson County, Kentucky with a width of thirty (30) feet on either side of the centerline of the main line railroad track (including without limitation the double railroad track in Louisville, Kentucky between L&I Mile Post 109.0± and L&I Mile Post 110.0±), to the extent Grantor holds sufficient legal rights therein or as the Parties otherwise agree in writing and, to the extent Grantor holds sufficient legal rights therein, air rights to a height of thirty (30) feet above the top of rail (subject to existing impediments or obstructions), the "Easement Premises" (as more particularly described in Exhibit A-1 and A-2 and shown in Exhibit B to this Agreement), to fund and own the Upgrade (as defined in Section 4) and, to the extent necessary to conduct overhead freight operations, to use the Appurtenances (as hereinafter defined) (together, the "Easement"), together with those additional rights as granted herein within the Easement Premises, all for the purposes and subject to the terms and conditions specified in this Agreement and the Joint Use Operating Agreement (including any and all exhibits, schedules and attachments thereto), dated _____, between the Parties (the "Operating Agreement"). Grantee shall also have a right of ingress and egress, over, upon and across the driveways and roadways of Grantor, if any, located on the surface of any other lands owned by Grantor or over which Grantor has legal rights that it may assign to third parties, and that are contiguous to the Easement Premises, to the extent reasonably required for access to and from the Easement Premises and a public way. To the extent Grantor holds only a right-of-way and/or easement

over the Easement Premises, nothing in this Agreement shall be deemed to grant Grantee any rights or interests greater than the rights or interests of Grantor.

2. Appurtenances. (a) The term "Appurtenances" shall mean those fixtures and other improvements situated on the Easement Premises (including without limitation rail, ties, spikes, tie plates, ballast, rail anchors, switches, turnouts, crossovers, bridges, culverts and other supporting structures, signaling equipment, radio and other communication facilities, and crossing protection equipment) that form (i) the main line railroad track extending from L&I Mile Post 4.0± located near Indianapolis, Indiana to L&I Mile Post 110.50± located in Louisville, Kentucky, and (ii) the double railroad track in Louisville, Kentucky between L&I Mile Post 109.0± and L&I Mile Post 110.0±. The Easement shall include a right of use of the Appurtenances. Grantor and Grantee further agree to expand the Easement Premises, but only to the extent Grantor holds sufficient rights to such expanded Easement Premises, and to modify this Agreement as necessary to accommodate any future technological innovation, or any improvement, addition, or betterment, in each case, to the extent agreed to by the Parties in an amendment to the Operating Agreement.

(b) Notwithstanding anything herein to the contrary, the Easement Premises and the Appurtenances shall exclude (i) all assets and rights of Grantor situated outside the Easement Premises, including without limitation certain non-operating parcels, customer tracks, transloading facilities, buildings, yard tracks, extra-width properties, shop facilities, longitudinal rights, pole and wire agreements, and subsurface rights, and (ii) all assets and rights (including without limitation appurtenances) that are not identified above in subsection 2(a) as Appurtenances (clauses (i) and (ii) of this Section 2(b) together referred to herein as the "Retained Assets").

3. Term of Easement. The Easement shall begin on the Effective Date and shall be perpetual, except that if the Upgrade, as defined and described in Attachment D of the Operating Agreement, is not completed pursuant to the Operating Agreement within seven (7) years from the Effective Date (as that term is defined in the Operating Agreement), the Easement shall terminate. The seven (7) year period shall be extended to the extent permitted by the express terms of the Operating Agreement.

4. Upgrade of the Easement Premises. The Grantee shall bear all costs and expense in connection with the Upgrade (except maintenance, to the extent set forth in the Operating Agreement), which Upgrade shall be designed and constructed pursuant to and in accordance with the Operating Agreement and owned by Grantee, whether or not the Easement terminates, subject to and in accordance with the provisions of Section 5(c) of this Agreement.

5. Use of Easement; Operation and Control of Easement Premises.

(a) The Easement hereby granted is for the purpose of Grantee, its successors and permitted assigns, performing freight railroad operations with its own crews over the Easement Premises (including the Appurtenances and Upgrade) and locating the Upgrade and appurtenances thereto, in connection with Grantee's funding and ownership of the Upgrade, for the purposes and subject to the terms and conditions specified in this Agreement and the Operating Agreement. The Easement does include (i) the right of Grantee to perform overhead freight railroad operations;

(ii) in addition to the right of ingress and egress granted in Section 1 of this Agreement, the right of Grantee to enter or exit the Easement Premises at the existing connections of the rail lines of Grantee and Grantor's main line track located on the Easement Premises (provided that traffic moving to and from the Nabb Branch shall be governed by the terms and provisions in the Trackage Rights Agreement between Grantor and Grantee, dated as of March 31, 2001 (as amended from time to time, the "Nabb Trackage Rights Agreement")), and at new connections, if any, agreed to by the Parties in the Operating Agreement, (iii) the right of Grantee to enter or exit the Easement Premises at the connection of the rail line of Paducah & Louisville Railway, Inc. and Grantor's main line track at Kentucky Avenue (approximate milepost 110.6) in Louisville, Kentucky, (iv) the right of Grantee to operate business cars, specials, and cars used in inspections, and the like, and (v) the right of Grantee to request Grantor to grant Grantee's Affiliates the right to operate on the Easement Premises, subject to each Affiliate satisfying the Affiliate requirements for such operations, as set forth in the Operating Agreement.

(b) The Easement does not include the right to serve customers on or adjacent to the Easement Premises. The Easement also does not include the right of Grantee to (i) use the Easement Premises or Appurtenances to effect interchange with third party carriers (including Grantee's Affiliates), (ii) conduct passenger operations, or (iii) grant third parties the right to operate on the Easement Premises or Appurtenances. Grantee shall not have the right to use the Upgrade for any of the purposes set forth above in this subsection 5(b).

(c) During the term of this Agreement, and following termination or expiration of the Easement, Grantee shall not (i) remove any part of the Upgrade from the Easement Premises or Appurtenances, (ii) cause any lien or encumbrance against the Retained Assets, the Easement Premises or the Appurtenances, except for the Upgrade, or (iii) take any other action that would adversely affect the Grantor's or its Affiliates' use of the Easement Premises, Appurtenances or Upgrade, or the utility of the Upgrade. In the event of the termination or expiration of the Easement, the use, maintenance and renewal of the Upgrade shall be governed by that certain Amended and Restated Trackage Rights Agreement between Grantor and Grantee, dated November 13, 2000, as further amended as described in Section 24 of the Operating Agreement ("Amended Trackage Rights"). Notwithstanding anything herein to the contrary, (A) following termination or expiration of the Easement, Grantee shall not have or acquire any right to or interest in the Easement Premises or Appurtenances by adverse possession, prescription or otherwise (except to the extent set forth in the Operating Agreement, the Amended Trackage Rights, if effective, or pursuant to any other, then-effective prior written agreement of the Parties), and (B) Grantee may encumber the Upgrade with liens (other than liens that would limit or otherwise have a material adverse effect on L&I's use of the Upgrade, Easement Premises or Appurtenances); *provided, that*, with respect to (1) the line segment from Louisville (m.p. 110.5) to Seymour (m.p. 59.2), if the Upgrade of such segment is not completed as of the fourth (4th) anniversary of the Effective Date of this Agreement, then, upon L&I's request, CSXT shall promptly cause the liens on such segment to be released; and (2) the line segments from Seymour to Columbus (m.p. 38.5), and Columbus to Indianapolis (m.p. 4.0), if the Upgrade of such segment is not completed as of the seventh (7th) anniversary of the Effective Date of this Agreement, then, upon L&I's request, CSXT shall promptly cause the liens on such segment to be released.

6. Reservation by Grantor of Certain Rights and Agreements. The Grantor hereby reserves to itself and its successors and assigns the free and unrestricted use of the Easement Premises, Appurtenances and the Upgrade in any manner not inconsistent with the terms of this Agreement or the Operating Agreement, including but not limited to, the right to grant similar non-exclusive easements and rights of use to any person at any time (subject to any restrictions or conditions in the Operating Agreement). Without limiting the generality of the foregoing, Grantor hereby reserves to itself and its successors and assigns the Retained Assets (as defined in Section 2(b) hereof).

7. Transfer of Easement Premises by Grantor. Grantor has the right to transfer or convey the Easement Premises or Appurtenances, sell, transfer or convey the stock of Grantor or merge Grantor with another entity, subject to the terms and conditions set forth in the Operating Agreement.

8. Assignment of Easement by Grantee. Grantee shall have the right to assign all (but not less than all) its rights and obligations under this Agreement subject to the terms and conditions set forth in the Operating Agreement.

9. Grantor's Title. Grantor's right, title and interest in and to the Easement Premises was conveyed to Grantor pursuant to the Quitclaim Deeds described on Exhibit C attached hereto and made a part hereof (the "Deeds"). The Easement is hereby granted without warranty of title and is subject to any covenants, easements, agreements or restrictions of record, including without limitation the Deeds; *provided, however*, except as set forth above, Grantor represents that, with respect to the Easement Premises, there is no lien arising through Grantor that (i) secures the repayment of money (except for taxes and other governmental charges that are not yet due and payable or which are being contested in good faith by appropriate proceedings, and mechanic's, repairmen and other like liens arising in the ordinary course of business that are discharged of record either by payment, the bonding thereof, or other lawful means for discharging any such lien, within thirty (30) days after notice of filing), or (ii) materially interferes with Grantee's ability to exercise its rights or perform its obligations under the Operating Agreement (together, "Prohibited Liens"), and that no Prohibited Liens arising through Grantor will attach to the Easement Premises once the Upgrade of the Easement Premises commences.

10. Liability. To the extent Losses (as that term is defined in the Operating Agreement) arise or are threatened under both this Agreement and the Operating Agreement, the responsibility and liability for such Losses, and indemnity with respect thereto, shall be allocated between Grantor and Grantee as provided in the Operating Agreement.

11. Property Taxes. Real property taxes and assessments attributable to the Upgrade, the Easement Premises and Appurtenances (including in the event of expiration or termination of the Easement) shall be allocated to the Parties as provided in the Operating Agreement.

12. Easement to Run with Land; Binding on Successors and Assigns. The Easement herein granted is intended to touch and concern and run with the land and benefit and be binding upon all present and future owners of Grantor's right, title and interest in and to the Easement Premises. This Agreement shall inure to the benefit of and be binding upon the successors and

permitted assigns, by merger or otherwise, to the extent provided in the Operating Agreement, of the Parties.

13. Waiver. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by all the Parties against whom it is asserted and any such written waiver shall be applicable only to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.

14. Attorneys' Fees and Costs. In the event of any litigation arising out of this Agreement, and to the extent this Section 14 does not conflict with the terms and conditions of the Operating Agreement, each Party to the litigation shall pay all fees and expenses of its own witnesses, exhibits, and counsel.

15. Notices. All notices hereunder shall be in writing and sent by hand delivery or by certified mail, return receipt requested, or by Federal Express, UPS, or other reputable overnight air courier with receipted delivery, to the addresses listed at the beginning of this Agreement, or such other address as may be established by a Party pursuant to notice in accordance with this Section.

16. Governing Law. This Agreement and the Easement hereby granted shall be governed by and construed in accordance with the laws of the State of Indiana.

17. Further Assurances. Each Party shall execute, acknowledge and deliver to the other Party such documents, instruments and certificates, and take such other action as the parties may reasonably request in order to give effect to the purposes or provisions of this Agreement.

18. Affiliates. For purposes of this Agreement, an "Affiliate" has the meaning given such term in the Operating Agreement. To the extent the provisions of this Agreement apply to the Affiliates of Grantor or Grantee, as appropriate, Grantor or Grantee shall cause its Affiliate to comply with all applicable terms, conditions and restrictions hereof. When an Affiliate of Grantee operates over the Easement Premises, Appurtenances or Upgrade while the Grantee also has the right to operate over the Easement Premises, Appurtenances or Upgrade, any operations thereover by such Affiliate shall be subject to the Affiliate satisfying the Affiliate requirements for such operations, as set forth in the Operating Agreement. Other than as provided in the Operating Agreement or as separately agreed to by Grantor and Grantee, Grantee shall not provide Grantor with an indemnity for Grantee's Affiliates that operate over the Easement Premises.

19. Construction. This Agreement and the grant of the Easement herein shall not be strictly construed but shall be given a reasonable construction so that the intention of the Parties to confer perpetual and commercially usable rights of enjoyment of the Easement, subject to the terms, conditions and restrictions set forth in this Agreement and the Operating Agreement (including without limitation termination rights), is carried out.

20. Time is of the Essence. Time is of the essence in the performance hereof.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Agreement as of the date first above written.

Louisville & Indiana Railroad Company, Inc.
an Indiana corporation
Grantor

By: _____

(printed name)

Title: _____

CSX Transportation, Inc., a Virginia corporation
Grantee

By: _____

(printed name)

Title: _____

STATE OF _____)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ of Louisville & Indiana Railroad Company, Inc., an Indiana corporation, being the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that he or she signed and delivered the said instrument and caused the seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as his or her own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 2013.

Notary Public

(printed name)

County of Residence: _____

STATE OF _____)
) SS
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County in the State aforesaid, DO HEREBY CERTIFY that _____, personally known to me to be the _____ of CSX Transportation, Inc., a Virginia corporation, being the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that he or she signed and delivered the said instrument and caused the seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as his or her own free and voluntary act and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

Given under my hand and notarial seal this ____ day of _____, 2013.

Notary Public

(printed name)

County of Residence: _____

I affirm, under penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

[Name of preparer]

This instrument prepared by [name and address of preparer].

EXHIBIT A-1
EASEMENT PREMISES - ADDITIONAL DESCRIPTION

The term "Easement Premises" shall mean Grantor's real property situated in Marion, Johnson, Bartholomew, Jackson, Scott, and Clark Counties, Indiana and Jefferson County, Kentucky more particularly described as follows:

- (1) Approximately 106.5-mile railroad right-of-way from L&I Mile Post 4.0± located near Indianapolis, Marion County, Indiana to L&I Mile Post 110.50± located in Louisville, Jefferson County, Kentucky with a width of thirty (30) feet on either side of the centerline of the main line railroad track (including without limitation the double railroad track in Louisville, Kentucky between L&I Mile Post 109.0± and L&I Mile Post 110.0±), to the extent Grantor holds sufficient legal rights therein or as the Parties otherwise agree in writing.
- (2) to the extent Grantor holds sufficient legal rights therein, air rights to a height of thirty (30) feet above the top of rail (subject to existing impediments or obstructions).

Exhibit A-2 – Legal Description of Easement
Under Negotiation

Exhibit B – Map of Easement Premises
Under Negotiation

Exhibit C – Quitclaim Deeds
Under Negotiation

JOINT USE OPERATING AGREEMENT
Between
CSX TRANSPORTATION, INC.
And
LOUISVILLE AND INDIANA RAILROAD COMPANY, INC.

This **JOINT USE OPERATING AGREEMENT** (the "Agreement"), is entered into as of this ____ day of _____ 2013, by and between CSX TRANSPORTATION, INC., a Virginia corporation, (hereinafter referred to as "CSXT") and LOUISVILLE & INDIANA RAILROAD COMPANY, INC., an Indiana corporation, (hereinafter referred to as "L&I") (CSXT and L&I are sometimes referred to herein collectively as the "Parties" and individually as a "Party").

WITNESSETH:

WHEREAS, L&I owns and operates an approximately 106.5-mile line of railroad between L&I Mile Post 4.0± near Indianapolis, IN and the connection between the Parties at L&I Mile Post 110.50± at Eleventh Street in Louisville, KY, ;

WHEREAS, CSXT operates over the L&I Line (as that term is defined in Section 1.B, below) pursuant to that certain Amended and Restated Trackage Rights Agreement between CSXT and L&I, dated as of November 13, 2000 (the "Existing Agreement"); and

WHEREAS, of even date herewith L&I has granted CSXT a non-exclusive freight railroad operating easement over the L&I Line and agreed to arrangements for CSXT to fund and own improvements to the L&I Line as defined and set forth in Attachment D to this Agreement (the "Upgrade") and appurtenances thereto (the "Easement") in the "Easement Agreement"; and

WHEREAS, in conjunction with the grant of the Easement, the Parties wish to upgrade the L&I Line so as to improve the utility, capacity, and capabilities of the L&I Line as defined and set forth in the Upgrade; and

WHEREAS, in conjunction with the Easement Agreement and the Upgrade, L&I and CSXT are entering into this Agreement to set forth the terms and conditions governing the joint use operation of the L&I Line by CSXT and L&I and the Upgrade of the L&I Line.

NOW, THEREFORE, the Parties, intending to be legally bound, agree as follows:

SECTION 1. OPERATIONS

- A. CSXT's operations over the L&I Line pursuant to the Easement Agreement shall be governed by the terms and conditions of this Agreement.

B. The term L&I Line, as used in this Agreement, shall mean (i) L&I's real property situated in Marion, Johnson, Bartholomew, Jackson, Scott, and Clark Counties, Indiana and Jefferson County, Kentucky more particularly described as follows (a) its approximately 106.5-mile railroad right-of-way from L&I Mile Post 4.0± located near Indianapolis, Marion County, Indiana to L&I Mile Post 110.50± located in Louisville, Jefferson County, Kentucky with a width of thirty (30) feet on either side of the centerline of the main line railroad track (including without limitation the double railroad track in Louisville, Kentucky between L&I Mile Post 109.0± and L&I Mile Post 110.0±), to the extent L&I holds sufficient legal rights therein or as the Parties otherwise agree in writing, and (b) to the extent L&I holds sufficient legal rights therein, air rights to a height of thirty (30) feet above the top of rail (subject to existing impediments or obstructions) (clauses 1.B(i)(a) and (b) being referred to herein and in the Easement Agreement as "Easement Premises"), (ii) those fixtures and other improvements situated on the Easement Premises (including without limitation rail, ties, spikes, tie plates, ballast, rail anchors, switches, turnouts, crossovers, bridges, culverts and other supporting structures, signaling equipment, radio and other communication facilities, and crossing protection equipment) that form (a) the main line railroad track extending from L&I Mile Post 4.0± located near Indianapolis, Indiana to L&I Mile Post 110.50± located in Louisville, Kentucky, and (b) the double railroad track in Louisville, Kentucky between L&I Mile Post 109.0± and L&I Mile Post 110.0± (clause 1.B(ii) being referred to herein and in the Easement Agreement as "Appurtenances"), and (iii) the Upgrade as it is completed.

C. The term L&I Line, as used in this Agreement, shall exclude (i) all assets and rights of L&I situated outside the Easement Premises, including without limitation certain non-operating parcels, customer tracks, transloading facilities, buildings, yard tracks, extra-width properties, shop facilities, longitudinal rights, pole and wire agreements, and subsurface rights, and (ii) all assets and rights (including without limitation appurtenances) that are not identified above in subsection 1.B(ii) as Appurtenances.

SECTION 2. USE OF L&I LINE

- A. The use by CSXT of the L&I Line shall be in common with L&I and any other user of the L&I Line, and L&I's right to use the L&I Line shall not be diminished by this Agreement.
- B. There is no limitation on the number of trains that CSXT may operate over the L&I Line; *provided, that*, CSXT's operations on the L&I Line shall be subject to the dispatching protocols appended hereto as Attachment A ("Dispatching Protocols"). CSXT may use the L&I Line to operate through trains in both directions in overhead service. Such trains may contain loaded and empty cars and combinations thereof.

- C. CSXT shall have the right to enter or exit the L&I Line (1) at the existing connections of the rail lines of CSXT and the L&I Line (provided that traffic moving to and from the Nabb Branch shall be governed by the terms and conditions in the Trackage Rights Agreement between CSXT and L&I, dated as of March 31, 2001 (as amended from time to time, the "Nabb Trackage Rights Agreement")), and at new connections, if any, agreed to in writing by the Parties, and (2) at the connection of the rail line of Paducah & Louisville Railway, Inc. and the L&I Line, at milepost 110.6 in Louisville, Kentucky.
- D. CSXT shall have the right to operate business cars, specials, cars used in inspections, and the like on the L&I Line.
- E. (1) Upon request by CSXT, L&I shall grant to an Affiliate (as defined in Section 22.C. hereof) freight railroad of CSXT the right to operate on the L&I Line; *provided, that*, (i) the Affiliate of CSXT executes and delivers the Liability Allocation Agreement in the form of Exhibit 2 ("Liability Allocation Agreement"), (ii) the Affiliate of CSXT and L&I enter into the operating agreement in the form of Exhibit 3 (the "Third Party Operating Agreement"), and (iii) the CSXT Affiliate obtains any necessary regulatory authority for operating over the L&I Line.
- (2) The Third Party Operating Agreement shall be between L&I and the CSXT Affiliate; *provided, that*, L&I agrees that any user fees L&I charges to CSXT's Affiliates for such Affiliate's right to operate over the L&I Line will be commercially reasonable. Notwithstanding any provision to the contrary in this Agreement, CSXT acknowledges that (i) the grant of operating rights to a third party railroad under a Third Party Operating Agreement will expressly exclude the right of such third party railroad to handle TIH/PIH over the L&I Line; and (ii) if such a third party railroad handles TIH/PIH over the L&I Line, L&I shall have the right to immediately terminate the Third Party Operating Agreement with that third party railroad.
- F. Except as provided in Section 22 below, L&I shall perform dispatching for the L&I Line. Dispatching and bridge operator services shall be available on a 24-hour basis, seven days per week. The dispatching shall be subject to the Dispatching Protocols.
- G. L&I may grant to third party freight railroads (including without limitation its Affiliates) the right to operate on the L&I Line ("L&I Invitees"); *provided*, that L&I's right to permit a third party to conduct rail freight operations on the L&I Line shall be subject to (1) the occurrence of the first anniversary of the Effective Date (as defined below in Section 19.A); (2) the execution and delivery by the L&I Invitee of the Liability Allocation Agreement; (3) the third party and L&I enter into a Third Party Operating Agreement in the form of Exhibit 3, pursuant to which the L&I Invitees shall be required to obtain insurance coverage consistent with then-current industry standards for short-line

freight railroads or Class I freight railroads (subject to Section 2.H., below), as applicable; and (4) the L&I Invitee obtains any necessary regulatory authority for operating over the L&I Line. The Third Party Operating Agreement shall be between L&I and the L&I Invitee. Notwithstanding any provision to the contrary in this Agreement, L&I may grant a third party railroad, without condition or limitation, the right to operate over the L&I Line solely for purposes of effecting interchange between L&I and such third party railroad.

The traffic of third party freight railroads (including L&I Invitees and CSXT Affiliates) on the L&I Line shall be treated as L&I traffic for purposes of allocating maintenance and dispatching expense hereunder, and L&I shall retain all fees, if any, paid by third party railroads to operate on the L&I Line. L&I may make specific changes to the Third Party Operating Agreement, consistent with then-current freight railroad industry standards for operating rights agreements, in order to accommodate transaction-specific negotiations; *provided, that*, such changes shall not materially adversely affect CSXT's rights, obligations, liability, or operations under this Agreement.

- H. (1) With respect to a Class I carrier or a non-Class I carrier or non-carrier controlled by or commonly controlled with a Class I carrier, (i) L&I shall not grant operating rights to such a carrier or non-carrier, without the prior written consent of CSXT, which consent may be withheld in CSXT's sole discretion, (ii) L&I shall not enter into an arrangement with such a carrier or non-carrier that permits haulage operations over the L&I Line (or any portion thereof) at any time following the completion of the Upgrade of the South of Seymour line segment (m.p. 59.2 to m.p. 104.9), and (iii) any haulage arrangement with such a carrier or non-carrier shall contain a provision that provides that the arrangement shall terminate upon the completion of the Upgrade of the South of Seymour line segment.
- (2) With respect to a non-Class I carrier or a non-carrier that is not controlled by a Class I carrier, (i) any grant by L&I of operating rights to such a carrier or non-carrier shall include a provision that such operating rights will terminate if and when such non-Class I carrier or non-carrier subsequently becomes a Class I carrier (or comes under the control of or is commonly controlled with a Class I carrier), (ii) any haulage arrangement between L&I and such a carrier or non-carrier shall contain a provision that such arrangement will terminate if and when (a) such non-Class I carrier or non-carrier subsequently becomes a Class I carrier (or comes under the control of or is commonly controlled with a Class I carrier), and (b) the Upgrade of the South of Seymour line segment has been completed.
- I. (1) L&I shall retain all rights with respect to the conducting of revenue passenger operations on the L&I Line; *provided*, that L&I's right to conduct, or to permit a third party to conduct, passenger operations on the L&I Line shall be subject to the fulfillment

of the conditions set forth on Attachment B ("Passenger Principles"). L&I shall consult with CSXT regarding potential passenger operations on the L&I Line, and may ask CSXT to join in negotiations with the potential passenger operator. Prior to entering into an agreement for L&I to conduct, or permit a third party to conduct, passenger operations on the L&I Line, L&I shall provide CSXT with all terms that relate to the Passenger Principles, of the proposed passenger operating agreement. CSXT shall advise L&I of the terms that do not comply with the Passenger Principles and potential solutions. L&I shall attempt in good faith to modify such terms to address those objections. L&I and CSXT shall negotiate in good faith with the objective being compliance of the new proposed passenger operations with the Passenger Principles. If CSXT or L&I believes that they have come to an impasse as to whether the proposed passenger operations are in accord with the Passenger Principles, the Party that believes there is an impasse shall notify the other Party in writing. The Party notified of the impasse shall have the option of agreeing to the position of the notifying Party or, within thirty (30) days after notification to initiate fast-track arbitration pursuant to Section 21.B of this Agreement; *provided that*, the arbitrator resolving such a challenge shall be selected as follows: If the parties cannot agree on an arbitrator within five (5) days after the Notice Date, then within ten (10) days after the Notice Date, either Party may request the AAA (as defined in Section 21) to select three candidates knowledgeable in railroad commercial and operational matters. Each Party shall eliminate one candidate and the remaining candidate shall serve as arbitrator. The issue to be resolved by the arbitrator is whether the proposed passenger operations complies with the Passenger Principles.

(2) Notwithstanding any provision to the contrary herein: (i) the Passenger Principles shall not apply to passenger operations pursuant to the Agreement between the National Railroad Passenger Corporation and the Louisville and Indiana Railroad Company, dated September 1, 1999, and (ii) the Passenger Principles shall not apply to passenger operators that operate over the L&I Line pursuant to a Federal statutory mandate, to the extent the Passenger Principles are inconsistent with such statutory mandate.

(3) The car miles and train miles of the passenger operator over the L&I Line shall be attributed to L&I for expense allocation purposes under Section 11 and Attachment C hereof. L&I shall be entitled to all compensation and other payments in connection with the passenger operations, including without limitation corridor value fees.

(4) Notwithstanding any provision in this Agreement to the contrary, (i) nothing in this Agreement shall affect the rights and obligations of L&I and National Railroad Passenger Corporation ("Amtrak") under the agreement between Amtrak and L&I, dated September 1, 1999 (the "Amtrak Agreement"), (ii) the car-miles and train-miles of Amtrak over the L&I Line, if any, shall be attributed to L&I for expense allocation purposes under this Agreement, (iii) L&I shall be entitled to all fees and other payments made by Amtrak

under the Amtrak Agreement, and (iv) L&I shall be responsible to pay all penalties to Amtrak, and be entitled to all incentive payments from Amtrak, under Appendix V of the Amtrak Agreement; *provided, that*, if CSXT performs the dispatching pursuant to Section 22, CSXT shall be required to pay such penalties, and shall be entitled to receive such incentive payments.

- J. CSXT shall not use any part of the L&I Line for the purpose of switching, storage or servicing cars or the making or breaking up of trains, except that nothing contained herein shall, upon prior approval of L&I, preclude the emergency use by CSXT of the L&I Line and such auxiliary tracks as may be designated by L&I for such purposes.

SECTION 3. RESTRICTION ON USE

Except as set forth in Section 2.J, CSXT may use the L&I Line for the sole purpose of using same for bridge traffic; *provided, however*, CSXT may enter and exit the L&I Line at the connections identified in Section 2.C. CSXT shall not perform any local freight service whatsoever nor interchange with any other rail carrier that connects now or in the future to the L&I Line. CSXT shall not conduct passenger operations on the L&I Line, except as provided in Section 2.D. CSXT shall not grant third parties the right to operate on the L&I Line; *provided, however*, CSXT may request L&I to grant such rights to Affiliates of CSXT pursuant to Section 2.E, above.

SECTION 4. MISCELLANEOUS SPECIAL PROVISIONS

- A. When operating over the L&I Line, CSXT shall use its own crews to operate its trains. The locomotives and crews of CSXT shall be equipped to communicate with L&I on radio frequencies normally used by L&I in directing train movements on the L&I Line.
- B. Procedures for qualification and occupancy of the L&I Line by CSXT shall be arranged by the local supervision of L&I and CSXT in accordance with the terms of Section 11.P.

SECTION 5. COMPENSATION

Compensation between the Parties is set forth in Attachments C and D to this Agreement.

SECTION 6. MAINTENANCE OF L&I LINE

- A. Except as provided in Section 22, L&I shall maintain, repair and renew the L&I Line. The costs for such maintenance, repair and renewal shall be allocated in accordance with the terms and conditions of this Agreement. L&I shall keep and maintain the L&I Line pursuant to the instructions and standards established by the Management Committee under Section 11 and subject to Attachment C. L&I shall take all reasonable steps to ensure that any interruptions will be kept to a minimum. Notwithstanding any provision to the contrary in this Agreement, except to the extent provided in Section 14.B., CSXT shall not have any claim against L&I based upon the condition or maintenance of the L&I Line.
- B. L&I shall also perform (or cause to be performed), at the expense of CSXT, such additional maintenance as CSXT may request; *provided, that*, such additional maintenance does not unduly interfere with L&I rail operations.

SECTION 7. PAYMENT OF BILLS

- A. Except as otherwise provided in this Agreement (including without limitation Attachments C and D hereto), all payments called for under this Agreement shall be made within thirty (30) days after receipt of bills therefor. A Party shall not withhold any payments because of a dispute as to the correctness of items in the bills rendered (on a line-item basis or otherwise) or because of a disputed nonpayment of other bills issued under this Agreement. Any discrepancies reconciled between the billing Party (“Biller”) and the billed Party (“Payor”) shall be adjusted in the accounts of a subsequent month. No dispute or exception to any invoice shall be honored, recognized, or considered after the expiration of three (3) years from the last day of the calendar month during which the invoice is rendered and no invoice shall be rendered later than three (3) years (1) after the last day of the calendar month in which the expense covered thereby is incurred, or (2) in the case of claims disputed as to amount or liability, after the amount is settled and/or the liability(ies) established.
- B. Except as otherwise set forth in this Section 7.B., if, despite working together in good faith, the Parties are unable to resolve the billing errors or disputes within thirty (30) days after Payor has notified Biller of the errors or disputes, then either Party may initiate an arbitration proceeding pursuant to Section 21.A or a judicial action pursuant to Section 21.C, as applicable under Section 21. The Payor shall have no right to suspend payments, to modify the amount of such payments, or to offset the amount of such payment pending resolution by the arbitrator or court of the asserted billing error or dispute. Notwithstanding any provision to the contrary in this Agreement, if a Party asserts a billing error or a dispute as to any payment arising under Section 11, Attachment C or Attachment D, then, that Party shall have the option of initiating fast-track arbitration pursuant to Section 21.B to resolve such billing error or dispute. Payor shall have no right to suspend such payments, modify the amount of such payments, or to offset the amount of such payment billed by Biller pending the arbitrator’s resolution of

- C. Not more frequently than once every five (5) years, either Party may request that the Management Committee modify the required Insurance coverage for L&I to reflect the then-current insurance market, risk management practices in the short line railroad industry, and other then-current conditions, and the Management Committee shall make such modifications as are warranted by then-current conditions. In the event the Management Committee does not approve a request to modify the Insurance requirements, the Party seeking such modification may initiate arbitration under Section 21.A hereof.
- D. Intentionally omitted.
- E. Upon written request, each Party shall provide the other Party insurance certificates that include all of the required coverages, endorsements and notice provisions.
- F. Each Party shall provide the other Party with written notice of any insurance claim related to its ownership and/or operation of the L&I Line (as applicable).
- G. The fact that insurance (including, without limitation, self-insurance) is obtained by a Party shall not be deemed to release or diminish the liability of such Party including, without limitation, liability under the indemnity provisions of this Agreement and the Liability Allocation Agreement.

SECTION 9. CONSTRUCTION AND MAINTENANCE OF NEW CONNECTIONS

- A. Existing connections or facilities that are jointly used by L&I or CSXT shall continue to be maintained, repaired and renewed by and at the expense of the rail carrier(s) responsible for such maintenance, repair and renewal under such agreements.
- B. Notwithstanding Section 9.A., hereof, the costs and expenses to maintain, repair and renew the crossing diamond and interlocking at Seymour, IN shall be included 100% in the cost of maintaining the L&I Line and allocated in accordance with Section 11 and Attachment C, as applicable. The inclusion of these costs shall be in lieu of the allocation of costs provided in the June 6, 1993 crossing and interlocking agreement.
- C. Except as provided for in Attachment D to this Agreement, any additional connections between CSXT and the L&I Line which may be required shall be subject to joint CSXT and L&I approval (including design) and shall be constructed, maintained, repaired and renewed as follows:
 - (1) CSXT or its contractor shall furnish all labor and material and shall construct,

maintain, repair and renew at its sole cost and expense such portions of the tracks located on the right-of-way of CSXT or others which connect the respective lines of the Parties.

- (2) L&I or its contractor shall furnish all labor and material and shall construct, maintain, repair and renew at its sole cost and expense such portions of the additional tracks located on the right-of-way of L&I which connect the respective lines of the Parties. If such additional connection is not requested by L&I or an L&I Invitee or does not materially benefit L&I or an L&I Invitee, then CSXT and L&I shall share the cost and expense of such labor, material, construction, maintenance, repair and renewal as a maintenance expense pursuant to Section 11 and Attachment C hereof.

SECTION 10. ADDITIONS, RETIREMENTS AND ALTERATIONS

- A. L&I, from time to time, at its option and at its sole cost and expense, may make changes in, additions and betterments to or retirements from the L&I Line as shall, in its judgment, be necessary or desirable for the economical or safe operation thereof, including without limitation, the addition of new turnouts for industry tracks and the like; *provided, that*, L&I shall not make any retirements from the L&I Line (or replace any materials on the L&I Line with lesser quality materials) that will reduce or degrade CSXT's use or utility of the L&I Line. Prior to the completion of the Upgrade (and excluding the Upgrade itself), such additions and betterments shall be owned by L&I and shall become a part of the L&I Line, and such retirements shall be excluded from the L&I Line.
- B. Except with respect to the Upgrade, CSXT may request, at CSXT's sole expense, changes in or additions and betterments to the L&I Line, including but not limited to changes in capacity, communication systems, or signal facilities required to accommodate operations of CSXT beyond that required by L&I. L&I shall construct (or cause the construction of) the additional or altered facilities requested by CSXT, unless such requested change, addition or betterment would reduce or degrade L&I's use or utility of the L&I Line. Such changes, additions and betterments, once completed, shall become part of the L&I Line. Notwithstanding any provision herein to the contrary, in the event that following the seventh (7th) anniversary of the Effective Date of this Agreement, sidings on the L&I Line are newly constructed or improved at CSXT's request, CSXT shall bear all expenses and costs in connection therewith.
- C. Changes, additions, betterments and/or retirements required by applicable law or regulation shall be automatically added to the Maintenance Plan or DATS Plan (as applicable) for the year in which such expenses are incurred, and shall be allocated in

accordance with Section 11 hereof and Attachment C hereto; *provided, that*, if the subject legal or regulatory requirement is triggered by the operations of only one of the Parties, that Party shall bear the full amount of the expenses related to such changes, additions, betterments or retirements and such amount shall not be added to the Maintenance Plan or DATS Plan.

- D. Notwithstanding Subsection 10. B, L&I and CSXT agree to the Upgrade, which shall be owned by CSXT. L&I retains the right to conduct operations over and otherwise use the L&I Line (or any portion thereof) including without limitation after the Upgrade is complete, without restrictions or fees (other than those specified in this Agreement), in any manner not inconsistent with the terms of this Agreement. The termination of this Agreement or the Easement Agreement shall not diminish, modify or adversely affect L&I's right to operate over and use the Upgrade, and CSXT shall not remove any part of the Upgrade or take any other action that would adversely affect L&I's use of the L&I Line or the utility of the Upgrade. CSXT may encumber the Upgrade with liens (other than liens that would have a material adverse effect on L&I's use of the L&I Line); *provided, that*, with respect to (1) the line segment from Louisville (m.p. 110.5) to Seymour (m.p. 59.2), if the Upgrade of such segment is not completed as of the fourth (4th) anniversary of the Effective Date of this Agreement, then, upon L&I's request, CSXT shall promptly cause the liens on such segment to be released; and (2) the line segments from Seymour to Columbus (m.p. 38.5), and Columbus to Indianapolis (m.p. 4.0), if the Upgrade of such segment is not completed as of the seventh (7th) anniversary of the Effective Date of this Agreement, then, upon L&I's request, CSXT shall promptly cause the liens on such segment to be released. This subsection 10.D shall survive the termination of this Agreement.
- E. Notwithstanding Subsection 10.A, without CSXT's advance written consent, L&I shall not retire any part of the Upgrade, replace any materials of the Upgrade with lesser quality materials or make any modifications to the Upgrade that will reduce or degrade CSXT's use or utility of the L&I Line.
- F. Installation of Positive Train Control ("PTC") on the L&I Line shall not be part of the Upgrade. If the operations of only one of the Parties trigger a requirement to install or modify PTC on the L&I Line, the Parties agree that the cost of such installation or modification shall be borne only by the Party that triggered such requirement. If PTC installation or modification on the L&I Line is required by law and is not triggered by the operations of only one of the Parties, then each Party shall fund the installation or modification of PTC on the L&I Line in an amount equal to its percentage use of the L&I Line (in car-miles) during the thirty-six months prior to the requirement that PTC be installed or modified on the L&I Line. The installation or modification of PTC on each Party's equipment shall be borne by the Party that uses the equipment on the L&I Line.

SECTION 11. MANAGEMENT AND OPERATIONS

- A. CSXT and L&I shall establish a joint oversight committee (the “Management Committee”), consisting of two representatives from each Party.

The Management Committee shall convene as needed to:

- (1) discuss and resolve operating issues,
- (2) discuss and/or plan capacity and/or capital improvements to the L&I Line (such capital improvements are separate from any annual capital plan established relating to the ongoing maintenance of the L&I Line),
- (3) change schedules and operating practices,
- (4) modify dispatching protocols,
- (5) approve the annual budgets pertaining to operation and maintenance of the L&I Line as set forth in Subsection B(1), below,
- (6) amend the annual budgets as provided in Subsection 11G, below,
- (7) perform the functions set forth in this Section 11, and
- (8) perform other functions necessary for the safe and efficient joint use of the L&I Line, including auditing maintenance of the L&I Line and requiring that the L&I Line be maintained in accord with the annual budget.

Actions taken by the Management Committee shall require a majority vote of its members. Failure to reach a majority vote on any of the issues described in Subsection 11.A(1)-(3), (7) and (8) shall be referred to senior officers of CSXT and L&I for resolution and shall not be subject to arbitration under this Agreement. Failure to reach a majority vote on any of the issues described in Subsection 11.A(4), (5), and (6) shall be treated as a dispute that is subject to arbitration under this Agreement.

- B. (1) Each year the Management Committee shall approve annual plans and budgets for:
- (i) Right of way maintenance (maintenance expenses for track and all fixtures and articles of personal property attached to the L&I Line, including without limitation, bridges, signal systems, and up to __ mainline turnouts (“Maintenance Plan”)),
 - (ii) Capital for right of way (“DATS Plan”),
 - (iii) Dispatching expenses (“Dispatching Plan”), and
 - (iv) Other expenses to be shared jointly by the Parties (“Other Joint Expenses Plan”), and maintenance, capital, dispatching and other joint expenses shall be allocated as set forth on Attachment E hereto.
- (2) (i) The Maintenance Plan and the DATS Plan shall be collectively referred to

as "Maintenance Expenses" regardless of any accounting practices or accounting rules. The Dispatching Plan and the Other Joint Expenses Plan shall be collectively referred to as "Operating Expenses".

(ii) Expenses and capital work budgeted pursuant to this Subsection 11B(1) shall not include any projects or capital expenditures undertaken pursuant to the Upgrade, as described in Attachment D.

(iii) Each Maintenance Plan, DATS Plan, Dispatching Plan and Operating Expense Plan (a "Plan" and together, the "Plans") will include the annual projected car-miles and train-miles that CSXT, on the one hand, and CSXT Affiliates, L&I, and L&I Invitees, on the other hand, will operate over the L&I Line for the subject calendar year.

(3) (i) L&I and/or a contractor hired by L&I will perform the work identified in the plans and budgets included in Maintenance Expenses. All improvements, other than the Upgrade, made to the L&I Line prior to the completion of the Upgrade shall be owned by L&I. Upon completion of the Upgrade any and all additions, betterments, and capital improvements to the Upgrade shall be owned and depreciated by CSXT. L&I shall cause all contractors engaged by L&I to perform such projects to enter into an agreement with L&I that (a) requires the work be performed on a schedule and in a manner so as to minimize interference with train operations on the L&I Line, and (b) contains such other provisions as are customary in the railroad industry (including without limitation insurance and indemnification provisions for the benefit of L&I and CSXT) for such projects; *provided, that*, CSXT shall have the option of providing L&I with its then-current insurance requirements for similar contractor agreements, and L&I, upon CSXT's request, shall incorporate such insurance provisions into L&I's agreement with such contractors.

(ii) In addition to the requirements set forth above in this Subsection, if, because of the nature of the project, engaging a general contractor (which will then select third party construction firm(s) to perform the project) is desirable, then L&I will engage an engineering firm acceptable to CSXT to act as general contractor on behalf of L&I for such project.

(4) The Parties will share the costs budgeted under Subsection 11B(1) above as set forth in the Attachment C.

C. During June of each year the Parties shall conduct a joint inspection of the L&I Line to

- (1) Assess the condition of the L&I Line (and the progress of the Upgrade until such project is completed), and
- (2) Assist in developing the plans and budgets for Maintenance Expenses for the

following calendar year.

D. Prior to September 1st of each year,

(1) Each Party shall submit to the other a projection of its traffic over the L&I Line in the upcoming calendar year, broken down monthly by train frequency, on/off junction, and type (intermodal, unit, or manifest), and a monthly estimate of car-miles and train-miles ("Traffic Projection"). The L&I Traffic Projection shall include the projections of all other users of the L&I Line, except CSXT.

(2) Each Party shall submit to the other a description, in reasonable detail, of the proposed scope of work and costs to be included in the next calendar year's Maintenance Expenses.

(3) CSXT shall submit to L&I a tentative description, in reasonable detail, of the work proposed to be included as part of the Upgrade, until such time as the Upgrade is complete.

E. Prior to October 1st of each year, L&I shall submit to CSXT proposed Plans for the L&I Line for the following calendar year (the "Proposed Plans"). The Proposed Plans for the L&I Line shall be developed on the following principles:

(1) The Proposed Plans shall be direct budgets based on specified levels of labor costs and fringe benefits, material costs, purchased services, other out-of-pocket costs, and reasonable administrative cost additives.

(2) The Proposed Plans shall include all items necessary for L&I to comply with the maintenance and dispatching requirements and standards established for the L&I Line under this Agreement and applicable law.

(3) Notwithstanding any provision to the contrary in this Agreement, the Parties agree that until the Upgrade for a track segment is complete, the Proposed Plans for that track segment shall be established based on maintaining the condition of the L&I Line to at least FRA Class II standards (subject to slow orders and superintendent bulletins in the ordinary course), taking into account the projected level of traffic over such segment.

(4) Notwithstanding any other provisions of this Agreement, unless otherwise specifically and mutually agreed by the Parties, for those portions of the L&I Line on which the Upgrade is complete, the Proposed Plans for that track segment shall be established based on maintaining the condition of the L&I Line to FRA Class IV standards (subject to temporary slow orders and superintendent bulletins in the ordinary course), taking into account the projected level of traffic over such segment.

F. Prior to October 25th of each year, the Management Committee shall meet (whether in

person or by telephone or video conference) to discuss, modify, vote, and approve or disapprove each of the Proposed Plans (the "Budget Approval Meeting"). A Proposed Plan approved by the Management Committee, whether or not modified by the Management Committee, shall become an "Approved Plan", for the following calendar year. A Proposed Plan for the Upgrade approved by the Management Committee shall be tentative until CSXT provides the information required by Section 11(G)(2). Any Proposed Plan not approved by the Management Committee shall be subject to the following process:

(1) Within seven (7) days after the Budget Approval Meeting, CSXT will deliver to L&I a detailed written explanation of its reasons for disapproval, accompanied by proposed changes to each Proposed Plan ("CSXT Proposed Revisions"). If CSXT does not provide L&I with the CSXT Proposed Revisions for the Proposed Plan within such seven-day period, or if CSXT does not attend a Budget Approval Meeting prior to the October 25th deadline, then L&I will notify, by facsimile, each CSXT member of the Management Committee, as well as the CSXT Director of Joint Facilities. If CSXT does not provide L&I with CSXT Proposed Revisions within seven (7) days following such notice, the Proposed Plan, unmodified, will be deemed an Approved Plan.

(2) Within seven (7) days after its receipt of the CSXT Proposed Revisions (if applicable), L&I shall notify CSXT of whether it approves or rejects the CSXT Proposed Revisions. If L&I accepts the CSXT Proposed Revisions for the Proposed Plan, then the Proposed Plan, as modified by the CSXT Proposed Revisions, will become an Approved Plan. If L&I rejects the CSXT Proposed Revisions, the Management Committee will meet (whether in person or by telephone or video conference) prior to December 5th in an effort to revise the Proposed Plan in a manner that is acceptable to the Management Committee. If the meeting does not occur or does not result in the Management Committee approving a version of the Proposed Plan, then (1) to reduce disruption to railroad expenditures and operations on the L&I Line, the Approved Plan for the then-current calendar year will remain in effect, to the extent practicable, until a new Plan is approved, and (2) each Party shall have the right to commence fast-track arbitration, pursuant to Section 21.B hereof, to address the Proposed Plan.

(3) If L&I does not notify CSXT that it is rejecting the CSXT Proposed Revisions within seven (7) days after its receipt thereof, then CSXT shall notify, by facsimile, the two L&I members of the Management Committee, as well as the Controller for Anacostia Rail Holdings Company. If L&I does not notify CSXT that it is rejecting the CSXT Proposed Revisions within seven (7) days following such notice, the CSXT Proposed Revisions shall be deemed approved by the Management Committee, and the Proposed Plan, as modified by the CSXT Proposed Revisions, will become an Approved Plan.

G. (1) (i) In the event traffic levels on the L&I Line differ from the Traffic Projections

(either on a number of trains basis or on a car-mile basis) used to generate the Approved Plans, by more than twenty (20) percent in each of three (3) consecutive months during a calendar year, either Party may propose to amend one or more Approved Plans to accommodate the change in traffic volume. The Party proposing to amend an Approved Plan may call a meeting of the Management Committee within thirty (30) days to discuss and vote on such proposed amendment(s) to Approved Plan(s).

(ii) If the Management Committee does not timely convene or does not approve the proposed amendment(s) to the Approved Plan(s), then (1) to reduce disruption to maintenance and dispatching on the L&I Line, the Approved Plan(s) for the then-current Traffic Year will remain in effect without amendment, to the extent practicable until amendment(s) are approved, and (2) each Party shall have the right to commence fast-track arbitration, pursuant to Section 21.B hereof, to address the Proposed Amendment.

(2) By or before 31st day of January of each year, CSXT will inform L&I of the Upgrade work that has been approved for the following year (if notice is provided by December 31) or that year (if notice is provided after December 31) and such work will be considered in developing or amending the maintenance plans; *provided, that*, if CSXT does not receive approval for Upgrade work by January 31st of a given year, the Parties acknowledge that L&I may not be able to commence or complete the Upgrade work during the calendar year for which such commencement or completion was anticipated.

- H. The Parties shall comply with the payment schedules set forth on Attachment C hereof.
- I. In the event that, at any time after March 31st of each year, the actual expenses for right of way maintenance or capital for right of way for the L&I Line, calculated on a year-to-date basis for the completed months in the subject year are more than ten (10) percent higher or lower than the amount equal to the monthly amount under the Approved Maintenance Plan or DATS Plan (as applicable), multiplied by the number of completed months in the subject year, then, upon the request of either Party, the Management Committee shall promptly meet and make an equitable increase or decrease to the monthly amount of the applicable Plan for the remaining full months in the subject year, which amount shall be intended to cover any past or projected shortfall during the subject calendar year. If the Management Committee is unable either to promptly meet or to agree on the amount of such equitable increase or decrease, then either Party may initiate fast-track arbitration to determine such amount pursuant to the procedures set forth in Section 21.B. The increase or decrease to the monthly amount of the Approved Maintenance Plan or DATS Plan (as applicable) shall become effective (and the paying Party shall commence paying the billing Party the adjusted monthly amount of such Plan(s)) as of the first month immediately following the month in which either the (1) Management Committee agrees to the amount of the equitable increase or decrease, or (2)

the arbitrator determines the amount of the equitable increase or decrease pursuant to Section 21.B hereof.

- J. The Parties shall share the real estate property taxes and assessments on the L&I Line as provided in Attachment C. CSXT shall pay L&I the amount of CSXT's share of the real estate taxes within thirty (30) days after a written request by L&I. If CSXT or L&I believe the taxes assessed by one or more taxing authorities with respect to the L&I Line are inaccurate, the Parties shall discuss whether or not to contest the tax assessment(s), provided, that, in no event shall (1) CSXT withhold timely payment to L&I of CSXT's Tax Share, and (2) L&I cause any lien or encumbrance to be imposed on the L&I Line as a result of non-payment or under payment of such taxes (except if such taxes are being contested in good faith by appropriate proceedings). If a taxing authority initiates an audit with respect to taxes that are partially the responsibility of the other Party, the Party receiving notice of such audit shall promptly provide the other Party with written notice of the audit, and both Parties shall cooperate with each other and shall have the right to participate in all proceedings and discussions with the taxing authority.
- K. For purposes of determining "car-miles" pursuant to this Section 11:
- (1) With respect to articulated units, the number of platforms shall be determined by the AAR Car Type Code as defined in the ULMER Specification Manual. The second character in the Car Type Code field covering codes "Q" and "S" will be the factor in determining the car count for an articulated unit. For example, AAR Car Type Code (S566) would equate to a five (5) car count as these type cars each have five wells capable of handling 40' to 53' containers in each well. Car count data for articulated units are subject to change upon development of technology to separate units by car numbers. In the event that new types of cars are utilized in the future, and such cars have load carrying capacities that are materially different from existing car types, the Parties shall agree upon an equitable methodology for counting such cars for purposes of determining car miles under this Section 11. In the event that the AAR Car Type Code is modified or ceases to exist, the Parties shall agree on a method for determining the car count of articulated units, for purposes of Section 11 hereof, that is consistent with the intent of this Subsection K(i).
 - (2) Cars moving over the L&I Line via CSXT trackage rights to and from the Nabb Branch connection at Boyd, IN pursuant to the Nabb Trackage Rights Agreement, shall be excluded.
 - (3) To the extent there is a haulage arrangement between the Parties, the haulage traffic on the L&I Line shall be treated as the traffic of the Party whose rail cars are being hauled, for purposes of allocating maintenance and dispatching expense hereunder.
- L. CSXT shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other federal and state and local

laws, regulations and rules respecting the operation, condition, inspection and safety of its trains (locomotives and cars) while the trains, locomotives, cars, and equipment of CSXT are being operated over the L&I Line. CSXT shall indemnify, protect, defend, and save harmless L&I and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents and employees from and against all fines, penalties and liabilities imposed upon L&I or its parent corporation, subsidiaries or affiliates, or their respective directors, officers, agents and employees under such laws, rules, and regulations by any public authority or court having jurisdiction in the premises, when attributable solely to the failure of CSXT to comply with its obligations in this regard.

- M. Except as otherwise agreed by the Parties in this Agreement, the use of the L&I Line by CSXT shall comply in all respects with the safety rules, operating rules and other regulations of L&I. The movement of trains (locomotives and cars) of CSXT over the L&I Line shall at all times be subject to the orders of the transportation officers of L&I.
- N. Trains of either Party that operate on or over the L&I Line shall not include locomotives or cars which exceed the width, height, weight or other restrictions or capacities of the L&I Line as established by L&I (including without limitation, prohibiting the use of cars in excess of 263,000 pounds and cars containing TIH/PIH). Notwithstanding the foregoing,
- (1) Upon the Effective Date of this Agreement CSXT may operate 6-axle locomotives over the entire L&I Line, and
 - (2) On those portions of the L&I Line that have been Upgraded, CSXT may:
 - (i) operate cars and equipment on and over the L&I Line that weigh up to 286,000 pounds gross weight on rail, and
 - (ii) handle TIH/PIH.
- P. CSXT shall make such arrangements with L&I as may be required to have all of employees of CSXT who shall operate trains, locomotives and cars over the L&I Line qualified for operation on the L&I Line. CSXT shall have the option to establish qualifying officer(s) that shall be authorized to qualify their respective employees to operate over the L&I Line. Should L&I incur expenses resulting from qualifying employees of CSXT, CSXT shall pay to L&I, upon receipt of bills therefor, any such costs, as well as the cost of pilots furnished by L&I, until such time as such employees are deemed by the appropriate examining officer of L&I or the designated qualifying officer of CSXT to be properly qualified for operation as herein contemplated.
- Q. L&I may conduct an investigation at its option if an employee of CSXT working on L&I's property is alleged to have violated L&I's safety rules, operating rules, regulations, orders, practices or instructions, or if an incident occurs which requires an investigation

under applicable agreement rules. To exercise its option, L&I shall schedule the investigation and notify the local Transportation Officer of CSXT in the territory thereof, who shall, in turn, arrange to issue proper notice to the employee(s) of the investigation. L&I's scheduling of the investigation must comply with the time limits provided in the applicable agreement on the railroad of the employee. L&I shall provide its regulations, supplements, and safety rules to CSXT at no cost.

- R. If L&I conducts an investigation, L&I shall have the right to exclude from the L&I Line any employee of CSXT except officers, determined by L&I, as the result of L&I's investigation or hearing described below, to be in violation of L&I's rules, regulations, orders, practices or instructions.
- S. In a major offense, such as violation of Rule "G", dishonesty, insubordination, or a serious violation of operating rules, wherein L&I desires to bar an employee of CSXT from service on L&I's territory pending an investigation by L&I, immediate verbal notification shall be given to the local Transportation Officer of CSXT so that proper written notice can be issued to the employee.
- T. If L&I conducts an investigation, its officer shall conduct the investigation, but an officer of CSXT shall be present to assure compliance with the employee's labor agreement, if any, and practices with respect to investigation procedures. After the investigation is concluded, L&I shall promptly furnish CSXT with two copies of the transcript and a recommendation as to the discipline to be assessed. The Transportation Officer of CSXT shall arrange to assess discipline, subject to receipt of L&I's recommended discipline, within the applicable time limits. If L&I recommends dismissal, CSXT has the right to change the recommendation to the extent of barring the individual from operating over L&I's territory.
- U. It is understood that L&I shall reimburse CSXT for all payments that CSXT might be required to make as a result of a challenge being made by the employee or his representative as to the discipline recommended by L&I and assessed by CSXT, except that CSXT shall be responsible for any required payments for discipline assessed by CSXT that exceeds the discipline recommended by L&I. CSXT agrees to notify L&I before committing to make a payment of any claim. In the event a claim is progressed to an Adjustment Board, L&I shall be given a reasonable opportunity to review and comment on the submission of CSXT prior to its filing with the Adjustment Board. Any payments made to employees, as a result of an investigation being "overturned", shall include not only actual wages, but in addition, shall include expenses which CSXT may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.
- V. In the event that a train of CSXT shall be forced to stop on the L&I Line, and such

stoppage is due to insufficient hours of service remaining among the train's crew, or due to mechanical failure of the train's equipment, or any other cause not resulting from an accident, derailment or other event or circumstance that requires rerailling, wrecking service or wrecking train service, and such train is unable to proceed, or if a train of CSXT fails to maintain the speed required by L&I on the L&I Line, or if in emergencies, crippled or otherwise defective cars are set out of trains of CSXT on the L&I Line, unless advised by CSXT that CSXT will resolve the problem (and CSXT does, in fact, resolve the problem) within 4 hours, L&I shall have the option to furnish motive power or such other assistance as may be necessary to haul, help or push such trains, locomotives or cars, or to properly move the disabled equipment off the L&I Line, and CSXT shall reimburse L&I for the cost of rendering any such assistance.

- W. If it becomes necessary to make repairs to or adjust or transfer the lading of crippled or defective cars of CSXT in order to move them off the L&I Line, such work shall be done by CSXT unless (1) the Parties mutually agree on an incident by incident basis that L&I shall perform such repairs or adjustments; or (2) CSXT fails to perform such work in a timely fashion.
- X. In the event L&I and CSXT agree that L&I should retain employees or provide additional employees for the sole benefit of CSXT, the Parties shall enter into a separate agreement regarding the provision of such employees and the allocation of the cost and expense for any such retained or additional employees provided.

SECTION 12. MILEAGE AND CAR HIRE

All mileage and car hire charges accruing on cars on the L&I Line, shall be assumed by, reported, and paid by the rail carrier in whose account the car resides. In the event a train operated by L&I or CSXT includes cars being handled for a third party railroad under a haulage or similar arrangement whereby such cars are in the account of the third party railroad, the Party operating the train in question shall indemnify and hold harmless the other Party for car hire or mileage charges claimed by car owner(s) on account of such cars.

SECTION 13. CLEARING OF WRECKS

Whenever use of the L&I Line by CSXT or L&I requires rerailling, wrecking service or wrecking train service, L&I and CSXT shall immediately communicate and decide whether CSXT or L&I shall perform or provide such service, including the repair and restoration of roadbed, track and structures. If it is not mutually agreed which rerailling, wrecking, or restoration service shall be performed by CSXT, then L&I shall perform such service(s), unless L&I cannot perform such service(s) within six (6) hours of being notified of the need for such services, in which case, CSXT may perform such service(s). The cost, liability and expense of the foregoing, including without limitation loss of, damage to, or destruction of any property

whatsoever and injury to and death of any person or persons whomsoever or any damage to or destruction of the environment whatsoever, including without limitation land, air, water, wildlife, and vegetation, resulting therefrom, shall be apportioned in accordance with the provisions of Section 14 hereof. All locomotives, cars, and equipment and salvage from the same so picked up and removed which are owned by or under the management and control of or used by CSXT at the time of such wreck, shall be promptly delivered to CSXT.

SECTION 14. LIABILITY

- A. Except to the extent provided below in this Section 14, the responsibility and liability for any damage, demand, claim, liability, obligation, loss, cost, expense (including, without limitation, the reasonable fees and disbursements of attorneys, accountants, consultants and engineers, and cleanup and remedial costs and expenses), settlement, deficiency, interest, penalty, imposition, assessment or fine of any kind or nature (collectively “Losses”) shall be allocated between L&I and CSXT in accordance with the terms of the Liability Allocation Agreement. L&I and CSXT agree that if L&I enters into a Third Party Operating Agreement with any other third party railroad, then such third party shall become signatory the Liability Allocation Agreement as provided in Sections 2.E or 2.G of this Agreement, and the Liability Allocation Agreement shall govern as between L&I, CSXT, and the third party railroad(s).
- B. Notwithstanding any provision of this Agreement or the Liability Allocation Agreement to the contrary, to the extent a Loss is proximately caused by track condition, such Loss shall be handled, solely as between L&I and CSXT, as follows:
- (1) At CSXT’s request, L&I will engage a third party contractor acceptable to CSXT (the “Inspector”) to perform periodic or special inspections of the L&I Line (or portions thereof) in accordance with procedures (the “Inspection Procedures”) set forth on Attachment F.
 - (2) The cost of the inspections will be treated as a maintenance expense to be allocated to the Parties under the Section 11 hereto.
 - (3) The Inspection Procedures will provide for the Inspector to issue track condition reports (“Reports”) that identify needed repairs, necessary operating restrictions (slow orders, etc.), if any, and provide a reasonable time (subject to Force Majeure, as that term is defined below in this Agreement) for the performance of such repairs (“Timeframe”) by the maintaining Party.
 - (4) If the maintaining Party addresses a track condition (or other matter) identified in a Report within the applicable Timeframe, then to the extent Losses arise in connection

with a subsequent incident involving the track (or other matter) identified in such Report, such Losses shall be allocated in accordance with Sections 4 and 5 of the Liability Allocation Agreement. Subject to Section 14.B(5) and (6) hereof, if the maintaining Party fails to address a matter identified in a Report within the applicable Timeframe, and such failure is the proximate cause of Losses, then the maintaining Party will bear liability to the extent any Losses occur as a result of the uncorrected track condition in question; *provided, that* if (i) the maintaining Party forwards a copy of a Report to the appropriate contractor engaged to perform maintenance on the L&I Line, (ii) the contractor notifies the maintaining Party that the repairs identified in the Report have been completed (and/or that the maintaining Party implements the restrictions (slow orders, etc.) identified in the Report), and (iii) the maintaining Party inspects the repairs and confirms based upon reasonable due diligence that the maintenance contractor has performed the repairs identified in the Report (which confirmation shall be emailed, if to L&I, the Roadmaster or designated individual, and if to CSXT, to the Division Engineer or designated individual), then, for purposes of this Section 14.B, (x) the repairs shall be deemed to have been performed at the time the maintaining Party emails the confirmation referenced in clause (iii) above (the "Time of Confirmation"),(y) the maintaining Party shall not bear liability under this subsection 14B(4) for Losses that occur in connection with an incident after the Time of Confirmation (even if it is determined that the repairs performed by the contractor prior to the incident were inadequate, if such inadequacy could not have been reasonably ascertained by the maintaining Party in the performance of its inspection of the repairs), and (z) the Losses in connection with such incident shall be allocated in the manner set forth in Sections 4 and 5 of the Liability Allocation Agreement).

(5) If a Loss occurs due to track condition either before such condition is identified in a Report, or after the issuance of such a Report but before the expiration of the applicable Timeframe, then each Party shall be responsible for any Loss in connection with such incident in the manner set forth in Sections 4 and 5 of the Liability Allocation Agreement.

(6) If a Loss occurs due to track condition and such condition is not identified in a Report (either because CSXT did not request that a third party contractor be engaged to perform an inspection or because the Inspector did not identify the subject track condition in a Report), then each Party shall be responsible for any Loss in connection with such incident in the manner set forth in Sections 4 and 5 of the Liability Allocation Agreement.

(7) To the extent a Report identifies a dangerous track condition and establishes a Timeframe that is forty-eight (48) hours or less, the maintaining Party will have the right to shut down the line pending completion of the repairs.

- C. Except as provided in Section 22 hereof, in that L&I is responsible for maintaining and upgrading the L&I Line, whenever liability is caused solely by track conditions resulting from L&I's failure to maintain the L&I Line in accordance with the terms of the Agreement, CSXT shall not be considered grossly negligent or to have committed an intentionally wrongful act.
- D. CSXT shall not have any claim against L&I for Losses in the event the use of the L&I Line by CSXT is interrupted or delayed at any time from any cause.

SECTION 15. BLANK

SECTION 16. DEFAULT

In the event of any substantial failure on the part of either Party to perform its obligations under this Agreement and its continuance in such default for a period of thirty (30) days, after written notice thereof from the non-defaulting Party, the non-defaulting Party shall have the right, at its option, after first giving thirty (30) days, written notice thereof, and notwithstanding any waiver by such Party of any prior breach thereof, to invoke the applicable arbitration under Section 21 of this Agreement; *provided, that*, the arbitrator shall have no right to terminate this Agreement based on the occurrence of a material breach. The exercise of such right by the non-defaulting Party shall not impair any other rights under this Agreement or any other cause or causes of action it may have against the defaulting Party for the recovery of damages.

SECTION 17. REGULATORY APPROVAL

- A. Should this Agreement require the prior approval of the Surface Transportation Board (STB), CSXT at its own cost and expense shall initiate and thereafter diligently pursue an appropriate application to secure such approval. L&I shall assist and support efforts of CSXT to secure any necessary STB approval of this Agreement; *provided, that*, L&I shall have the right to reasonable review and approval of any application prior to its submission with the STB.
- B. Should the STB at any time during the term of this Agreement impose any labor protective conditions upon the approval of this Agreement, each Party shall be responsible for any and all payments to its employees in satisfaction of such conditions.

SECTION 18. ABANDONMENT OF L&I LINE

- A. This Section 18.A applies (1) from the Effective Date through the seventh (7th) anniversary of the Effective Date (the "Seventh Anniversary"), and (2) thereafter during

the term of this Agreement if the Upgrade is completed on or before the Seventh Anniversary, or any extension required by Force Majeure or agreed upon by the Parties. L&I, before filing for regulatory approval or exemption to abandon the L&I Line or any portion thereof (the "Subject Line"), shall give CSXT ninety (90) days advance notice in writing of its intention to abandon the Subject Line (an "Abandonment Notice"), in order that CSXT may determine whether it desires to purchase the Subject Line, in accordance with Section 18.C hereof, or to discontinue (or abandon, if applicable) its operations and easement rights thereon. Within thirty (30) days after receipt of an Abandonment Notice, CSXT shall advise L&I in writing whether it will discontinue (or abandon, if applicable) its operations and easement rights over the Subject Line, or purchase it in accordance with Section 18.C hereof. If CSXT desires, at any time, to discontinue its use of the Subject Line, CSXT shall promptly seek regulatory approval or exemption to discontinue (or abandon, if applicable) its operations and easement rights with respect to the L&I Line, and shall not oppose or delay L&I's efforts to obtain regulatory authority to abandon or discontinue the L&I Line. L&I shall have the right, subject to L&I and CSXT securing any necessary regulatory approval or exemption to abandon and/or discontinue service (as applicable) over the Subject Line, to consummate such abandonment or discontinuance. If CSXT does not desire to discontinue or purchase the Subject Line, or if CSXT does not notify L&I within thirty (30) days after receipt of an Abandonment Notice of such a desire, then L&I shall have the right to discontinue service over the Subject Line (but not abandon the Subject Line) and CSXT shall not oppose or delay such discontinuance.

- B. This Section 18.B applies after the Seventh Anniversary, or any extension required by Force Majeure or agreed upon by the Parties, if the Upgrade is not completed on or before the Seventh Anniversary. L&I, before filing for regulatory approval or exemption to abandon the Subject Line, shall give CSXT an Abandonment Notice, in order that CSXT may determine whether it desires to purchase the Subject Line in accordance with Section 18.C hereof. Within thirty (30) days after the receipt of such notice, CSXT shall advise L&I in writing whether it will acquire the Subject Line in accordance with Section 18.C hereof. If CSXT does not notify L&I within thirty (30) days after receipt of an Abandonment Notice that it desires such a purchase (or if one of the circumstances described in Section 18.D. occurs), CSXT shall promptly seek regulatory authority or exemption to discontinue its operations on the Subject Line, and shall not oppose or delay L&I's efforts to obtain regulatory approval to abandon or discontinue service over the Subject Line.
- C. If CSXT desires to purchase the Subject Line, CSXT shall submit an offer of financial assistance under 49 U.S.C. Section 10904. In the event L&I receives more than one such offer, L&I shall exercise its statutory right to negotiate with CSXT rather than with the other offeror(s). Thereafter, the rights and obligations of the Parties in respect to CSXT's acquisition of the Subject Line shall be governed by applicable provisions of the law.

Valuation of the Subject Line shall not include the value of any portion of the Upgrade that has been completed.

- D. In any one of the circumstances listed below CSXT shall be deemed to have determined that it does not desire to purchase the Subject Line and that it desires to discontinue (or abandon, if applicable) its use thereof:
- (1) CSXT fails to submit an offer of financial assistance to purchase the Subject Line within the time prescribed by statute and applicable regulations, or
 - (2) CSXT, having made an offer of financial assistance to purchase the Subject Line, but being unable to reach agreement with L&I as to the sale price, fails within the statutory period to request the proper regulatory authority to establish the terms and conditions of the sale, or
 - (3) CSXT, having requested the proper regulatory authority to establish the terms and conditions of sale, withdraws its offer of financial assistance, or
 - (4) CSXT, having requested the proper regulatory authority to establish the terms of the sale, rejects the authority's order establishing said terms or fails to accept said terms within the time prescribed by said order.
- E. In the event L&I obtains abandonment authority over all or a portion of the L&I Line, but CSXT does not obtain any required discontinuance (or abandonment, if applicable) authority with respect to its operating and easement rights over the same rail line, the Parties shall cooperate in taking such action as is reasonably necessary to effect a sale of the L&I Line or portion thereof to CSXT (including securing any necessary regulatory authority) for a price consistent with the principles of 49 U.S.C. Section 10904 as interpreted on the date of this Agreement, but which excludes the value of the Upgrade.
- F. In the event L&I abandons any portion (or all) of the L&I Line under circumstances which (because of changes in the law or otherwise) are not subject to handling under the procedures outlined above, the Parties shall cooperate and take such action as is necessary to assure that CSXT purchases said segment at a price consistent with the principles of 49 U.S.C. Section 10904 as interpreted on the date of this Agreement.
- G. In the event L&I's application, petition or notice, as applicable, for authority to abandon is denied, CSXT may withdraw any application, petition, or notice it has filed for authority to discontinue (or abandon, if applicable) its operations and easement rights.
- H. Except as otherwise expressly agreed in writing, in the event any actions taken by the Parties under this Section 18 result in an obligation imposed by any competent authority

on either or both Parties to protect the interests of affected employees, the responsibility for bearing the cost thereof shall be borne by the Party that is the employer of the affected employee or employees, notwithstanding the manner in which said cost may be apportioned in any order or decision imposing the protection.

- I. Notwithstanding any provision in this Agreement to the contrary, a discontinuance by L&I of its operations over all or any portion of the L&I Line shall not cause this Agreement to be terminated.
- J. In the event L&I consummates the abandonment of any portion of the L&I Line, and the Upgrade with respect to such portion has been completed, then CSXT, at L&I's option, shall be entitled to the salvage material (*i.e.*, tracks and other track material) located on such portion or the value of such material; *provided, that*, if L&I removes and releases to CSXT the salvage material for such portion, CSXT shall, upon receipt thereof, promptly reimburse L&I for the costs to remove such material. The Parties agree that this subsection 18.J survives termination of this Agreement.

SECTION 19. TERM

- A. (1) This Agreement shall be effective (“Effective Date”) on the latest of (i) the day and year first above written, (ii) fulfillment of the conditions set forth in the Transaction Agreement, or (iii) the effectiveness of approval by the STB or compliance with conditions to the commencement of operations imposed by the STB, whichever occurs later (as provided in Section 17 above).

(2) Once effective, this Agreement shall remain in effect until (i) L&I consummates STB authority to abandon the entire L&I Line, (ii) CSXT consummates STB authority to discontinue (or abandon, if applicable) its operations and easement rights over the entire L&I Line, or (iii) the Easement Agreement terminates, at which time this Agreement shall terminate; *provided, that*, the terms and provisions of Section 24 hereof shall survive termination.
- B. Termination of this Agreement shall not relieve or release either Party from any obligation assumed or from any liability which may have arisen or been incurred by either Party under the terms of this Agreement prior to the termination hereof. The Parties agree that this subsection 19.B survives termination of this Agreement.

SECTION 20. FORCE MAJEURE; CASUALTY LOSS

- A. L&I shall not be responsible to CSXT for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its

control, including, but not limited to; (1) floods, storms, earthquakes, hurricanes, tornadoes, washout or other severe weather, climatic or naturally occurring conditions ("Acts of God"), (2) acts of public enemy, war, terrorism, blockade, insurrection, vandalism, fire, explosion or sabotage ("Acts of Terrorism"), (3) strike, lockout or labor disputes experienced by the Parties, and (4) embargoes or AAR service orders, Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations (together (1) through (4) shall be referred to as "Force Majeure").

B. In the event of a casualty loss to all or any portion of the L&I Line resulting from an Act of God or an Act of Terrorism, the repair and restoration of the L&I Line shall be handled as follows:

- (1) The L&I Line shall be restored as quickly as possible so as to minimize disruption of traffic. L&I and CSXT shall immediately communicate and decide whether CSXT or L&I shall perform or arrange to perform services necessary to restore service including but not limited to the repair and restoration of roadbed, track and structures. If it is not mutually agreed which restoration service shall be performed by CSXT, then L&I shall perform such service(s), unless L&I cannot commence to perform such service(s) within six (6) hours of being notified of the need for such services, in which case, CSXT may perform such service(s).
- (2) To the extent the casualty loss involves a portion of the L&I Line that has not been Upgraded (as defined in Subsection 20.B(4)), the cost of the repair and restoration ("Repair Cost") shall be borne as follows: *first*, the proceeds of L&I's property insurance coverage ("Insurance Proceeds") shall be applied to the Repair Cost; *second*, to the extent the Repair Cost exceeds the Insurance Proceeds, CSXT shall bear that portion of the excess equal to the product of (i) the CSXT Projected Annual Car Mile Percentage, as that term is defined in Attachment C for the calendar year in which the loss occurs, as adjusted based on actual car-miles in that year as calculated in Attachment C, multiplied by (ii) the uninsured loss (the "CSXT Share of Loss"); and *third*, to the extent the Repair Cost exceeds the Insurance Proceeds, L&I shall bear the difference between the uninsured loss and the CSXT Share of Loss up to an amount not to exceed

The Repair Cost described in this Section 20.B(2) shall be the amount to repair and restore the subject portion of the L&I Line to the condition it was in immediately prior to the casualty loss ("Non-Upgraded Condition"). If CSXT desires promptly to upgrade the subject portion of the L&I Line pursuant to Attachment D hereof in lieu of L&I repairing or restoring the subject track to Non-Upgrade Condition, then (x) CSXT shall provide L&I written notice of such desire within 15 days after CSXT receives notice of the casualty loss, whether through receipt of written notice by L&I or otherwise, and (y) L&I shall credit to

CSXT the L&I share of the Repair Cost (as determined above), which credit CSXT shall apply to the cost to upgrade the subject track pursuant to Attachment D hereof. Upon the completion of such repair or restoration to Upgraded condition, such portion of the L&I Line shall be considered to have been Upgraded (as defined in Subsection 20.B(4)). If the Repair Cost is not fully funded by the allocation set forth in this Section 20.B(2), CSXT shall have the following options (a) to fully fund the unallocated amount of the Repair Cost ("Additional CSXT Share"), in which case, CSXT, each month, shall be entitled to a credit against the amount of future Corridor Value Fees payable by CSXT to L&I, in the amount of the Additional CSXT Share, (b) to terminate this Agreement and the Easement Agreement, in which case, CSXT shall provide written notice to L&I and promptly seek authority from the STB to discontinue (or abandon, if applicable) its operations and easement rights over the L&I Line, and this Agreement and the Easement Agreement shall terminate upon CSXT's consummation of such STB authority, or (c) if L&I is unable to secure a commitment to fund the unallocated amount of the Repair Cost within six (6) months after CSXT notifies L&I in writing that it will not exercise its options under (a) or (b) above, to purchase the L&I Line for its net liquidation value.

- (3) To the extent the casualty loss involves a portion of the L&I Line that has been Upgraded (as defined in Section 20.B(4) hereof), the Repair Cost shall be borne as follows: *first*, the proceeds of CSXT's property insurance coverage (or Self-Insurance) not to exceed ("CSXT Insurance Proceeds") shall be applied to the Repair Cost; *second*, to the extent the Repair Cost exceeds the CSXT Insurance Proceeds, L&I shall bear that portion of the excess equal to the product of (i) the L&I Projected Annual Car Mile Percentage, as that term is defined in Attachment C for the calendar year in which the loss occurs, as adjusted based on actual car-miles in that year as calculated in Attachment C, multiplied by (ii) the uninsured loss, up to a maximum amount of (the "L&I Share of Loss"); and *third*, to the extent the Repair Cost exceeds the Insurance Proceeds, CSXT shall bear the difference between the uninsured loss and the L&I Share of Loss; *provided, that*, the Repair Cost described in this Section 20.B(3) shall be the amount to repair and restore the subject portion of the L&I Line to the condition it was in immediately prior to the casualty loss.
- (4) For purposes of this Section 20.B, the term "Upgraded" shall mean (1) any portion of the L&I Line on which welded rail (and/or related switches, turnouts, wyes and the like) has been installed pursuant to the Upgrade, and (2) any portion of the L&I Line that has been substantially improved and/or upgraded pursuant to the Upgrade. In the event the Parties cannot agree as to whether a portion of the L&I Line has been Upgraded, either Party may commence fast-track arbitration

pursuant to Section 21.B hereof.

SECTION 21. ARBITRATION

A. In the event of a minor dispute (as defined below) between the Parties with respect to this Agreement (other than disputes requiring fast-track arbitration) that is not resolved within thirty (30) days after a Party provides written notice to the other Party of the dispute, either Party may submit the dispute to arbitration, as follows:

(1) The Party initiating the Arbitration (the “Initiating Party”) will provide a written notice (“Arbitration Notice”) to the other Party (the “Responding Party”) that states the issue(s) to be arbitrated, and proposes a disinterested person, knowledgeable in railroad commercial and operating matters, to act as the sole arbitrator in the arbitration proceeding.

(2) Within ten (10) days after receipt of an Arbitration Notice, the Responding Party will notify the initiating Party in writing as to whether the proposed arbitrator is acceptable to the Responding Party. If the Responding Party accepts the proposed arbitrator or if the Responding Party does not provide written notice to the Initiating Party accepting or rejecting the proposed arbitrator within the ten- (10-) day period, the proposed arbitrator will serve as the sole arbitrator to preside over the arbitration. If the Responding Party rejects the proposed arbitrator, in writing, within the ten- (10-) day period, then the Parties shall attempt to identify a mutually acceptable arbitrator.

(3) If the Parties are unable to agree upon an arbitrator within forty (40) days after receipt of the Arbitration Notice by the Responding Party, either Party may request the American Arbitration Association (“AAA”) to select an arbitrator who is knowledgeable in railroad commercial and operational matters. The arbitration proceeding will be concluded pursuant to the Commercial Arbitration Rules of the AAA, and the arbitrator shall be directed to permit reasonable discovery and to permit dispositive motions. The arbitration hearing, if any, will be held in Louisville, KY, or at a location selected by the arbitrator.

(4) The decision of the arbitrator shall be final and conclusive upon the Parties. Each Party to the arbitration shall pay the compensations, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne equally by the Parties. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws.

(5) A minor dispute shall be any dispute for which the Party initiating the

arbitration is seeking compensation in the amount of _____ or less, other than a dispute that is expressly subject to fast-track arbitration (as described in Section 21.B, below) under the terms of this Agreement.

B. The following procedures apply solely to disputes subject to fast-track arbitration:

- (1) Either Party may initiate arbitration pursuant to this Section 21.B by providing written notice to the other Party (the "Notice Recipient"). The date on which the Notice Recipient receives the written notice shall be the "Notice Date". The arbitrator shall be a national engineering firm if the dispute relates to an engineering matter, or a national accounting firm if the dispute relates to a billing matter. If the Parties are able to agree on an arbitrator to resolve the dispute within five (5) days after the Notice Date, then such firm shall act as the arbitrator.
- (2) If the Parties are unable to agree upon an arbitrator within five (5) days after the Notice Date, then, within ten (10) days after the Notice Date, each Party shall provide to the other a list of up to three (3) national engineering firms with experience in railroad engineering or national accounting firms with experience in railroad accounting (as applicable) that have not been engaged by such Party in the past five (5) years. After the exchange of the lists, each Party shall notify promptly the other Party of any firm on the other Party's list that has been engaged by it in the past five (5) years, and such firm(s) shall be removed from consideration. Within fifteen (15) days after the Notice Date, the Parties shall agree on one of the remaining firms on the lists to act as the arbitrator, or the arbitrator will be chosen by lot by a representative of the Party that initiated the arbitration in the presence of a representative of the Notice Recipient.
- (3) Within thirty (30) days after the Notice Date, each Party shall submit to the arbitrator and to the other Party its position regarding the disputed item(s) (including, if applicable, the scope of work and budget for each disputed item). Within thirty-five (35) days after the Notice Date, each Party shall submit to the arbitrator and the other Party a reply to the other Party's position.
- (4) The arbitration shall be conducted "baseball style." Within sixty (60) days after the Notice Date, the arbitrator shall select the position of one of the Parties, without modification. In making its decision regarding a dispute over maintenance items, the arbitrator shall determine, to the extent applicable, the appropriate level of normalized maintenance and capital projects and the related budget for the disputed items, taking into consideration the current conditions, FRA track class, projected train frequency and tonnage in the upcoming calendar

year and applicable AREMA standards, and shall select the Party's position that most closely reflects these determinations. In making its decision regarding a dispute over dispatching items, the arbitrator shall apply, to the extent applicable, the Dispatching Protocols to resolve the dispute. If the Dispatching Protocols do not apply to, or do not resolve, the dispute, the arbitrator shall determine such additional protocols to resolve the dispute, consistent with industry standards and the intent of the Parties, as reflected by the terms of this Agreement.

- C. Major disputes refer to all disputes that (1) do not qualify as minor disputes, and (2) are not expressly subject to fast-track arbitration under the terms of this Agreement. Major disputes will be resolved in any available judicial or administrative forum.

SECTION 22. SUCCESSORS AND ASSIGNS AND CHANGE OF CONTROL

- A. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns, by merger or otherwise, of the Parties.
- B.

- C. For purposes of this Agreement, an Affiliate of a Party is an entity that controls or is commonly controlled with that Party, as that term is used in 49 U.S.C. 10102(3).
- D. Notwithstanding any other provision of this Agreement, CSXT shall have the right to assign all (but not less than all) of its rights and obligations under this Agreement, and all (but not less than all) of its rights and obligations under the Easement Agreement, to a third party; *provided, that*, (i) the assignee must take assignment of both this Agreement and the Easement Agreement, and (ii) any such assignment to a non-Class I railroad shall be subject to L&I's prior written consent, which L&I may withhold in its sole, discretion; *provided, that*, L&I may not unreasonably withhold its consent to an assignment by CSXT to a CSXT Affiliate, if such CSXT Affiliate demonstrates it can fulfill CSXT's obligations under this Agreement (including without limitation CSXT's obligations under Section 8 and Attachment D hereof). CSXT shall have no right to make a partial assignment of this Agreement or the Easement Agreement, or any rights or obligations hereunder or thereunder.
- E. Any assignment by a Party of this Agreement or the Easement Agreement shall not transfer or extinguish any liability or obligation of that Party under this Agreement or the Easement Agreement that existed prior to such assignment.

SECTION 23. NOTICE

All notices and other communications (individually, a "Notice") hereunder shall be in writing and shall be deemed received on the date such Notice is personally delivered (providing proof of delivery), on the first business day following the date on which such Notice is sent by a nationally recognized overnight courier (providing proof of delivery) or on the fifth business day following the date such Notice is mailed by registered or certified mail (return receipt requested). A Notice to a Party shall, unless another address is specified by such Party to the other Parties, be sent to the address indicated below:

If to CSXT:	Director Joint Facilities CSX Transportation, Inc. 500 Water Street Jacksonville, FL 32202
If to L&I:	President Louisville & Indiana Railroad Company

500 Willinger Lane
Jeffersonville, IN 47130

SECTION 24. OTHER AGREEMENTS

A. The Existing Agreement:

- (1) Upon the Effective Date of this Agreement, the Existing Agreement shall become dormant, but shall automatically reactivate in the event of termination of the Easement Agreement.
- (2) Upon the Effective Date of this Agreement the Initial Term of the Existing Agreement shall expire and the Existing Agreement shall be considered to be in the Extended Term.
- (3) Upon reactivation of the Existing Agreement, the rights conveyed to CSXT by the Existing Agreement shall apply; *provided, that*, the Existing Agreement shall be modified to include a joint facility arrangement (including the Dispatching Protocols) substantially as set forth in Section 11 hereof, and other provisions, to the extent agreed to by the Parties. This Section 24 shall survive the termination date of this Agreement.

B. Upon the Effective Date of this Agreement, the Master Agreement between L&I and CSXT dated November 13, 2000 shall terminate; *provided, that*, (a) the settlement provisions outlined in the Master Agreement shall be honored and (b) such termination shall have no impact on the trackage rights agreement dated June 1, 1999 which provides trackage rights for L&I to access Hawthorne Yard.

C. This Agreement shall in no way affect the current commercial and operating arrangements between the Parties with respect to (1) the trackage rights agreement granting L&I operating rights between Boyd and Watson, in Jeffersonville, IN, dated July 11, 1984, and (2) the Nabb Trackage Rights Agreement, which agreements, in each case, shall remain effective unless amended by the Parties by written agreement.

SECTION 25. GENERAL PROVISIONS

- A. This Agreement and each and every provision hereof is for the exclusive benefit of the Parties and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against either of the Parties.
- B. This Agreement, including all Attachments hereto, each of which is hereby incorporated by reference in its entirety as if specifically set forth herein, contains the entire

understanding of the Parties and supersedes any and all oral or written understandings or agreements between the Parties to the extent they relate to the subject matter hereof.

- C. No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing that specifically identifies the subject term or provision and that is signed by both Parties.
- D. All words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.
- E. All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- F. As used in this Agreement, whenever reference is made to the trains, locomotives, cars or equipment of, or in the account of, one of the Parties, such expression means the trains, locomotives, cars and equipment in the possession of or operated by one of the Parties and includes such trains, locomotives, cars and equipment which are owned by, leased to, or in the account of such Party. Whenever such locomotives, cars or equipment are owned or leased by one Party to this Agreement and are in the possession or account of the other Party to this Agreement, such locomotives, cars and equipment shall be considered those of the other Party under this Agreement.
- G. This Agreement is the result of mutual negotiations of the Parties, neither of whom shall be considered the drafter for purposes of contract construction.
- H. Neither Party may disclose the provisions of this Agreement to a third party, excluding a parent, subsidiary or Affiliate (or an accountant or attorney of such Party, parent, subsidiary or Affiliate), without the written consent of the other Party, except as otherwise required by law, regulation or ruling.
- I. This Agreement shall be construed in accordance with and governed by the laws of Indiana (without regard to the choice or conflict of laws rules of any jurisdiction). The Parties irrevocably submit to the jurisdiction of the courts of the State of Indiana and the federal courts located in the State of Indiana.
- J. If any clause or provision contained in this Agreement operates or would operate prospectively to invalidate this Agreement in whole or in part, then such clause or provision only shall be held ineffective, as though not herein contained, and the remainder of this Agreement shall remain operative and in full force and effect (unless

the effect of so doing would deprive a Party substantially of the benefit of the bargain negotiated by such Party).

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first above written.

Witness for CSX Transportation, Inc.:

CSX TRANSPORTATION, INC.

By: _____

Name: _____

Title: _____

Witness for Louisville & Indiana Railroad

**LOUISVILLE & INDIANA RAILROAD
COMPANY, INC.**

By: _____

Name: _____

Title: _____

ATTACHMENT A

DISPATCHING PROTOCOLS

1. **Purpose:** To ensure that CSXT's and L&I's trains operating on the L&I Line are given efficient dispatch without discrimination in promptness, quality of service or efficiency, and that the competitiveness and efficiency of carrier operations on the L&I Line is not adversely affected by dispatching decisions or procedures.
2. **General Instructions:** The dispatching carrier (L&I) will issue written instructions to all personnel (including supervisors) responsible for train dispatching on the L&I Line that trains of the non-dispatching carrier are to be dispatched with the same priority and efficiency of handling as if they were trains of the dispatching carrier, pursuant to the protocols established herein. These instructions will be re-issued at agreed upon intervals or at the request of the Management Committee (as established in Section 11 of this Agreement).
3. **Train Information:** The non-dispatching carrier (CSXT) will provide to the dispatching carrier (L&I), and regularly update, information about its expected train operations and schedules (including priorities, transit time requirements, horsepower per trailing ton, etc.) over the L&I Line, using electronic data interchange. The non-dispatching carrier will provide the dispatching carrier reliable and current information about trains approaching the L&I Line, including train arrival time and train characteristics, preferably by providing computer terminals, facilities or capabilities showing trains approaching the L&I Line. Such information shall be provided sufficiently in advance to allow dispatchers to plan for arrivals, departures and movements, but not less frequently than every four (4) hours. The dispatching carrier will provide to the other party sufficient advance notice of planned maintenance-of-way projects, line closures and train or equipment restrictions that would cause interruption or delay to movements.
4. **Monitoring Systems:** The dispatching carrier will make available computer terminals, dispatching screens, and facilities showing the L&I Line so that the non-dispatching carrier can monitor the operation, movement, and handling of trains on the L&I Line.
5. **Specific Instructions:** The dispatching carrier will permit the non-dispatching carrier to transmit instructions regarding the requirements of specific trains and shipments to the Chief Dispatcher responsible for handling those trains.
6. **Train Priorities:** The following "General Principles" will apply to trains on the L&I Line.

- 6.1 The Management Committee will establish schedule slots for each party and scheduled run time standards by train category based on planned train volumes. If train volumes are different than planned or when changes to the L&I Line impact run times (track speed changes, capacity changes, etc.), the Management Committee will adjust schedules and run times as necessary.
- 6.2 Trains will be dispatched in the following priority which will apply on a train's route where an actual conflict with another movement occurs or appears it will occur:

- 1) Scheduled intermodal and automotive trains
- 2) Scheduled general freight trains
- 3) Scheduled locals
- 4) Non-scheduled intermodal, automotive, and freight trains
- 5) Non-scheduled bulk unit trains
- 6) Non-scheduled locals
- 7) Work trains and equipment moves

- 6.2.1 Trains will be accepted on a first come, first served basis taking into consideration the relative priorities (as noted above) and specific needs or operating characteristics of individual trains. The determination of "first" shall be by the first communication from a crew actually at an access point and ready to proceed onto the L&I Line. Train dispatchers will make a notation of all such "first" communications.
- 6.2.2 Intermodal and automotive trains are trains with at least 75% intermodal equipment (TOFC, COFC, or other mutually agreed intermodal technology) and/or multilevel equipment or auto parts cars.
- 6.2.3 Scheduled trains are identified with a specific train symbol and operate on a fixed schedule with certain priorities and operate on specific day(s) of the week in specific schedule slots.
- Scheduled trains operating on fixed schedules may make up to two stops in order to pick-up and/or setout railcars on line, provided, however, that any trains shoving back from the L&I Line to the CSXT line at Seymour, IN or from the L&I Line to the CSXT Nabb Branch at Jeffersonville, IN shall be considered Scheduled Local trains hereunder.
 - Initial schedules and associated priorities as well as changes to schedules and priorities will be approved by the Management Committee, except either party may unilaterally change the symbols of its trains if there is no change in schedule or priority of such train.

- Train schedules shall include time necessary to normally operate from entry onto the L&I Line to exit from the L&I Line including any enroute work or normal train meets.
- Scheduled trains that fail to enter the L&I Line within two (2.0) hours of their scheduled time shall be considered unscheduled trains.

6.2.4 Either party may operate non-scheduled trains up to the reasonable, practical operating capacity limit of the L&I Line subject to any prior notice requirement established by the Management Committee. This requirement will be applied mutually and equally to CSXT and L&I, and will be implemented in a manner to utilize the capacity of the L&I Line in a manner efficient to both parties.

- 6.3 CSXT Trains will not be accepted to L&I Line unless it is known that road crews have sufficient time to complete the transit of L&I Line under the hours of service law. A crew on “short time” may be admitted to L&I Line if it is known by the dispatching carrier that a relief crew is in position to change crews prior to the first crew’s expiration under the hours of service law.
- 6.4 Train dispatchers will have the latitude to deviate from paragraphs 6.2 and 6.3 above when in their judgment the circumstances reasonably require such deviation to maintain efficient, impartial, and fluid train movement on the Subject Trackage. The dispatching office will promptly furnish all parties the facts upon which each such deviations are made, on a case by case basis, if requested.
- 6.5 A train shall not request authority to enter L&I Line unless it is then ready to proceed. A train given authority to enter L&I Line shall do so within the time specified by the train dispatcher. Failure to enter within this period may mean loss of train priority.
- 6.6 Within Yard Limits there is no priority of trains, provided, however that Yard Limits shall be used in such a manner that will minimize impact or delay to trains.

7. **Performance Measurement/Enforcement:** CSXT and L&I will cooperate to develop train performance evaluation methods under which train performance can be meaningfully evaluated and adjusted.
8. **Communications:** The parties will provide to each other and keep current lists of applicable dispatching supervisory personnel responsible for train coordination. The parties will each designate supervisory employees to serve as the day-to-day contacts for communications about operating changes, service requests and concerns.
9. **Access to Dispatching Office:** Appropriate officials of the non-dispatching carrier will be admitted at any time to the dispatching facility responsible for dispatching the L&I Line to review the handling of trains on the L&I Line and any documentation or records pertaining to train operations on the L&I Line.

10. **Disagreements:** The designated contact supervisors are expected to raise questions, disagreements, concerns or disputes about compliance with these protocols promptly, and when any such matters arise to use their best efforts to resolve them. If a matter is not resolved to the satisfaction of both parties, it will be presented to the Management Committee.

11. **Modifications:** As the ultimate objective of these protocols is the equal, flexible and efficient handling of all trains of all users on L&I Line, these protocols may be modified at any time by mutual agreement of L&I and CSXT, consistent with that objective.

12. **Priorities:**

12.1 CSXT and L&I will at all times provide to each other current procedures for assigning dispatching priorities or rankings to their own trains and information sufficient to show how those procedures are to be applied to their own trains. Each party will assign priorities or rankings to its own trains operating on the L&I Line. The dispatching carrier will dispatch trains in accordance with those priorities or rankings, but subject to the General Principles, above. The Management Committee will be responsible for reviewing these assignments to ensure that that are applied equitably by and to both CSXT and L&I.

12.2 Either party may change the priority of any of their own trains on any given day as it relates to conflicts between their own trains. The party requesting such change of priority shall notify the train dispatcher who shall apply such requested change of priority in the most practicable manner consistent with overall efficiency of operation of the L&I Line. By way of example: CSXT may request that an Unscheduled CSXT Intermodal train be given a higher priority than a Scheduled CSXT General Freight train.

Attachment B

Passenger Train Access Principles

Safety

- Adding passenger service must not compromise safety. The operator or subsidizer of passenger service must implement and fund safety infrastructure.

Service

- Overhead freight service must be protected and should not be compromised or limited by new passenger rail service. Provisions must be made or mitigation implemented to maintain the overhead freight service levels. Such provisions or mitigation shall be at no cost to CSXT and shall be such that the level of overhead freight service shall be maintained or improved. The effectiveness of proposed provisions and/or mitigation measures will be determined using CSXT's capacity analysis tools, which is currently the Rail Traffic Controller ("RTC") modeling software that is widely used in the rail industry or which will be the then current RTC or such other modeling tools or technology widely used in the rail industry.
- CSXT and L&I will not participate in so-called Service Outcome Agreements.

Liability

- CSXT must be fully protected by operator or subsidizer of passenger service from any liability arising from incidents involving passenger trains on the L&I Line.
- The operator and subsidizer of the passenger service should be prepared to carry and provide evidence of insurance covering liability exposure of not less than the greater of (1) \$200 million, or (2) the then-current limit of liability under federal law for intercity passenger rail operations.

Capacity

- Any addition or expansion of passenger rail service on the L&I Line must ensure that the capacity utilized for the new service is fully replaced at no cost to CSXT. This capacity must allow CSXT to safely and efficiently handle all current and reasonably projected future overhead freight service demand, not just enough to address current conditions or to cover a few years. The effectiveness of replacement capacity will be determined using CSXT's capacity analysis tools, which is currently the RTC modeling software that is widely used in the rail industry or which will be the then current RTC or such other modeling tools or technology widely used in the rail industry.

Costs and Compensation

CSXT shall not bear the costs in planning and hosting passenger rail service, including future reinvestments in infrastructure to continue to provide safe, efficient, and environmentally-

friendly freight service. CSXT and its overhead freight customers should not be asked to subsidize passenger service.

Attachment C – Cost Sharing
Under Negotiation

ATTACHMENT D

UPGRADE OF THE L&I LINE

CSXT shall bear all costs and expenses in connection with an upgrade of the L&I Line (the “Upgrade”), as described below.

1. The objectives of the Upgrade (the “Objectives”) are to (i) permit the use of rail cars with a GWOR of 286,000 lbs. over the entire L&I Line, and (ii) bring the L&I Line up to FRA Class 4 condition with such maximum speeds as permitted by the track geometry and signal systems on the L&I Line.
2. The Upgrade shall include (without limitation):
 - i) Replacement of substantially all of the L&I Line rail with continuously welded rail,
 - ii) Replacement of Bridge No. 40.19 at Columbus, IN,
 - iii) Construction or improvement of passing sidings with remotely controlled switches and control equipment, to the extent reasonably necessary for the efficient handling of the increased volume of CSXT trains over the L&I Line (after taking into account the L&I traffic on the L&I Line), as determined appropriate by CSXT, and
 - iv) L&I dispatching system to be agreed upon by November 30, 2013.
3. The Upgrade shall be deemed to be complete when (i) the Objectives have been met in full, and (ii) each of the tasks described in Paragraph 2, above, except Paragraph 2(iii), have been authorized and fully funded. On the seventh (7th) anniversary of the Effective Date, the Parties shall determine if the Upgrade has been completed. If the Parties cannot agree on whether the Upgrade has been completed, either Party may initiate fast-track arbitration pursuant to Section 21.B of the Agreement to resolve that issue or both Parties may agree to extend the time to complete the Upgrade.
4. CSXT shall bear all costs and expenses in connection with the design and construction of the Upgrade, and the management of the Upgrade construction project. By November 30, 2013, L&I and CSXT will agree on the engineering firm that will act as general contractor on behalf of L&I for the Upgrade, and the Upgrade will be performed by a third party construction firm(s) selected by the general contractor. The agreement with the general contractor (and any other agreements with third party construction firms(s)) shall (i) require that the work be performed on a schedule and in a manner so as to minimize interference with train operations on the L&I Line, and (ii) contain such other provisions as are customary in the railroad industry (including without limitation insurance and indemnification provisions for the benefit of L&I and CSXT and project audit rights) for projects of the scope of the Upgrade.
5. Since CSXT will bear the economic burden of the Upgrade and will share in the

enjoyment of the Upgrade, CSXT – not L&I – shall own the Upgrade and shall claim for federal and state income tax purposes depreciation of the capitalized cost of the assets that comprise the Upgrade.

6. To the extent that material is removed from the L&I Line in the course of the Upgrade (e.g., the removal of existing rail to facilitate the replacement of such rail with welded rail), L&I will be entitled to all such material and L&I shall credit CSXT for the net salvage value of such material.
7. Capital projects on the L&I Line that are outside the scope of the Upgrade shall be undertaken pursuant to the procedures in Section 10 or 11 of the Agreement (as applicable).
8. The Upgrade of the segment of the L&I Line between connection of the Parties at Seymour, IN near L&I MP 59.2 and Boyd, IN near L&I MP 104.9 shall be authorized and fully funded by February 28, 2017.
9. In the event the Upgrade is not completed, as defined in Section 3 of this Attachment D, by the seventh (7th) anniversary of the Effective Date (unless completion of the Upgrade is delayed by one of more *force majeure* events (as defined in Section 20 of the Agreement), in which case the deadline shall be extended by a reasonable number of days) (i) the Easement shall terminate as provided in the Easement Agreement, (ii) to the extent that the Parties subsequently agree to complete the Upgrade (in whole or in part), CSXT shall bear all cost and expense with respect to such work.
10. Within five (5) business days after receipt by L&I of each invoice for costs and expenses incurred by L&I in connection with the Upgrade (including without limitation construction costs) ("Invoice") from a contractor, vendor, supplier or similar entity ("Contractor"), L&I shall submit to CSXT a request for payment for all such costs and expenses along with appropriate, supporting documentation ("Payment Request"). CSXT shall pay to L&I the amount of the Payment Request within 15 days after the receipt thereof. Promptly following receipt of such payment from CSXT, L&I shall remit payment to the Contractor for the Invoice covered by the Payment Request.

Attachment E – Other Joint Expenses Plan
Under Negotiation

4. If L&I requests the Inspector to extend the time frame to complete the repair, and L&I can demonstrate that it has in good faith commenced and pursued the repair or implementation, the Inspector shall grant the request and extend the time frame by a reasonable amount of time.
5. L&I shall notify CSXT's Division Engineer or other designated official, by email, of the date on which L&I inspected the repairs and confirmed, based on reasonable due diligence, that the maintenance contractor had performed the repairs identified in the Report.
6. Inspections of the L&I Line pursuant to Section 14 of this Agreement shall not occur more frequently than once every ten (10) days.
7. The cost of any repairs or restrictions shall be treated as a maintenance expense to be allocated to L&I and CSXT under Section 11 of this Agreement.

ATTACHMENT F

INSPECTION PROCEDURES

A. Inspector Requirements

1. Inspector must have at least ten (10) years' experience as a roadmaster or equivalent experience.
2. L&I shall engage an Inspector upon request by CSXT.
3. The Inspector shall provide his/her own inspection vehicle that is equipped to communicate with L&I radio frequencies.
4. In the event, from time to time, CSXT desires that an inspection of the L&I Line be performed, CSXT shall provide the L&I Roadmaster with a written request that (i) identifies the portion of L&I to be inspected, (ii) identifies maintenance conditions, if any, CSXT wants the Inspector to address, and (iii) states the time frame (not sooner than three days from the date of the request) within which CSXT requests the inspection to be performed. L&I shall use good faith efforts to cause the Inspector to perform the inspection within the time frame requested by CSXT, but in any event as soon as practicable. Inspector shall provide the L&I Roadmaster (or its designee) and CSXT's Division Engineer (or its designee) with at least thirty-six (36) hours' notice (by email or otherwise in writing) prior to entering on the L&I Line.
5. Inspector shall comply with all applicable laws (including without limitation regulations) while on L&I property. Inspector also shall comply with all applicable rules, policies, standards procedures or requirements of L&I.
6. Inspector shall execute an agreement with L&I that (i) requires the inspection to be performed in a manner that minimizes interference with train operations on the L&I Line; and (ii) includes insurance and indemnification provisions that are customary in the railroad industry for the benefit of L&I and CSXT.
7. A representative of each of L&I and CSXT shall be permitted to accompany the Inspector during each inspection of the L&I Line (or portion thereof) by the Inspector.
8. L&I shall have the right to prohibit the Inspector from entering the L&I Line and/or to require that the Inspector promptly exit the L&I Line, if the Inspector does not satisfy any of the requirements above. In addition, L&I shall have the right to bar from the L&I Line any Inspector who fails to comply with any material rules, policies, standards, procedures or requirements of L&I.

B. The Report

1. In determining if there are any repairs or operating restrictions required for the L&I Line, the Inspector shall apply the applicable standards, if any, established by the Federal Railroad Administration (and other applicable law), the American Railway Engineering and Maintenance-of-Way Association and CSXT.

2. If, in accordance with Item B.1, above, the Inspector identifies a safety need for a repair or restriction, based on an identified standard and taking into account traffic volumes and other applicable factors, then with respect to each such repair or restriction, the Inspector shall promptly advise in person or by telephone the Roadmaster of L&I and the Division Engineer of CSXT (or their respective designees), and provide each of them with an opportunity to discuss or provide additional information regarding the subject track condition, the safety need (or lack thereof) for a repair or restriction, and/or the time frame in which such repair should be completed and/or such restriction should be implemented. To the extent practicable and consistent with safety considerations, the Inspector shall use slow orders or other such restrictions to facilitate reasonable time frames for the completion of repairs. Following any such discussion, or the review of any such additional information, the Inspector shall prepare a written report (the "Report") with respect to each identified repair or restriction, if any, that contains the following information:

- a. the date and time the inspection occurred;
- b. the location, by milepost designation, of the required repair or restriction
- c. a description of the track condition and an explanation of why a repair or restriction is required under the standards set forth in B.1. hereof;
- d. a description of the repair or restriction necessary to address the track condition described in Item B.2.c., above;
- e. the name of the CSXT and L&I representative the Inspector advised of the repair or restriction, and the date on which each such representative was so advised; and
- f. a reasonable timeframe that L&I has to complete the repair and/or implement the restriction, which timeframe shall take into account, among other things, the ability to use slow orders to mitigate safety issues (consistent with CSXT's use of slow orders on rail lines with comparable traffic density), the reasonable period of time needed to obtain and mobilize required materials and labor, and operational and safety considerations

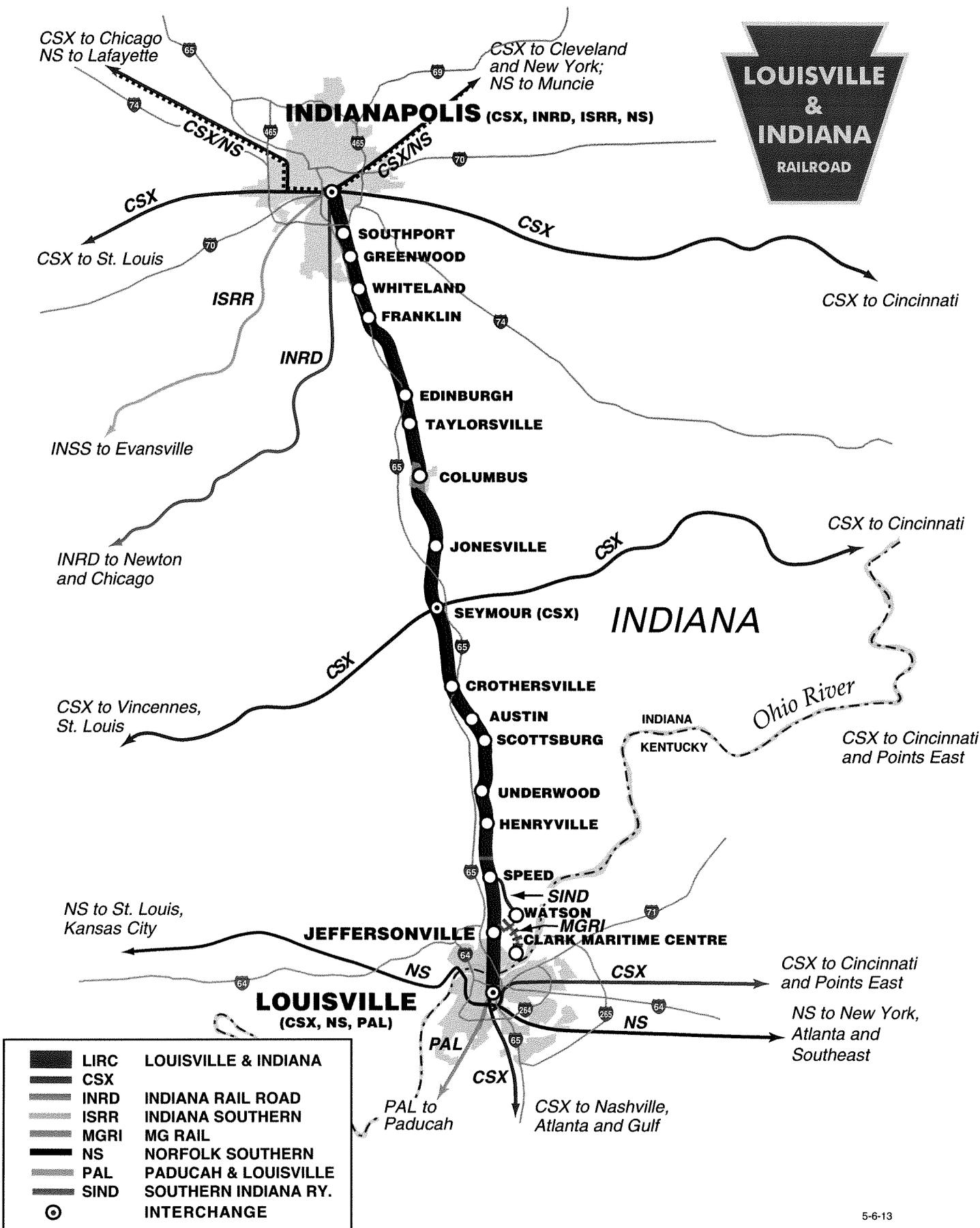
C. Implementation

1. Within five (5) days after performing an inspection, the Inspector shall submit the Report of his findings and necessary repairs/restrictions, if any, by email and first class mail to the L&I Roadmaster and the CSXT's Division Engineer (or their respective designees).

2. The time frame for implementing restrictions such as slow orders to maintain safe operations on the L&I Line shall commence as soon as the L&I Roadmaster (or his/her designee) receives the applicable Report.

3. The time frame in the Report for completing the subject repair shall commence upon receipt by L&I of the applicable Report.

Exhibit 1 - Map



LOUISVILLE & INDIANA RAILROAD

INDIANAPOLIS (CSX, INRD, ISRR, NS)

INDIANA

LOUISVILLE (CSX, NS, PAL)

	LIRC	LOUISVILLE & INDIANA
	CSX	
	INRD	INDIANA RAIL ROAD
	ISRR	INDIANA SOUTHERN
	MGRI	MG RAIL
	NS	NORFOLK SOUTHERN
	PAL	PADUCAH & LOUISVILLE
	SIND	SOUTHERN INDIANA RY.
		INTERCHANGE

Exhibit 2 – Liability Allocation Agreement

LIABILITY ALLOCATION AGREEMENT

THIS LIABILITY ALLOCATION AGREEMENT (the “Agreement”), entered into as of the _____ day of _____ 2013, by and among CSXT Transportation Inc., a Virginia corporation (“CSXT”), Louisville & Indiana Railroad Company, Inc., an Indiana corporation (“L&I”), and each other railroad that subsequently becomes a party to this Agreement, in accordance with its terms and as of the date it executes the Agreement as set forth in its signature block (an “Invitee Railroad”). (CSXT, L&I and the Invitee Railroads are sometimes referred to as the “Parties” and individually as a “Party”).

WHEREAS, L&I owns and operates an approximately 106.5-mile line of railroad between L&I Mile Post 4.0± near Indianapolis, IN and the connection between CSXT and L&I at L&I Mile Post 110.50± at Eleventh Street in Louisville, KY, and the designated sidings adjacent to and accessed from the L&I mainline (the “L&I Line”);

WHEREAS, CSXT and L&I are parties to that certain Joint Use Operating Agreement, dated _____, 2013 (including all exhibits, attachments and schedules thereto, the “Operating Agreement”) and that certain Easement Agreement, dated _____, 2013 (the “Easement Agreement”), whereby L&I granted to CSXT a non-exclusive freight railroad operating easement and certain rights and obligations over the L&I Line.

WHEREAS, L&I and each Invitee Railroad have entered into a separate operating agreement that will govern the terms and conditions by which the Invitee Railroad may operate over the L&I Line (including all exhibits, attachments and schedules thereto, each, an “Invitee Operating Agreement”); and

WHEREAS, under each Invitee Operating Agreement, no Invitee Railroad may commence operations over the L&I Line until it has become a party to this Agreement (as it may be amended from time to time).

NOW, THEREFORE, the Parties, intending to be legally bound, agree as follows:

SECTION 1. The Parties acknowledge and agree that (a) subject to the Operating Agreement, other railroads have been and/or hereafter may be granted operating rights on the L&I Line, (b) as a condition precedent to any railroad commencing operations over the L&I Line, such railroad must become a Party to this Agreement, and (c) this Agreement shall govern the rights and responsibilities of the Parties with respect to any Losses (defined below) solely as among the Parties hereto. For the avoidance of doubt, the National Passenger Railroad Corporation (“Amtrak”) is not a Party to this Agreement.

SECTION 2. The rights and obligations of any Invitee Railroad with respect to any Losses (as that term is defined in Section 4, below) shall be governed by this Agreement to the extent such Losses arise out of or result from any event or circumstance that occurs on or after the date such Invitee Railroad becomes a Party to this Agreement. Each Party expressly understands and agrees that, without further amendment to this Agreement (or any additional consent of the Parties), L&I may cause additional third party railroads to become parties to this Agreement

upon executing and delivering a counterpart signature page to L&I, and such third party railroads will be parties to this Agreement for all purposes as of the date set forth in the signature block of each such third party railroad. L&I shall provide a copy of the signature page of each such newly-admitted Invitee Railroad to the other Parties.

SECTION 3. Intentionally omitted

SECTION 4. As among the Parties hereto only, the responsibility and liability for any damage, demand, claim, liability, obligation, loss, cost, expense (including, without limitation, the reasonable fees and disbursements of attorneys, accountants, consultants and engineers, and cleanup and remedial costs and expenses), settlement, deficiency, interest, penalty, imposition, assessment or fine of any kind or nature (collectively "Losses") arising out of or resulting from, or paid or obliged to be paid on account of, one or more of the following: (i) any personal injury or death of any person (including employees of the Parties and third persons) arising from or related to rail operations on, over or adjacent to the L&I Line, (ii) any real or personal property damage or destruction of any property (including property of the Parties and third persons) arising from or related to rail operations on, over or adjacent to the L&I Line, and (iii) any damage to or destruction of the environment (including without limitation land, air, water, wildlife and vegetation) arising from or related to rail operations on, over or adjacent to the L&I Line, shall be allocated among the Parties, without regard to the negligence of one or more Parties (except to the extent expressly provided otherwise in this Section 4), as follows:

- A. If one or more Losses arise from an event or circumstance involving the trains, lading, or equipment of only one of the Parties (and does not involve Amtrak or any other railroad that is not a Party to this Agreement, in which case the Losses will be allocated under applicable law), then that Party shall be solely responsible and liable for the Losses (absent the gross negligence or intentional wrongdoing of another Party).
- B. If one or more Losses arise from an event or circumstance involving the trains, lading, or equipment of two or more Parties only, each involved Party (absent the gross negligence or intentional wrongdoing of another Party, in which case such Losses will be allocated under applicable law) shall be responsible and liable for (i) all Losses resulting from injury to or death of its employees, and (ii) all Losses resulting from damage to or destruction of its locomotives, equipment and lading in its account, and (iii) its prorated share (based upon the number of Parties involved in the incident) of Losses incurred by third parties (other than Amtrak or any other railroad that is not a Party to this Agreement, in which case such Losses will be allocated under applicable law) and Losses resulting from damage to the L&I Line.
- C. If one or more Losses occur involving a trespasser without the involvement of the trains, equipment or employees of any Party, L&I shall be responsible and liable for all Losses directly resulting from such event.
- D. If one or more Losses occur that is the result of unknown causes and that does not involve the trains or equipment of any Party, each Party shall be responsible and liable for its prorated share (based upon the number of Parties to this Agreement) of the Losses incurred by third parties (other than Amtrak and or any other railroad that is not a Party to

this Agreement, in which case such Losses will be allocated under applicable law) and Losses resulting from damage to the L&I Line.

- E. If one or more Losses occur involving the passengers, employees, trains, equipment or lading of Amtrak or any other railroad that is not a party to this Agreement, L&I shall be responsible and liable for all Losses resulting from such event (absent the gross negligence or intentional wrongdoing of another Party, in which case such Losses will be allocated under applicable law).
- F. Notwithstanding any provision to the contrary, if any fines or penalties are assessed against a Party by a governmental entity as a result of another Party's violation of an applicable law, the second Party shall be responsible and liable for all such fines or penalties.

SECTION 5.

- A. For purposes of this Agreement, (1) a Hazardous Material shall mean any material or substance that is defined or classified as a "hazardous substance", "hazardous material", "hazardous waste", "pollutant", "contaminant", or any other substance regulated pursuant to or that could give rise to liability under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601(14)), as amended; the Federal Water Pollution Control Act (33 U.S.C. § 1321), as amended; the Resource Conservation and Recovery Act (42 U.S.C. §§ 6903, 6921), as amended; the Federal Water Pollution Control Act (33 U.S.C. § 1317(a)(1)), as amended; the Clean Air Act (42 U.S.C. § 7412), as amended; the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. App. § 1802(4)), as amended; the Federal Insecticide and Rodenticide Act (7 U.S.C. § 136), as amended; analogous state and local laws; and any other Environmental Laws, (2) an Environmental Law shall mean any applicable federal, state or local law, regulation, rule, order or decree relating to pollution or protection of the environment, including but not limited to laws relating to emissions, discharges, releases or threatened releases of pollutants, contaminants or hazardous or toxic material or wastes, including petroleum, into ambient air, surface water, ground water or land or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants or hazardous or toxic materials or wastes, including but not limited to petroleum, (3) Laws shall mean any applicable federal, state or local law, regulation, rule, order or decree, and (4) TIH and/or PIH shall mean toxic and/or poisonous inhalation commodities as described in 49 C.F.R. § 171.8, including without limitation those commodities having Standard Transportation Commodity Code numbers set forth on Attachment 1 hereto.
- B. Notwithstanding any provision of this Agreement to the contrary, any Loss arising out of or resulting from (1) a release or threatened release of a Hazardous Material (other than TIH and/or PIH), or (2) a violation of Environmental Law, shall, in each case, be the responsibility and liability of the Party handling the Hazardous Material or that violates the Environmental Law (absent the gross negligence or intentional wrongdoing of another Party, in which case such Losses will be allocated under applicable law).

- C. Notwithstanding any provision of this Agreement to the contrary, to the extent Losses are caused by TIH and/or PIH handled by a Party, that Party shall indemnify and hold harmless the other Parties without regard to the fact that one or more other Parties might have been grossly negligent or might have engaged in intentional wrongful acts; *provided, that*, if the gross negligence or intentional wrongful act of one or more Parties causes Losses involving TIH and/or PIH handled by another Party, then (1) the Party(ies) who were grossly negligent or engaged in intentional wrongful acts each shall be responsible and liable for up to the full extent of the proceeds obtained from its insurance coverage (plus any self-insured amounts below the attachment of its insurance coverage), and (2) the Party who handled the TIH and/or PIH shall bear the Losses in excess of the proceeds referred to in the preceding clause (1). Nothing in this Section 5.C shall be construed as limiting or modifying any prohibition in an Invitee Operating Agreement against the handling of TIH and/or PIH on the L&I Line.

SECTION 6.

- A. To the extent liability or responsibility for a given Loss has not been expressly allocated among the Parties pursuant to a term or provision in this Agreement, the liability and responsibility for Losses will be allocated among the Parties in accordance with applicable law.
- B. Whenever any Loss is assumed by or apportioned to a Party(ies) under this Agreement (including without limitation Section 6.A and including any allocation in accordance with applicable law under Sections 4 or 5 hereof), that Party(ies) shall forever protect, defend, indemnify, and save harmless the other Party(ies) and the other Party(ies)'s parent corporation, subsidiaries and affiliates (to the extent such parent corporation, subsidiaries and affiliates are not a Party to this Agreement), and all of their respective directors, officers, agents, and employees from and against that liability, cost and expense assumed by or apportioned to that Party(ies).
- C. In every case of death or injury suffered by an employee of a Party, when compensation to such employees or employee's dependents is required to be paid under any workmen's compensation, occupational disease, employers' liability or other law, and one of said Parties, under the provisions of this Agreement, is required to pay said compensation, if such compensation is required to be paid in installments over a period of time, such Party shall not be released from paying any such future installments by reason of the expiration or other termination of this Agreement prior to any of the respective dates upon which any such future installments are to be paid.
- D. For purposes of determining liability, pilots furnished by L&I to a Party pursuant to the Operating Agreement or an Invitee Operating Agreement (as applicable) shall be considered as the employees of such Party while such employees are on duty as pilots.
- E. In the event of a Loss as set out herein, the Parties shall be bound by the Freight Claim Rules, Principles, and Practices of the Association of American Railroads (AAR) as to the handling of any claims for the loss or damage to lading. Each Party shall investigate, adjust and defend all freight loss and damage claims filed with it in accordance with 49

U.S.C. Section 11706. All costs and expenses in connection with the investigation, adjustment and defense of any such freight loss claims or suits pursuant to this Agreement shall be included as costs and expenses in applying the provisions of this Agreement, except that salary or wages of full-time attorneys and other full-time employees of a Party engaged directly or indirectly in such work shall be borne by such Party.

- F. Without limiting the generality of Section 6.B hereof, each Party agrees to indemnify and hold harmless the other Parties and their respective parent corporations, subsidiaries and affiliates, to the extent such parent, subsidiaries or affiliates are not a Party to this Agreement, and all their respective directors, officers, agents and employees from and against any and all costs and payments, including benefits, allowances and arbitration, administrative and litigation expenses, arising out of claims or grievances made by or on behalf of its own employees, either pursuant to a collective bargaining agreement or employee protective conditions imposed by a governmental agency upon the agency's approval or exemption of this Agreement. It is the intention of the Parties that each Party shall bear the full costs of protection of its own employees under employee protective conditions which may be imposed, and of grievances filed by its own employee arising under its collective bargaining agreements with its employees.
- G. Notwithstanding any provision to the contrary herein, the allocation of liability for Losses that are caused by track condition shall be consistent with the Operating Agreement and Invitee Operating Agreement, as applicable.

SECTION 7. Except to the extent inconsistent with Section 6.E hereof, the following procedures shall be applicable with respect to indemnification for third-party Claims (as defined below). As used in this Section 7, a "Claim" means any action, claim, lawsuit, demand, suit, inquiry, hearing, investigation, audit, notice of a violation, litigation, proceeding, arbitration, appeal or other dispute, whether civil, criminal, administrative or otherwise, or assertion of any claim, liability or obligation. Nothing in this Section 7 shall in any way increase or expand a Party's obligation under this Agreement to indemnify another Party.

- A. If a suit or claim is made against one or more Parties, the liability for which under this Agreement is allocated solely to one or more of the other Parties, the Party(ies) against whom the suit or claim was made (each, an "Indemnitee") shall notify promptly in writing the other Party(ies) to whom such liability is allocated under this Agreement (each, an "Indemnitor"), and the Indemnitor(s) shall control and shall be responsible for all expenses and costs in connection with such claim or suit (including, without limitation, the cost of the defense thereof), to the extent allocated to it in this Agreement; *provided, that*, the Indemnitee(s) shall have the right to participate in the defense of the claim or suit at its sole expense. To the extent an Indemnitor fails to acknowledge in writing its indemnification obligations (including its obligation to defend) with respect to a claim or suit within thirty (30) days after one or more Indemnitees has delivered notice of such claim or suit, such Indemnitee(s) shall have the right to undertake the defense, settlement or compromise of such claim or suit on behalf of, and at the sole expense of, such Indemnitor; *provided, that*, an Indemnitee shall not, without the prior written consent of an Indemnitor, compromise or settle such claim or suit, or consent to the entry

of judgment, if such compromise, settlement, or consent obligates an Indemnitor to prospectively take certain actions or to refrain from taking certain actions.

- B. If a claim or suit is made against a Party the liability for which under the Agreement is partially allocated to another Party(ies), such Party against which such claim or suit is made shall give prompt written notice thereof to the other Party(ies), which other Party(ies) shall have the opportunity to share or join in the defense of the claim or suit.
- C. An Indemnitor shall not compromise or settle a claim brought against an Indemnitee in the Indemnitee's name without providing such Indemnitee with fifteen (15) business days' prior written notice of the terms of settlement. An Indemnitee shall have the right within said fifteen (15) day period to reject any proposed settlement or compromise, in which case the Indemnitor shall not enter into the settlement or compromise on behalf of such Indemnitee. If an Indemnitee rejects a proposed settlement or compromise, (1) the Indemnitor shall bear all costs and expenses accrued through the time of the rejected settlement or compromise, as well as indemnify Indemnitee for any actual Losses incurred by Indemnitee in an amount up to the rejected settlement or compromise amount, and (2) such Indemnitee shall bear all costs and expenses accrued after the time of the rejected settlement or compromise in excess of the rejected settlement or compromise amount. Without the prior written consent of an Indemnitee, the Indemnitor shall not compromise or settle a claim or suit brought against such Indemnitee or consent to the entry of judgment with respect to such Indemnitee, if such compromise, settlement or consent (i) does not include as an unconditional term thereof a release by the claimant or plaintiff of all liability of such Indemnitee related to such claim or suit, or (ii) obligates such Indemnitee to prospectively take certain actions or to refrain from taking certain actions.

SECTION 8.

- A. Upon termination of an Invitee Operating Agreement between L&I and an Invitee Railroad, this Agreement shall terminate with respect to that Invitee Railroad; *provided, that* (1) this Agreement shall continue to apply to the terminating Invitee Railroad with regard to incidents occurring from the date such Invitee Railroad entered into this Agreement through the date of termination, and this Section 8 shall survive any termination of this Agreement, and (2) this Agreement shall remain in full force and effect with respect to all other Parties to this Agreement.
- B. Upon CSXT's cessation of use of the L&I Line and the termination of the Easement Agreement and the Operating Agreement, this Agreement shall terminate with respect to CSXT; *provided, that* (1) this Agreement shall continue to apply to CSXT with regard to incidents occurring from the date CSXT entered into this Agreement through the date of termination, and this Section 8 shall survive any termination of this Agreement, and (2) this Agreement shall remain in full force and effect with respect to all other Parties to this Agreement.

SECTION 9.

- A. This Agreement and each and every provision hereof is for the exclusive benefit of the

Parties and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against any of the Parties.

- B. This Agreement contains the entire understanding of the Parties and supersedes any and all oral understandings between the parties.
- C. No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing and signed by all parties to this Agreement. Notwithstanding the foregoing, pursuant to Section 2 hereof, Invitee Railroads may be added as parties to this Agreement, without any amendment by or additional consent of the Parties.
- D. All words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry. For purposes of this Agreement, acts and omissions of a Party shall include the acts and omissions of such Party's agents, contractors and invitees (other than an Invitee Railroad).
- E. All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- F. As used in this Agreement, whenever reference is made to the trains, locomotives, cars or equipment of, or in the account of, one of the Parties, such expression means the trains, locomotives, cars and equipment in the possession of or operated by one of the parties and includes such trains, locomotives, cars and equipment which are owned by, leased to, or in the account of such Party. Whenever such locomotives, cars or equipment are owned or leased by one party to this Agreement and are in the possession or account of another Party to this Agreement, such locomotives, cars and equipment shall be considered those of the Party in possession of such locomotives, cars and equipment.
- G. This Agreement is the result of mutual negotiations of the Parties, none of whom shall be considered the drafter for purposes of contract construction.
- H. No Party may disclose the provisions of this Agreement to a third party, excluding a parent, subsidiary or affiliate company (or an accountant or attorney of such party hereto, such parent, such subsidiary or such affiliate), without the written consent of the other Parties, except as otherwise required by law, regulation or ruling.
- I. This Agreement may be executed in one or more counterparts all of which shall be considered one and the same agreement and shall be effective when said counterparts have been signed by each of the Parties and delivered to the other Parties, it being understood that the Parties need not sign the same counterpart. A facsimile signature on the counterpart shall be deemed an original.
- J. This Agreement shall be construed in accordance with and governed by the laws of Indiana (without regard to the choice or conflict of laws rules of any jurisdiction). The

Parties irrevocably submit to the jurisdiction of the courts of the State of Indiana and the federal courts located in the State of Indiana.

K. If any clause or provision contained in this Agreement operates or would operate prospectively to invalidate this Agreement in whole or in part, then such clause or provision only shall be held ineffective, as though not herein contained, and the remainder of this Agreement shall remain operative and in full force and effect (unless the effect of so doing would deprive a Party substantially of the benefit of the bargain negotiated by such Party).

IN WITNESS WHEREOF, the undersigned has duly executed this Agreement as of the date set forth below.

CSX TRANSPORTATION, INC., a Virginia corporation

By: _____

Its: _____

Title: _____

Date: _____

LOUISVILLE AND INDIANA RAILROAD COMPANY, INC., an Indiana corporation

By: _____

Its: _____

Title: _____

Date: _____

The following INVITEE RAILROAD(S):

[NAME]

By: _____

Its: _____

Title: _____

Date: _____

ATTACHMENT 1 – TIH/PIH

Number	HMRC	Proper Shipping Name	UN/NA#	Packing Group	Hazard Zone
1	4821019	Waste Allyl Alcohol	UN 1098	I	B
3	4821029	Waste Toxic by Inhalation Liquid, Flammable, n.o.s	UN 3384	I	B
2	4821261	Waste Toxic Liquid, Corrosive, Inorganic, n.o.s	UN 3289	I	B
4	4821722	Waste Hexachlorocyclopentadiene	UN 2646	I	B
5	4830030	Waste Sulfuric acid, Fuming	UN 1831	I	B
6	4904209	Ammonia, Anhydrous	UN 1005		
7	4904210	Ammonia, Anhydrous	UN 1005		
8	4904211	Ammonia, Anhydrous	UN 3318		
9	4904879	Ammonia, Anhydrous	UN 1005		
10	4907409	Isopropyl Isocyanate	UN 2486	I	A
11	4907434	Ethyl Isocyanate	UN 2481	I	A
12	4909306	Isopropyl Isocyanate	UN 2483	I	A
13	4909307	Methoxymethyl Isocyanate	UN 2605	I	A
14	4910370	Methacrylonitrile, Stabilized	UN 3079	I	B
15	4916138	Pentaborane	UN 1380	I	A
16	4918180	Tetranitromethane	UN 1510	I	B
17	4918505	Bromine Pentafluoride	UN 1745	I	A
18	4918507	Bromine Trifluoride	UN 1746	I	B
19	4920101	Compressed Gas, Toxic, Corrosive, n.o.s.	UN 3304		A
20	4920102	Compressed Gas, toxic, flammable, corrosive, n.o.s	UN 3305		A
21	4920103	Compressed Gas, toxic, oxidizing, corrosive, n.o.s.	UN 3306		A
22	4920104	Compressed Gas, toxic, oxidizing, n.o.s	UN 3303		A
23	4920105	Liquefied gas, toxic, corrosive, n.o.s	UN 3308		A
24	4920106	Selenium Hexafluoride	UN 2194		A
25	4920107	Diborane	UN 1911		A
26	4920108	Liquefied gas, toxic, flammable, corrosive, n.o.s	UN 3309		A
27	4920110	Liquefied gas, toxic, oxidizing corrosive, n.o.s	UN 3310		A
28	4920111	Liquefied gas, toxic, oxidizing, n.o.s	UN 3307		A
29	4920112	Nitric Oxide, Compressed	UN 1660		A
30	4920113	Nitric Oxide and nitrogen dioxide mixtures or Nitric Oxide and dinitrogen tetroxide mixtures	UN 1975		A
31	4920115	Insecticide gases, toxic, flammable, n.o.s.	UN 3355		A
32	4920116	Insecticide gases, toxic, flammable, n.o.s.	UN 3355		A
33	4920122	Hydrogen Selenide, anhydrous	UN 2202		A
34	4920135	Arsine	UN 2188		A
35	4920160	Phosphine	UN 2199		A
36	4920164	Liquefied gas, toxic, flammable, n.o.s.	UN 3160		A
37	4920165	Compressed Gas, toxic, flammable, n.o.s.	UN 1953		A
38	4920167	Stibine	UN 2676		A
39	4920173	Oxygen Difluoride, Compressed	UN 2190		A
40	4920174	Dinitrogen Tetroxide	UN 1067		A
41	4920175	Nitrogen Trioxide	UN 2421		A
42	4920178	Cyanogen Chloride, Stabilized	UN 1589		A
43	4920180	Fluorine, Compressed	UN 1045		A
44	4920181	Compressed Gas, toxic, n.o.s.	UN 1955		A
45	4920183	Phosphorus Pentafluoride	UN 2198		B
46	4920184	Phosgene	UN 1076		A
47	4920187	Sulfur Tetrafluoride	UN 2418		A
48	4920188	Tellurium Hexafluoride	UN 2195		A
49	4920189	Chlorine Pentafluoride	UN 2548		A
50	4920195	Liquefied gas, toxic, n.o.s	UN 3162		A
51	4920196	Ethylene Oxide and Carbon Dioxide mixture	UN 3300		D
52	4920300	Compressed Gas, toxic corrosive, n.o.s	UN 3304		C

53	4920301	Compressed Gas, toxic, corrosive, n.o.s.	UN 3304		D
54	4920302	Insecticide gases, toxic, flammable, n.o.s.	UN 3355		B
55	4920303	Compressed Gas, toxic, flammable, corrosive, n.o.s.	UN 3305		B
56	4920304	Compressed Gas, toxic, flammable, corrosive, n.o.s.	UN 3305		C
57	4920305	Compressed Gas, toxic, flammable, corrosive, n.o.s.	UN 3305		D
58	4920306	Compressed Gas, toxic, oxidizing, corrosive, n.o.s.	UN 3306		B
59	4920307	Compressed Gas, toxic, oxidizing, corrosive, n.o.s.	UN 3306		C
60	4920308	Compressed Gas, toxic, oxidizing, corrosive, n.o.s.	UN 3306		D
61	4920309	Compressed Gas, toxic, oxidizing, n.o.s.	UN 3303		C
62	4920310	Compressed gas, toxic, oxidizing, n.o.s.	UN 3303		D
63	4920311	Liquefied gas, toxic, corrosive, n.o.s.	UN 3308		B
64	4920312	Liquefied gas, toxic, oxidizing, corrosive, n.o.s.	UN 3310		B
65	4920313	Liquefied gas, toxic, corrosive, n.o.s.	UN 3308		C
66	4920314	Liquefied gas, toxic, flammable, corrosive, n.o.s.	UN 3309		B
67	4920315	Liquefied gas, toxic, corrosive, n.o.s.	UN 3308		D
68	4920316	Liquefied gas, toxic, flammable, corrosive, n.o.s.	UN 3309		C
69	4920317	Liquefied gas, toxic, oxidizing, n.o.s.	UN 3307		B
70	4920318	Liquefied gas, toxic, flammable, corrosive, n.o.s.	UN 3309		D
71	4920319	Liquefied gas, toxic, oxidizing, n.o.s.	UN 3307		C
72	4920320	Liquefied gas, toxic, oxidizing, corrosive, n.o.s.	UN 3310		C
73	4920321	Liquefied gas, toxic, oxidizing, n.o.s.	UN 3307		D
74	4920322	Insecticide gases, toxic, flammable, n.o.s.	UN 3355		C
75	4920323	Insecticide gases, toxic, flammable, n.o.s.	UN 3355		D
76	4920324	Compressed Gas, Toxic, Corrosive, n.o.s.	UN 3304		B
77	4920325	Liquefied gas, toxic, corrosive, n.o.s.	UN 3310		D
78	4920326	Phosphorus Pentafluoride	UN 2198		B
79	4920331	Compressed gas, toxic, corrosive, n.o.s.	UN 3304		C
80	4920337	Compressed gas, toxic, oxidizing, n.o.s.	UN 3303		B
81	4920342	Ethylene Oxide and Carbon Dioxide mixture	UN 3300		D
82	4920343	Carbon Monoxide and Hydrogen Mixture, Compressed	UN 2600		
83	4920344	Oil Gas, Compressed	UN 1071		
84	4920346	Trifluorochloroethylene, Stabilized	UN 1082		C
85	4920347	Trifluoroacetyl Chloride	UN 3057		B
86	4920348	Hydrogen Iodide, anhydrous	UN 2197		C
87	4920349	Boron Trichloride	UN 1741		C
88	4920351	Carbonyl Sulfide	UN 2204		C
89	4920352	Chlorine Trifluoride	UN 1749		B
90	4920353	Ethylene Oxide or Ethylene Oxide with Nitrogen	UN 1040		D
91	4920354	Germane	UN 2192		B
92	4920355	Methyl Mercaptan	UN 1064		C
93	4920356	Perchloryl Floride	UN 3083		B
94	4920357	Silicon Tetrafluoride	UN 1859		B
95	4920359	Ammonia, Anhydrous	UN 1005		D
96	4920360	Ammonia, Solution	UN 3318		D
97	4920368	Liquefied gas, toxic, n.o.s	UN 3162		C
98	4920369	Liquefied gas, toxic, n.o.s	UN 3162		D
99	4920371	Tungsten Hexafluoride	UN 2196		B
100	4920373	Compressed Gas, toxic, n.o.s.	UN 1955		D
101	4920375	Compressed Gas, toxic n.o.s.	UN 1955		C
102	4920378	Compressed Gas, toxic, flammable, n.o.s.	UN 1953		C
103	4920379	Compressed Gas, toxic, flammable, n.o.s.	UN 1953		D
104	4920380	Liquefied gas, toxic, flammable, n.o.s.	UN 3160		C
105	4920381	Liquefied gas, toxic, flammable, n.o.s.	UN 3160		D
106	4920382	Liquefied gas, toxic, flammable, n.o.s.	UN 3160		B
107	4920383	Liquefied gas, toxic, n.o.s	UN 3162		

108	4920392	Chloropicrin and Methyl Chloride mixtures	UN 1582		B
109	4920394	Methylchlorosilane	UN 2534		B
110	4920395	Cyanogen	UN 1026		B
111	4920396	Compressed Gas, toxic, flammable, n.o.s.	UN 1953		B
112	4920398	Dichlorosilane	UN 2189		B
113	4920399	Carbon Monoxide, Compressed	UN 1016		D
114	4920502	Hydrogen Bromide, anhydrous	UN 1048		C
115	4920503	Hydrogen Chloride, Anhydrous	UN 1050		C
116	4920504	Hydrogen Chloride, refrigerated liquid	UN 2186		C
117	4920505	Compressed Gas, toxic, n.o.s.	UN 1955		C
118	4920508	Sulfur Dioxide	UN 1079		C
119	4920509	Nitrosyl Chloride	UN 1069		C
120	4920510	Gas Identification set	NA 9035		
121	4920511	Carbon Monoxide, refrigerated liquid	NA 9202		D
122	4920513	Hydrogen Sulfide	UN 1053		B
123	4020515	Hexaethyl tetraphosphate and Compressed gas mixtures	UN 1612		C
124	4020516	Chloropicrin and Methyl Bromide Mixtures	UN 1581		B
125	4020517	Compressed Gas, toxic, n.o.s.	UN 1955		
126	4020518	Methyl Bromide	UN 1062		C
127	4920522	Boron Trifluoride	UN 1008		B
128	4920523	Chlorine	UN 1017		B
129	4920525	Compressed Gas, toxic, n.o.s.	UN 1955		
130	4920526	Sulfuryl Fluoride	UN 2191		D
131	4920527	Coal Gas, Compressed	UN 1023		C
132	4920528	Hexafluoroacetone	UN 2420		B
133	4920530	Organic phosphate, mixed with compressed gas or Organic phosphate compound, mixed with compressed gas or Organic phosphorus compound, mixed with compressed gas	NA 1955		C
134	4920531	Liquefied gas, toxic, n.o.s	UN 3162		
135	4920534	Gas sample, non-pressurized, toxic, flammable, n.o.s.	UN 3168		
136	4920535	Parathion and Compressed gas mixture	NA 1967		C
137	4920536	Gas Sample, non-pressurized, toxic, n.o.s.	UN 3169		
138	4920547	Chloropicrin and Methyl Bromide mixtures	UN 1581		B
139	4920550	Insecticide gases, toxic, n.o.s.	UN 1967		C
140	4920556	Compressed Gas, toxic, n.o.s.	UN 1955		B
141	4920559	Carbonyl Fluoride	UN 2417		B
142	4920570	Compressed Gas, toxic, n.o.s.	UN 1955		B
143	4920571	Liquefied gas, toxic, n.o.s	UN 3162		B
144	4920715	Bromine Chloride	UN 2901		B
145	4921000	Toxic by inhalation liquid, n.o.s.	UN 3382	I	B
146	4921003	Toxic by inhalation liquid, flammable, n.o.s	UN 3384	I	B
147	4921004	Allylamine	UN 2334	I	B
148	4921006	Toxic by Inhalation liquid, water-reactive, n.o.s	UN 3386	I	B
149	4921008	Methyl Phosphorous Dichloride, Pyrophoric liquid	NA 2845	I	B
150	421009	Chloroacetonitrile	UN 2668	II	B
151	4921010	Cyclohexyl Isocyanate	UN 2488	I	B
152	4921016	Phosphorus Trichloride	UN 1809	I	B
153	4921019	Allyl Alcohol	UN 1098	I	B
154	4921020	Ethyl Chloroformate	UN 1182	I	B
155	4921023	Toxic by Inhalation Liquid, Oxidizing, n.o.s	UN 3388	I	B
156	4921024	Toxic by Inhalation Liquid, Corrosive, n.o.s	UN 3390	I	B
157	4921027	n-Butyl Isocyanate	UN 2485	I	B
158	4921028	Hydrocyanic acid, aqueous solution or Hydrogen solutions	UN 1613	I	B
159	4921029	Toxic by inhalation liquid, flammable, n.o.s	UN 3384	I	B
160	4921063	Trimethylacetyl Chloride	UN 2438	I	B

161	4921202	Dimethylhydrazine, Unsymmetrical	UN 1163	I	B
162	49210207	sec-Butyl Chloroformate	NA 2742	I	B
163	4921211	Isobutyl Chloroformate	NA 2742	I	B
164	4921213	Trimethoxysilane	NA 9269	I	B
165	4921216	Phenyl Isocyanate	UN 2487	I	B
166	4921239	Hydrogen Cyanide, solution in alcohol	UN 3294	I	B
167	4921245	Methanesulfonyl Chloride	UN 3246	I	B
168	4921248	Crotonaldehyde, Stabilized	UN 1143	I	B
169	4921251	Dimethylhydrazine, symmetrical	UN 2382	I	B
170	4921252	Isopropyl Chloroformate	UN 2407	I	B
171	4921254	Diketene, Stabilized	UN 2521	I	B
172	4921255	Methyl Orthosilicate	UN 2606	I	B
173	4921275	Methyldichloroarsine	NA 1556	I	B
174	4921287	Toxic by Inhalation Liquid, Corrosive, n.o.s	UN 3390	I	B
175	4921288	Toxic by Inhalation Liquid, corrosive, n.o.s.	UN 3390	I	B
176	4921304	Methyl Iodide	UN 2644	I	B
177	4921401	Acetone Cynohydrin, Stabilized	UN 1541	I	B
178	4921402	2-Chloroethanal	UN 2232	I	B
179	4921404	Ethylchloroarsine	UN 1892	I	B
180	4921405	Dimethyl Sulfate	UN 1595	I	B
181	4921413	Phenyl Mercaptan	UN 2337	I	B
182	4921414	Chloropicrin	UN 1580	I	B
183	4921420	Ethylene Chlorohydrin	UN 1135	I	B
184	4921437	Phosphorus Oxychloride	UN 1810	I	B
185	4921438	Methyl Bromide and Ethylene dibromide mixtures, liquid	UN 1647	I	B
186	4921439	Chloroacetonitrile	UN 2668	I	B
187	4921440	Methacrylonitrile, Stabilized	UN 3079	I	B
188	4921441	Toxic by Inhalation liquid, flammable, corrosive, n.o.s.	UN 3489	I	B
189	4921447	Toxic by inhalation liquid, corrosive, flammable, n.o.s.	UN 3493	I	B
190	4921458	Toxic by inhalation liquid, water-reactive, flammable, n.o.s	UN 3491	I	B
191	4921462	Titanium Tetrachloride	UN 1838	I	B
192	4921463	Tetranitromethane	UN 1510	I	B
193	4921465	Thiophosgene	UN 2474	I	B
194	4921473	Perchloromethyl Mercaptan	UN 1670	I	B
195	4921487	Methyl Isothiocyanate	UN 2477	I	B
196	4921495	2-Methyl-2-Heptanethiol	UN 3023	I	B
197	4921497	Ethylene Dibromide	UN 1605	I	B
198	4921558	Chloroacetone, Stabilized	UN 1695	I	B
199	4921587	Phenylcarbylamine Chloride	UN 1672	I	B
200	4921695	Methyl Phosphonous Dichloride	NA 9206	I	B
201	4921722	Hexachlorocyclopentadiene	UN 2646	I	B
202	4921727	Bromoacetone	UN 1569	II	B
203	4921730	n-Butyl Chloroformate	UN 2743	I	B
204	4921741	3, 5-Dichloro-2, 4, 6-Trifluoropyridine	NA 9264	I	B
205	4921742	Ethyl phosphonous Dichloride, Anhydrous pyrophoric liquid	NA 2845	I	B
206	4921744	Ethyl Phosphodichloridate	NA 2927	I	B
207	4921745	Ethyl Phosphonothioic Dichloride, Anhydrous	NA 2927	I	B
208	4921746	Chloropivaloyl Chloride	NA 9263	I	B
209	4921756	n-Propyl Chloroformate	UN 2740	I	B
210	4923113	Ally Chloroformate	UN 1722	I	B
211	4923117	Chloroacetyl Chloride	UN 1752	I	B
212	4923209	Arsenic Trichloride	UN 1560	I	B
213	4923298	Thiophosgene	UN 2474	II	B
214	4927004	Iron Pentacarbonyl	UN 1994	I	A
215	4927006	Ethyleneimine, Stabilized	UN 1185	I	A

216	4927007	Acrolein, Stabilized	UN 1092	I	A
217	4927008	Methyl Chloroformate	UN 1238	I	A
218	4927009	Methyl Isocyanate	UN 2480	I	A
219	4927010	Nickel Carbonyl	UN 1259	I	A
220	4927011	Methylhydrazine	UN 1244	I	A
221	4927012	Methyl Chloromethyl Ether	UN 1239	I	A
222	4927014	Hydrogen Cyanide, Stabilized	UN 1051	I	A
223	4927018	Toxic by inhalation liquid, n.o.s.	UN 3381	I	A
224	4927019	Toxic by inhalation liquid, flammable, n.o.s	UN 3383	I	A
225	4927022	Methyl Vinyl Ketone, Stabilized	UN 1251	I	A
226	4927023	Toxic by Inhalation liquid, water-reactive, n.o.s	UN 3385	I	A
227	4927024	Toxic by Inhalation Liquid, Oxidizing, n.o.s	UN 3387	I	A
228	4927025	n-Propyl Isocyanate	UN 2482	I	A
229	4927026	Tert-Butyl Isocyanate	UN 2484	I	A
230	4927027	n-Butyl Isocyanate	UN 2485	I	B
231	4927028	Toxic by Inhalation Liquid, Corrosive, n.o.s	UN 3389	I	A
232	4927029	Toxic by inhalation liquid, corrosive, flammable, n.o.s.	UN 3492	I	A
233	4927031	Toxic by Inhalation liquid, flammable, corrosive, n.o.s.	UN 3488	I	A
234	4927034	Toxic by inhalation liquid, water-reactive, flammable, n.o.s	UN 3490	I	A
235	4927035	Ethyl Isocyanate	UN 2481	I	A
236	4927036	Isobutyl Isocyanate	UN 2486	I	A
237	4927037	Isopropyl Isocyanate	UN 2483	I	A
238	4927038	Methoxymethyl Isocyanate	UN 2605	I	A
239	4927039	Sulfuryl Chloride	UN 1834	I	A
240	4927099	Toxic by Inhalation liquid, corrosive, n.o.s	UN 3390	I	B
241	4930024	Hydrogen Fluoride, Anhydrous	UN 1052	I	C
242	4930030	Sulfuric acid, Fuming	UN 1831	I	B
243	4930050	Sulfur Trioxide, Stabilized	UN 1829	I	B
244	4930204	Chlorosulfonic Acid	UN 1754	I	B
245	4930260	Sulfuryl Chloride	UN 1834	I	A
246	4931201	Nitric Acid, red fuming	UN 2032	I	B
247	4932010	Boron Tribromide	UN 2692	I	B
248	4932352	Phosphorus Oxychloride	UN 1810	II	B
249	4932385	Titanium Tetrachloride	UN 1838	II	B
250	4933327	Ethyl Chlorothioformate	UN 2826	II	B
251	4935231	Trichloroacetyl Chloride	UN 2442	II	B
252	4936106	Bromine Solutions	UN 1744	I	B
253	4936110	Bromine or Bromine Solutions	UN 1744	I	A
254	4936565	Sulfur Trioxide, Stabilized	UN 1829	I	B

Exhibit 3 – Third Party Operating Agreement

THIRD PARTY OPERATING AGREEMENT
Between
LOUISVILLE AND INDIANA RAILROAD COMPANY, INC.
And

[_____]

This **THIRD PARTY OPERATING AGREEMENT** (the "Agreement"), is entered into as of this _____ day of _____ 20__, by and between LOUISVILLE & INDIANA RAILROAD COMPANY, INC., an Indiana corporation, (hereinafter referred to as "L&I") and _____ ("Railroad") (L&I and Railroad are sometimes referred to herein collectively as the "Parties" and individually as a "Party").

WITNESSETH:

WHEREAS, L&I owns and operates an approximately 106.5-mile line of railroad between L&I Mile Post 4.0± near Indianapolis, IN and Mile Post 110.50± at Eleventh Street in Louisville, KY (the "L&I Line");

WHEREAS, CSX Transportation, Inc. ("CSXT") operates over the L&I Line pursuant to that certain Joint Use Operating Agreement between CSXT and L&I, dated as of _____ (the "Joint Use Agreement") and that certain Easement Agreement between CSXT and L&I, dated as of _____ ("Easement Agreement"); and

WHEREAS, L&I and Railroad are entering into this Agreement to set forth the terms and conditions governing Railroad's non-exclusive right to operate over the L&I Line.

NOW, THEREFORE, the Parties hereto, intending to be legally bound, agree as follows:

SECTION 1. OPERATIONS

- A. The Railroad's operations over the L&I Line shall be governed by the terms and conditions of this Agreement.

- B. The L&I Line consists of all or a portion of L&I's mainline from L&I Mile Post 4.0± near Indianapolis, IN and L&I Mile Post 110.50± at Eleventh Street in Louisville, KY, a distance of approximately 106.5 miles and designated sidings and turnouts, if any, adjacent to and accessed from the L&I mainline, all as shown on the plan attached hereto as Exhibit A.

SECTION 2. USE OF L&I LINE

- A. The use by Railroad shall be in common with L&I, CSXT and any other user of the L&I Line, and L&I and CSXT each shall retain its respective rights under the Joint Use Agreement to use the L&I Line.

- B. Railroad shall have the right to enter or exit the L&I Line (i) at the existing connections of the rail lines of Railroad and the L&I Line, and (ii) at new connections, if any, agreed to in writing by the Parties.
- C. As between the Parties, L&I shall have the exclusive right to perform dispatching for the L&I Line; *provided, that*, CSXT also may have the right in certain circumstances to perform dispatching on the L&I Line, in accordance with the terms of the Joint Use Agreement. Railroad agrees to comply with the Dispatching Protocols set forth at Attachment A hereto.
- D. Railroad shall not use any part of the L&I Line for the purpose of switching, storage or servicing cars or the making or breaking up of trains, except that nothing contained herein shall, upon prior approval of L&I, preclude the emergency use by Railroad of the L&I Line and such auxiliary tracks as may be designated by L&I for such purposes.
- E. Railroad shall not have any claim against L&I for liability on account of loss or damage of any kind in the event the use of the L&I Line by Railroad is interrupted or delayed at any time from any cause. [If applicable: Without limiting the foregoing, Railroad acknowledges that L&I anticipates, during the term of this Agreement, there will be a substantial upgrading of the L&I Line, including without limitation the replacement of the existing rail with continuously welded rail and the construction of new sidings (the "Upgrade"), and Railroad shall have no claims against L&I based on delays or other inconveniences caused by the Upgrade.]
- F. If L&I determines that additional capacity is required to accommodate rail operations over the L&I Line, then L&I shall request that Railroad pay its pro rata share of the costs and expenses related to such additional capacity (based on the number of car miles it operated over the L&I Line during the prior six (6)-month period, when compared to the total number of car miles operated over the L&I Line during that same time period) ("Railroad Capacity Share"). If, within thirty (30) days, Railroad has not provided L&I with written notice that Railroad agrees to pay the Railroad Capacity Share, then L&I may terminate this Agreement upon five (5) days' notice to Railroad. If, despite providing L&I with written notice of agreement to pay, Railroad fails to timely pay the Railroad Capacity Share, L&I may terminate this Agreement on five (5) days' prior written notice.

SECTION 3. RESTRICTION ON USE

Railroad shall not grant third parties the right to operate on the L&I Line. Railroad acknowledges and agrees that the grant by L&I of operating rights to Railroad under this Agreement does not include the right to handle TIH/PIH over the L&I Line. If Railroad handles TIH/PIH over the L&I Line, L&I shall have the right to terminate this Agreement immediately upon written notice. Any additional limitations on Railroad's use of the L&I Line with respect to

the permissible number and direction of trains, permissible commodities, and other similar limitations shall be set forth on Attachment B hereto. Except as otherwise set forth in Attachment C hereto, Railroad's use of the L&I Line shall be limited to overhead, freight common carrier service, and Railroad shall not interchange with or provide haulage service for any other rail carrier that connects now or in the future to the L&I Line. If any provision of this Agreement conflicts with L&I's obligations under the Joint Use Agreement, L&I shall have the right to terminate this Agreement upon thirty (30) days' notice.

SECTION 4. MISCELLANEOUS SPECIAL PROVISIONS

- A. When operating over the L&I Line, Railroad shall use its own crews to operate its trains. The locomotives and crews of Railroad shall be equipped to communicate with L&I on radio frequencies normally used by L&I in directing train movements on the L&I Line.
- B. Procedures for qualification and occupancy of the L&I Line by Railroad shall be arranged by the local supervision of L&I (or CSXT, in the event its right to perform dispatching for the L&I Line is triggered in accordance with the terms of the Joint Use Operating Agreement) and Railroad in accordance with the terms of Section 11.D.
- C. L&I shall have the right to issue lawful embargoes.
- D. Railroad acknowledges and agrees that this Agreement shall terminate if and when Railroad becomes a Class I carrier (or becomes an Affiliate (as that term is defined below) of a Class I carrier).
- E. To the extent Railroad is an Affiliate of CSXT as of the date of this Agreement, if CSXT and Railroad cease to be Affiliates, then L&I may terminate this Agreement upon fifteen (15) days' prior written notice. For purposes of this Agreement, an Affiliate of a Party is an entity that controls or is commonly controlled with that Party, as that term is used in 49 U.S.C. 10102(3).
- F. If the Upgrade is not completed by _____[date], then L&I may terminate this Agreement upon thirty (30) days' prior written notice.

SECTION 5. COMPENSATION

Compensation between the Parties is set forth in Attachment D to this Agreement.

SECTION 6. MAINTENANCE OF SUBJECT TRACKAGE

As between the Parties, L&I shall have the exclusive right to maintain, repair and renew the L&I Line *provided, that*, CSXT also may have the right to perform in certain circumstances maintenance on the L&I Line, in accordance with the terms of the Joint Use Agreement. The

costs for such maintenance, repair and renewal shall be allocated to Railroad as set forth in Attachment D to this Agreement. Notwithstanding any provision to the contrary in this Agreement, Railroad shall not have any claim against L&I (or CSXT, to the extent that CSXT is performing the maintenance on the L&I Line) based upon the condition or maintenance of the L&I Line.

SECTION 7. PAYMENT OF BILLS

- A. Except as otherwise provided in this Agreement, all payments called for under this Agreement shall be made within thirty (30) days after receipt of bills therefor. A Party shall not withhold any payments because of a dispute as to the correctness of items in the bills rendered (on a line-item basis or otherwise) or because of a disputed nonpayment of other bills issued under this Agreement. Any discrepancies reconciled between the billing Party (“Biller”) and the billed Party (“Payor”) shall be adjusted in the accounts of a subsequent month. No dispute or exception to any invoice shall be honored, recognized, or considered after the expiration of three (3) years from the last day of the calendar month during which the invoice is rendered and no invoice shall be rendered later than three (3) years (i) after the last day of the calendar month in which the expense covered thereby is incurred, or (ii) in the case of claims disputed as to amount or liability, after the amount is settled and/or the liability(ies) established. The Payor shall have no right to suspend payments, to modify the amount of such payments, or to offset the amount of such payment pending resolution of the dispute pursuant to Section 21, hereof.
- B. The records of L&I and Railroad insofar as they pertain to matters covered by this Agreement, shall be open at all reasonable times to inspection by the other Party, at its sole cost and expense, for a period of three (3) years from the date of billing; *provided, that* the Parties agree that such records and information shall be used solely for the purpose of determining the correct amounts owed to Biller in accordance with the terms of this Agreement, and shall not be disclosed to any third parties (other than attorneys or accountants of L&I and Railroad).
- C. Bills rendered by L&I pursuant to the provisions of this Agreement shall include direct labor and material costs, together with the surcharges, overhead percentages and equipment rentals specified by L&I at the time the work is performed.

SECTION 8. INSURANCE

A. Railroad Insurance Requirements

(1) Railroad must, at its sole cost and expense, procure and maintain, during the term of this Agreement, the following insurance coverages:

- (a) General Liability Insurance with a combined single limit of at least _____ Dollars (\$ _____) per occurrence and an aggregate limit of at least _____ Dollars (\$ _____) covering bodily injury, property damage,

personal injury, advertising injury, fire legal liability, products and completed operations. [If applicable: The policy must contain endorsements or language to remove any exclusion for work or operations performed within 50 feet of railroad property.] This policy shall contain an additional insured endorsement in favor of and acceptable to L&I.

(b) Business Automobile Insurance with long form contractual liability and with a combined single limit of _____ Dollars (\$_____) per occurrence. This policy shall contain a designated insured endorsement in favor of and acceptable to L&I.

(c) Workers' Compensation and Employer's Liability Insurance with coverage of Railroad's statutory liability under the workers' compensation laws of the state(s) in which the operations will be performed, and employer's liability (Part B) with limits of at least _____ Dollars (\$_____) by disease policy limit, _____ Dollars (\$_____) by disease each employee.

(2) Railroad is not allowed to self-insure more than _____ Dollars (\$_____) per occurrence without the prior written consent of L&I. The amount of any self-insured retention or other financial responsibility for claims shall be covered directly by Railroad in lieu of insurance. Any and all liabilities of Railroad that would otherwise, in accordance with the provisions of this Agreement, be covered by Railroad's insurance will be paid by Railroad as if Railroad elected not to include a deductible, self-insured retention or other financial responsibility for claims.

(3) Prior to performing operations on the L&I Line, Railroad shall furnish to L&I certificate(s) of insurance from an authorized representative, in a form and signed by a representative acceptable to L&I, evidencing the required coverage(s), endorsements, and amendments.

(4) The policy(ies) must contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify L&I in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision shall be indicated on the certificate of insurance.

(5) Except as otherwise expressly set forth in the Liability Allocation Agreement, Railroad agrees to waive its right of recovery against L&I and all Affiliates of L&I for all claims and suits against L&I arising out of or in connection with this Agreement. Railroad shall require its insurers to waive their respective rights of subrogation against L&I and all Affiliates of L&I and the certificates of insurance provided by Railroad must include a waiver of subrogation endorsement.

(6) The insurance policies required under this Section 8 must be written by a reputable insurance company acceptable to L&I or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the rail operations are to be performed.

(7) Railroad represents that this Agreement has been thoroughly reviewed by Railroad's insurance agent(s)/broker(s), who have been instructed by Railroad to procure the insurance coverage required by this Agreement.

(8) Notwithstanding any provision to the contrary in this Agreement, failure by Railroad to provide evidence of insurance as required by this Section 8 will entitle, but not require, L&I to terminate this Agreement immediately. Acceptance by L&I of a certificate that does not comply with this Section 8 will not operate as a waiver of Railroad's obligations hereunder. The fact that insurance (including, without limitation, self-insurance) is obtained by Railroad will not be deemed to release or diminish the liability of Railroad including, without limitation, liability under the indemnity provisions set forth in this Agreement. Losses recoverable by L&I will not be limited by the amount of the required insurance coverage. In the event a claim or lawsuit involving L&I arises out of this Agreement, Railroad will make available any required policy covering such claim or lawsuit.

(9) If any insurance policy procured and maintained by Railroad pursuant to this Section 8 takes the form of a Claims Made Policy, Railroad agrees to purchase whatever supplemental coverage may be necessary to provide continuous coverage of its potential liability under this Agreement, consistent with the requirements set forth in this Section 8, for a period of time at least five (5) years following the termination of this Agreement.

(10) Not more frequently than once every five (5) years, L&I may modify the required Insurance coverage to reflect the then-current insurance market, risk management practices in the railroad industry, and other then-current conditions.

(11) In lieu of procuring and maintaining the insurance coverage required by this Section 8(A)(1), Railroad may comply with the requirement of Section 8(A)(1) to procure and maintain insurance if Railroad, during the term of this Agreement, is included as an insured on an affiliate's insurance policy that satisfies the requirements of this Section 8(A).

- B. L&I Insurance Requirements. L&I must, at its sole cost and expense, procure and maintain, during the term of this Agreement, the insurance coverages set forth at Attachment E hereto.

SECTION 9. EXISTING AND NEW CONNECTIONS

- A. Existing connections or facilities that are jointly used by L&I and Railroad shall continue to be maintained, repaired and renewed by and at the expense of the rail carrier(s) responsible for such maintenance, repair and renewal under such agreements.
- B. Any additional connections of Railroad to the L&I Line shall be subject to the approval of L&I (including the design thereof). The allocation of costs for such additional connections shall be agreed to by the Parties.

SECTION 10. ADDITIONS, RETIREMENTS AND ALTERATIONS

- A. L&I, from time to time, at its option and at its sole cost and expense, may make changes

in, additions and betterments to or retirements from the L&I Line as shall, in its judgment, be necessary or desirable; *provided, that*, L&I shall not make any retirements from the L&I Line that will prevent Railroad from using the L&I Line. Such additions and betterments shall become a part of the L&I Line, and such retirements shall be excluded from the L&I Line.

- B. Notwithstanding Section 10.A, above, if a legal or regulatory requirement requiring changes, additions and/or betterments to the L&I Line is triggered as a result of the operations of Railroad (and not the operations of L&I), then Railroad shall bear the full amount of the expenses to comply with such legal or regulatory requirement. Notwithstanding the foregoing provision, to the extent L&I is required to fund the cost of any installation or modification of PTC on the L&I Line, Railroad shall be responsible to contribute to such funding in an amount equal to its percentage use of the L&I Line (in car-miles) for the 12-month period prior to the requirement that PTC be installed or modified on the L&I Line. If the Railroad has operated over the L&I line for less than 12 months prior to such PTC requirement, then L&I shall determine the anticipated use by Railroad of the L&I Line for the 12-month period following the PTC requirement, and if Railroad does not agree with L&I's determination, Railroad may terminate this Agreement upon thirty (30) days' prior written notice. Railroad shall have no ownership interest in any changes, additions and betterments to the L&I Line, made pursuant to this Section 10.

SECTION 11. MANAGEMENT AND OPERATIONS

- A. Railroad shall comply with the provisions of the Federal Locomotive Inspection Act and the Federal Safety Appliance Act, as amended, and any other federal and state and local laws, regulations and rules respecting the operation, condition, inspection and safety of its trains (locomotives and cars) while the trains, locomotives, cars, and equipment of Railroad are being operated over the L&I Line. Railroad shall indemnify, protect, defend, and save harmless L&I and its parent corporation, subsidiaries and affiliates, and all of their respective directors, officers, agents and employees from and against all fines, penalties and liabilities imposed upon L&I or its parent corporation, subsidiaries or affiliates, or their respective directors, officers, agents and employees under such laws, rules, and regulations by any public authority or court having jurisdiction in the premises, when attributable solely to the failure of Railroad to comply with its obligations in this regard.
- B. Except as otherwise agreed by the parties in this Agreement, the use of the L&I Line by Railroad shall comply in all respects with the safety rules, operating rules and other regulations of L&I. The movement of trains (locomotives and cars) of Railroad over the L&I Line shall at all times be subject to the orders of the transportation officers of L&I.
- C. Trains of Railroad that operate on or over the L&I Line shall not include locomotives or cars which exceed the width, height, weight or other restrictions or capacities of the L&I

Line as established by L&I.

- D. Railroad shall make such arrangements with L&I to have all of employees of Railroad who shall operate trains, locomotives and cars over the L&I Line qualified for operation on the L&I Line. Railroad shall have the option to establish qualifying officer(s) that shall be authorized to qualify their respective employees to operate over the L&I Line. Should L&I incur expenses resulting from qualifying employees of Railroad, Railroad shall pay to L&I, upon receipt of bills therefor, any such costs, as well as the cost of pilots furnished by L&I, until such time as such employees are deemed by the appropriate examining officer of L&I or the designated qualifying officer of Railroad to be properly qualified for operation as herein contemplated.
- E. L&I may conduct an investigation at its option if an employee of Railroad working on L&I's property is alleged to have violated L&I's safety rules, operating rules, regulations, orders, practices or instructions, or if an incident occurs which requires an investigation under any applicable labor agreement rules. To exercise its option, L&I shall schedule the investigation and notify the local Transportation Officer of Railroad in the territory thereof, who shall, in turn, arrange to issue proper notice to the employee(s) of the investigation. L&I's scheduling of the investigation must comply with the time limits provided in any applicable labor agreement of the Railroad that covers the involved employee. L&I shall provide its regulations, supplements, and safety rules to Railroad at no cost.
- F. If L&I conducts an investigation, L&I shall have the right to exclude from the L&I Line any employee of Railroad except officers, determined by L&I, as the result of L&I's investigation or hearing described below, to be in violation of L&I's rules, regulations, orders, practices or instructions.
- G. In a major offense, such as violation of Rule "G", dishonesty, insubordination, or a serious violation of operating rules, wherein L&I desires to bar an employee of Railroad from service on L&I's territory pending an investigation by L&I, immediate verbal notification shall be given to the local Transportation Officer of Railroad so that proper written notice can be issued to the employee.
- H. If L&I conducts an investigation, its officer shall conduct the investigation, but an officer of Railroad shall be present to assure compliance with the employee's labor agreement, if any, and practices with respect to investigation procedures. After the investigation is concluded, L&I shall promptly furnish Railroad with two copies of the transcript and a recommendation as to the discipline to be assessed. The Transportation Officer of Railroad shall arrange to assess discipline consistent with L&I's recommended discipline, within the applicable time limits; *provided, that*, if L&I recommends dismissal, Railroad has the right to change the recommendation to the extent of barring the individual from operating over L&I's territory.
- I. It is understood that L&I shall reimburse Railroad for all payments that Railroad might be

required to make as a result of a challenge being made by the employee or his representative as to the discipline recommended by L&I and assessed by Railroad, except that Railroad shall be responsible for any required payments for discipline assessed by Railroad that exceeds the discipline recommended by L&I. Railroad agrees to notify L&I before committing to make a payment of any claim. In the event a claim is progressed to an Adjustment Board, L&I shall be given a reasonable opportunity to review and amend the submission of Railroad (so long as any such amendment will not adversely affect Railroad) prior to its filing with the Adjustment Board. Any payments made to employees, as a result of an investigation being "overturned", shall include not only actual wages, but in addition, shall include expenses which Railroad may be required to pay covering vacation allowances, Railroad Retirement taxes, unemployment insurance taxes and any other payroll tax or fringe benefits.

- J. In the event that a train of Railroad shall be forced to stop on the L&I Line, and such stoppage is due to insufficient hours of service remaining among the train's crew, or due to mechanical failure of the train's equipment, or any other cause not resulting from an accident or derailment, or any event or circumstance that requires rerailling, wrecking service or wrecking train service (in which case, the provisions of Section 13 hereof shall apply), and such train is unable to proceed, or if a train of Railroad fails to maintain the speed required by L&I on the L&I Line, or if in emergencies, crippled or otherwise defective cars are set out of trains of Railroad on the L&I Line, L&I shall have the option to furnish motive power or such other assistance as may be necessary to haul, help or push such trains, locomotives or cars, or to properly move the disabled equipment off the L&I Line, and Railroad shall reimburse L&I for the cost of rendering any such assistance.
- K. If it becomes necessary to make repairs to or adjust or transfer the lading of crippled or defective cars of Railroad in order to move them off the L&I Line, such work shall be done by Railroad unless (i) the parties mutually agree on an incident by incident basis that L&I shall perform such repairs or adjustments; or (ii) Railroad fails to perform such work in a timely fashion, as determined in the sole discretion of L&I.
- L. In the event L&I and Railroad agree that L&I should retain employees or provide additional employees for the sole benefit of Railroad, the Parties shall enter into a separate agreement regarding the provision of such employees and the allocation of the cost and expense for any such retained or additional employees provided.
- M. Prior to _____ of each year, Railroad shall submit to L&I a projection of its traffic over the L&I Line for the upcoming calendar year, broken down monthly by train frequency, direction, on/off junction and type (intermodal, unit, or manifest), and a monthly estimate of car-miles and train-miles, in a format as requested by L&I. If Railroad does not timely provide the information described above in this Subsection M, then L&I shall have the right to terminate this Agreement upon fifteen (15) days' prior notice.
- N. If L&I becomes aware of a dangerous track condition, L&I shall have the right to shut down the line pending completion of the repairs.

SECTION 12. MILEAGE AND CAR HIRE

All mileage and car hire charges accruing on cars on the L&I Line, shall be assumed by, reported, and paid by the rail carrier in whose account the car resides. In the event a train operated by L&I or Railroad includes cars being handled for a third party railroad under a haulage or similar arrangement whereby such cars are in the account of the third party railroad, the Party operating the train in question shall indemnify and hold harmless the other Party for car hire or mileage charges claimed by car owner(s) on account of such cars.

SECTION 13. CLEARING OF WRECKS

Whenever use of the L&I Line by Railroad or L&I requires rerailling, wrecking service or wrecking train service, L&I and Railroad shall immediately communicate and decide whether Railroad or L&I shall perform or provide such service, including the repair and restoration of roadbed, track and structures. If it is not mutually agreed which rerailling, wrecking, or restoration service shall be performed by Railroad, then L&I or its designee shall perform such service(s). The Losses (as defined below) resulting therefrom, and from any stoppage on the L&I Line due to an accident or derailment, shall be apportioned in accordance with the provisions of Section 14 hereof. All locomotives, cars, and equipment and salvage from the same so picked up and removed which are owned by or under the management and control of or used by Railroad at the time of such wreck, shall be promptly delivered to Railroad.

SECTION 14. LIABILITY

- A. Except to the extent provided below in this Section 14, the responsibility and liability for any damage, demand, claim, liability, obligation, loss, cost, expense (including, without limitation, the reasonable fees and disbursements of attorneys, accountants, consultants and engineers, and cleanup and remedial costs and expenses), settlement, deficiency, interest, penalty, imposition, assessment or fine of any kind or nature (collectively "Losses") shall be allocated between L&I and Railroad in accordance with the terms of the Liability Allocation Agreement, in the form set forth at Exhibit __ hereto ("Liability Agreement"), and Railroad agrees that its right to exercise the operating rights under this Agreement shall be conditioned upon Railroad becoming a signatory to the Liability Agreement.
- B. Railroad shall not have or make any claim against L&I based upon the condition or maintenance of the L&I Line, and L&I shall not be responsible or liable for any Loss based on the fact (or assertion thereof) that the Loss was caused by the condition of the track.

SECTION 15. CONDITIONS

- A. The Effective Date shall not occur until the following conditions have been fulfilled or

waived in writing by both parties (unless a waiver would be unlawful):

- (i) Railroad has received regulatory authority pursuant to Section 17 hereof and any conditions imposed by the Surface Transportation Board ("STB") as part of such authority are acceptable to both Parties;
- (ii) Railroad shall have complied with any and all conditions imposed by the STB on Railroad's regulatory authority, to the extent such conditions are required to be performed prior to the Effective Date;
- (iii) Railroad's regulatory authority pursuant to Section 17 hereof shall not have been stayed or enjoined by the STB or by any court of competent jurisdiction;
- (iv) Railroad shall have executed and delivered to L&I the Liability Agreement pursuant to Section 14 hereof;
- (v) Railroad shall have provided L&I with insurance certificates in accordance with the requirements set forth in Section 8.E hereof;
- (vi) The Parties shall have performed and complied, in all material respects, with all agreements, obligations and covenants required to be performed by them hereunder prior to the Effective Date; and
- (vii) No claim, litigation, arbitration, administrative proceeding, labor dispute or work stoppage shall be threatened in writing or pending that, if adversely determined, would substantially restrict either Party from consummating the transactions contemplated by this Agreement, or would deprive such Party substantially of the benefit of the bargain negotiated by such Party.
- (viii) To the extent that Railroad and L&I are parties to a haulage or similar commercial arrangement with respect to traffic handled over the L&I Line, such commercial arrangement shall have been terminated.

B. If the conditions are not fulfilled or waived in writing by both Parties (unless a waiver would be unlawful) within seventy-five (75) days after execution of this Agreement, either Party may terminate this Agreement.

SECTION 16. DEFAULT

In the event of any substantial failure on the part of either Party to perform its obligations under this Agreement and its continuance in such default for a period of thirty (30) days after written notice thereof from the non-defaulting Party, the non-defaulting Party shall have the right to terminate this Agreement. The exercise of such right by the non-defaulting Party shall not impair

any other rights under this Agreement or any other cause or causes of action it may have against the defaulting Party for the recovery of damages.

SECTION 17. REGULATORY APPROVAL

- A. Should this Agreement require the prior authority of the STB, Railroad at its own cost and expense shall initiate and thereafter diligently pursue an appropriate application or exemption to secure such authority. L&I shall assist and support efforts of Railroad to secure any necessary STB approval of this Agreement; *provided, that*, L&I shall have the right to review and approve any application or exemption prior to its submission with the STB.
- B. Should the STB at any time during the term of this Agreement impose any labor protective conditions upon the approval or exemption of this Agreement from regulation, each Party shall be responsible for any and all payments to its employees in satisfaction of such conditions. Following the Effective Date, Railroad shall comply with any and all conditions imposed by the STB on Railroad's regulatory authority, to the extent such conditions may be performed subsequent to the Effective Date.
- C. Upon expiration or termination of this Agreement for any reason, or upon notice by L&I, pursuant to Section 18, below, of its abandonment of the L&I Line or its discontinuance of service thereover, Railroad shall promptly file for, and do all that is reasonably necessary to obtain, STB authority to discontinue rail operations over the L&I Line. If Railroad does not promptly file for, and do all that is reasonably necessary to obtain, such STB authority, L&I shall be deemed to have been given Railroad's power of attorney by Railroad to obtain such authority on Railroad's behalf. Railroad shall not oppose or delay any regulatory approval sought by L&I to abandon or discontinue service over the L&I Line.

SECTION 18. ABANDONMENT OF L&I LINE

- A. L&I, before filing for regulatory approval or exemption to abandon or discontinue service over the L&I Line or any portion thereof (the "Subject Line"), shall give Railroad thirty (30) days' advance notice in writing of its intention to do so.
- B. If L&I consummates abandonment authority to abandon the entire L&I Line, this Agreement shall terminate.

SECTION 19. TERM

- A. This Agreement shall be effective ("Effective Date") on the latest of (i) the day and year first above written, or (ii) upon fulfillment or mutual written waiver by the Parties (unless a waiver would be unlawful) of the conditions set forth in Section 17 hereof. Once

effective, this Agreement shall remain in effect, unless earlier terminated by a Party in accordance with the terms of this Agreement, for a period of _____ years, and shall continue thereafter until terminated by either Party upon sixty (60) days' advance written notice to the other Party. In the event the Joint Use Agreement or the Easement Agreement terminates, expires or is otherwise deemed null or void, or in the event L&I exercised regulatory authority to discontinue common carrier rail service over the L&I Line, L&I shall have the right to terminate this Agreement on five (5) days' written notice. In the event the Liability Agreement, to which Railroad is a party terminates, expires or is otherwise deemed null or void, this Agreement shall terminate on the date that the Liability Agreement terminates, expires or is otherwise deemed null or void.

- B. Termination of this Agreement shall not relieve or release either Party hereto from any obligation assumed or from any liability which may have arisen or been incurred by either Party under the terms of this Agreement prior to the termination hereof. Any right to terminate this Agreement shall be in addition to any and all other rights available at law or in equity. The Parties agrees that this Section 19.B survives termination of this Agreement.
- C. If this Agreement is terminated in accordance with its terms, L&I may, at its option, delay the effective date of the termination until the Railroad has obtained any required discontinuance authority with respect to its operating rights under this Agreement.

SECTION 20. FORCE MAJEURE; CASUALTY LOSS

- A. L&I shall not be responsible to Railroad for delays or failure to perform under this Agreement if such delays or failure to perform are covered by circumstances beyond its control, including, but not limited to, (1) floods, storms, earthquakes, hurricanes, tornadoes, washout or other severe weather, climatic or naturally occurring conditions, (2) acts of public enemy, war, terrorism, blockade, insurrection, vandalism, fire, explosion or sabotage, (3) strike, lockout or labor disputes experienced by the Parties, and (4) embargoes or AAR service orders; Federal Railroad Administration (FRA) orders, or governmental laws, orders or regulations (together (1) through (4) shall be referred to as "Force Majeure").
- B. In the event of a casualty loss to all or any portion of the L&I Line resulting from a Force Majeure event, L&I shall have no liability to Railroad for any delay in restoration or for a decision by L&I not to restore all or a portion of the L&I Line, other than an embargo that the STB determines is unlawful.

SECTION 21. ARBITRATION

- A. In the event of a minor dispute (as defined below) between the Parties with respect to this Agreement that is not resolved within thirty (30) days after a Party provides written

notice to the other Party of the dispute, either Party may submit the dispute to arbitration, as follows:

(1) The Party initiating the Arbitration (the “Initiating Party”) will provide a written notice (“Arbitration Notice”) to the other Party (the “Responding Party”) that states the issue(s) to be arbitrated, and proposes a disinterested person, knowledgeable in railroad commercial and operating matters, to act as the sole arbitrator in the arbitration proceeding.

(2) Within ten (10) days after receipt of an Arbitration Notice, the Responding Party will notify the initiating Party in writing as to whether the proposed arbitrator is acceptable to the Responding Party. If the Responding Party accepts the proposed arbitrator or if the Responding Party does not provide written notice to the Initiating Party accepting or rejecting the proposed arbitrator within the ten- (10-) day period, the proposed arbitrator will serve as the sole arbitrator to preside over the arbitration. If the Responding Party rejects the proposed arbitrator, in writing, within the ten- (10-) day period, then the Parties shall attempt to identify a mutually acceptable arbitrator.

(3) If the Parties are unable to agree upon an arbitrator within forty (40) days after receipt of the Arbitration Notice by the Responding Party, either Party may request the American Arbitration Association (“AAA”) to select an arbitrator who is knowledgeable in railroad commercial and operational matters. The arbitration proceeding will be conducted pursuant to the Commercial Arbitration Rules of the AAA, and the arbitrator shall be directed to permit reasonable discovery and to permit dispositive motions. The arbitration hearing, if any, will be held in Louisville, KY, or at a location selected by the arbitrator.

(4) The decision of the arbitrator shall be final and conclusive upon the Parties. Each Party to the arbitration shall pay the compensations, costs, fees and expenses of its own witnesses, experts and counsel. The compensation, costs and expense of the arbitrator, if any, shall be borne equally by the Parties. The arbitrator shall not have the power to award consequential or punitive damages or to determine violations of criminal or antitrust laws.

(5) A minor dispute shall be any dispute for which the Party initiating the arbitration is seeking compensation in the amount of Two Hundred Fifty Thousand Dollars (\$250,000) or less.

B. Major disputes refer to all disputes that do not qualify as minor disputes under the terms of this Agreement. Major disputes will be resolved in any available judicial or administrative forum.

SECTION 22. SUCCESSORS AND ASSIGNS AND CHANGE OF CONTROL

- A. This Agreement shall inure to the benefit of and be binding upon the successors and permitted assigns, by merger or otherwise, of the Parties. L&I (or its parent company) shall have the right to freely sell, transfer or convey the L&I Line, sell, transfer or convey the stock of L&I, merge L&I with another entity or assign this Agreement. Railroad shall not have the right to assign this Agreement without the prior written consent of L&I.
- B. Any assignment by a Party to this Agreement shall not transfer or extinguish any liability or obligation of that Party under this Agreement that existed prior to such assignment.

SECTION 23. NOTICE

All notices and other communications (individually, a “Notice”) hereunder shall be in writing and shall be deemed received on the date such Notice is personally delivered (providing proof of delivery), on the first business day following the date on which such Notice is sent by a nationally recognized overnight courier (providing proof of delivery) or on the fifth business day following the date such Notice is mailed by registered or certified mail (return receipt requested). A Notice to a Party shall, unless another address is specified by such Party to the other Parties, be sent to the address indicated below:

If to Railroad:

If to L&I: President
Louisville & Indiana Railroad Company
500 Willinger Lane
Jeffersonville, IN 47130

SECTION 24. OTHER AGREEMENTS

Upon the Effective Date of this Agreement, any existing agreements between L&I and the Railroad that concerns the Railroad operating over the L&I Line (or any portion thereof) shall terminate, unless otherwise agreed to by the Parties.

SECTION 25. GENERAL PROVISIONS

- A. This Agreement and each and every provision hereof are for the exclusive benefit of the Parties and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of any third party to recover by way of damages or otherwise against either of the parties hereto.
- B. This Agreement, including all Attachments hereto, each of which is hereby incorporated by reference in its entirety as if specifically set forth herein, contains the entire understanding of the Parties and supersedes any and all oral or written understandings or

agreements between the Parties to the extent they relate to the subject matter hereof.

- C. No term or provision of this Agreement may be changed, waived, discharged or terminated except by an instrument in writing that specifically identifies the subject term or provision and that is signed by both Parties.
- D. All words, terms and phrases used in this Agreement shall be construed in accordance with the generally applicable definition or meaning of such words, terms and phrases in the railroad industry.
- E. All Section headings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.
- F. As used in this Agreement, whenever reference is made to the trains, locomotives, cars or equipment of, or in the account of, one of the Parties hereto, such expression means the trains, locomotives, cars and equipment in the possession of or operated by one of the Parties and includes such trains, locomotives, cars and equipment which are owned by, leased to, or in the account of such Party. Whenever such locomotives, cars or equipment are owned or leased by one party to this Agreement and are in the possession or account of the other Party to this Agreement, such locomotives, cars and equipment shall be considered those of the other Party under this Agreement.
- G. This Agreement is the result of mutual negotiations of the Parties, neither of whom shall be considered the drafter for purposes of contract construction.
- H. Neither Party hereto may disclose the provisions of this Agreement to a third party, excluding a parent, subsidiary or affiliate company (or an accountant or attorney of such Party, parent, subsidiary or affiliate), without the written consent of the other Party, except as otherwise required by law, regulation or ruling.
- I. This Agreement shall be construed in accordance with and governed by the laws of Indiana (without regard to the choice or conflict of laws rules of any jurisdiction). The Parties irrevocably submit to the jurisdiction of the courts of the State of Indiana and the federal courts located in the State of Indiana.
- J. If any clause or provision contained in this Agreement operates or would operate prospectively to invalidate this Agreement in whole or in part, then such clause or provision only shall be held ineffective, as though not herein contained, and the remainder of this Agreement shall remain operative and in full force and effect (unless the effect of so doing would deprive a Party substantially of the benefit of the bargain negotiated by such Party).

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date first above written.

Witness for [Railroad]:

[RAILROAD]

By: _____

Name: _____

Title: _____

Witness for Louisville & Indiana Railroad

**LOUISVILLE & INDIANA RAILROAD
COMPANY, INC.**

By: _____

Name: _____

Title: _____