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November 26, 2003

VIA HAND DELIVERY - RETURN COPY

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW (7th fl.)
Washington, DC 20423-0001

Dear Secretary Williams:

Enclosed for filing in STB Finance Docket No. 34415, Ohio Department of Transportation-Petition for Declaratory Order-Status of Track at Findlay, Hancock County, OH, are the original and ten copies of the Reply of the Ohio Department of Transportation.

Additional copies of this letter and of the Reply are enclosed for you to stamp to acknowledge your receipt of them and to return to me via the messenger.

Service of the Reply upon Norfolk Southern Railway Company has been effected by facsimile transmitting copies to its counsel.

If you have any question concerning the foregoing which you believe I may be able to answer or if I otherwise can be of assistance, please let me know.

Sincerely yours,

Fritz R. Kahn

enc.

cc: Roger L. Miller, Esq.
James R. Paschall, Esq.
Michael L. Stokes, Esq.

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BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

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STB Finance Docket No. 34415

OHIO DEPARTMENT OF TRANSPORTATION
- PETITION FOR DECLARATORY ORDER -
STATUS OF TRACK AT FINDLAY, HANCOCK COUNTY, OH



REPLY
OF
OHIO DEPARTMENT OF TRANSPORTATION

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Special Counsel to the
Attorney General of Ohio

Attorneys for

OHIO DEPARTMENT OF TRANSPORTATION

Dated: November 26, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.



STB Finance Docket No. 34415

OHIO DEPARTMENT OF TRANSPORTATION
- PETITION FOR DECLARATORY ORDER -
STATUS OF TRACK AT FINDLAY, HANCOCK COUNTY, OH

REPLY
OF
OHIO DEPARTMENT OF TRANSPORTATION

Petitioner, Ohio Department of Transportation ("ODOT"), pursuant to 49 C.F.R. 1104.13(a), replies in opposition to the Motion of Norfolk Southern Railway Company ("NS"), filed November 6, 2003, to Hold Proceeding in Abeyance, and in support thereof ODOT states, as follows:

1. By its pleading, NS asked that the Board stay the instant proceeding "for 60 days, unless the parties notify the Board that more time is required, to permit possible settlement of the matter in controversy through negotiations"

2. At the time NS filed its pleading, no settlement proposal had been advanced by NS, although the case before the Court of Common Pleas for Hancock County, stayed for six months to permit the parties to seek a determination of certain disputed issues from the Board, had been pending for more than a year's time.

3. It was not until November 10, 2003, that NS finally disclosed to ODOT the terms upon which it believed a settlement between it and ODOT might be possible, and, while NS' proposal is receiving serious consideration by ODOT, it would incorrect to say that active settlement negotiations between NS and ODOT are under way.

4. A request that the Board hold its proceedings in abeyance for a specified time normally is submitted as a joint proposal of the parties and not by just one of them, as NS has done. STB Docket No. AB- 167 (Sub-No. 1094)A, Chelsea Property Owners–Abandonment–Portion of the Consolidated Rail Corporation's West 30th Street Secondary Track in New York, NY, served October 7, 2003; STB Docket No. AB-596, New York City Economic Development Corporation–Adverse Abandonment–New York Cross Harbor Railroad in Brooklyn, NY, served March 25, 2002; STB Finance Docket No. 29430 (Sub-No. 21), Norfolk Southern Corporation–Control–Norfolk and Western Railway Company and Southern Railway Company (Arbitration Review), served March 21, 2001.

5. ODOT is well aware that the Board generally supports private resolution of disputes, STB Finance Docket No. 33388, CSX Corporation, et al.–Control and Operating Leases/Agreements–Conrail, Inc. (Decision No. 133), served November 4, 1999, and ODOT is in accord with that objective. In the opinion of ODOT, however, the chances of achieving a private resolution of the disagreement between it and NS will be enhanced if the parties were aware that the Board is proceeding towards rendering a decision in this matter (a task which can be aborted should a settlement be reached in the interim) than if the parties understood that, so long as they were talking, they would be able to prolong the settlement negotiations indefinitely.

WHEREFORE, the Ohio Department of Transportation asks that the stay motion of

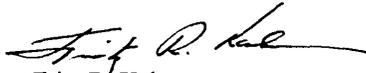
Norfolk Southern Railway Company be denied.

Respectfully submitted,

OHIO DEPARTMENT OF TRANSPORTATION

By its attorneys,

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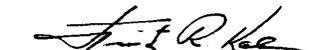
Special Counsel to the
Attorney General of Ohio

Dated: November 26, 2003

CERTIFICATE OF SERVICE

I certify that I this day have served the foregoing Reply upon Norfolk Southern Railway Company by facsimile transmitting copies thereof to its counsel, Roger L. Miller, Esq., and James R. Paschall, Esq.

Dated at Washington, DC, this 26th day of November 2003.


Fritz R. Kahn