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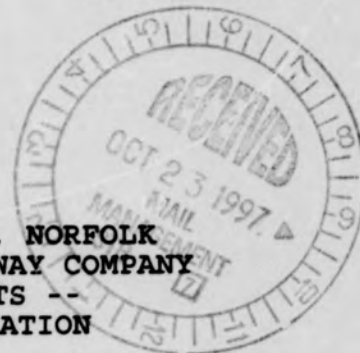
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BEFORE THE  
SURFACE TRANSPORTATION BOARD

EJE-10  
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FINANCE DOCKET NO. 33388

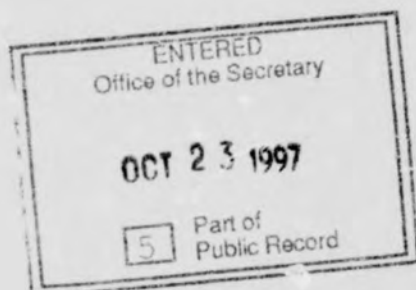
CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK  
SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY  
-- CONTROL AND OPERATING LEASES/AGREEMENTS --  
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION



FINANCE DOCKET NO. 33388 (SUB-NO. 36)

ELGIN, JOLIET AND EASTERN RAILWAY COMPANY, TRANSTAR, INC.  
AND I & M RAIL LINK, LLC -- PURCHASE --  
STOCK OF INDIANA HARBOR BELT RAILROAD COMPANY  
CONTROLLED BY CONSOLIDATED RAIL CORPORATION

RESPONSIVE APPLICATION OF  
ELGIN, JOLIET AND EASTERN RAILWAY COMPANY,  
TRANSTAR, INC. AND I & M RAIL LINK, LLC



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ATTORNEYS FOR TRANSTAR, INC.,  
ELGIN, JOLIET AND EASTERN RAILWAY  
COMPANY AND I & M RAIL LINK, LLC

Dated: October 21, 1997

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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RESPONSIVE APPLICATION OF  
ELGIN, JOLIET AND EASTERN RAILWAY COMPANY,  
TRANSTAR, INC. AND I & M RAIL LINK, LLC

Elgin, Joliet & Eastern Railway Company, Transtar, Inc. ("EJE") and I & M Rail Link, LLC ("IMRL") (collectively, the "Responsive Applicants") hereby submit this Responsive Application, pursuant to 49 U.S.C. §§ 11323-11325 and the Railroad Consolidation Procedures, 49 C.F.R. Part 1180, Subpart A, for authorization of Responsive Applicants' acquisition of the 51% stock ownership of Consolidated Rail Corporation ("CRC") in the Indiana Harbor Belt Railroad Company ("IHB"). This Responsive Application is responsive to the Primary Application filed herein by CSX Corporation ("CSXC"), CSX Transportation, Inc. ("CSXT"), Norfolk Southern Corporation ("NSC"), Norfolk

Southern Railway Company ("NSR"), Conrail, Inc. ("CRI") and CRC<sup>1</sup> (collectively, the "Primary Applicants") seeking authority for common control of Conrail by CSXT and NSC and the division of CRC's assets between CSXT and NSR. Responsive Applicants hereby request that the stock acquisition proposed herein be approved and imposed as a condition upon any approval of the Primary Application.

#### **STATUTORY FRAMEWORK**

The proposed acquisition of Conrail's 51% control ownership of IHB is subject to prior review and authorization by the Board pursuant to 49 U.S.C. §§ 11321, 11323, 11324 and 11325. This application is an inconsistent Responsive Application that is governed by the standards of 49 U.S.C. § 11324(c) allowing for the imposition of conditions to ameliorate anticompetitive affects and to prevent harm to essential services. This Responsive Application is necessary as a condition to the proposed control of Conrail by CSX and NS in order to prevent an anticompetitive concentration of ownership and control of the provision of intermediate switching services in the Chicago Switching District, to preserve presently available railroad switching capacity necessary to serve the interests of the public beyond the Applicants' own narrow operational interests and to mitigate anticompetitive impact to on-line shippers who will lose routing options.

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<sup>1</sup> CSXC and CSXT are referred to collectively herein as "CSX." NSC and NSR are referred to collectively herein as "NS." CRI and CRC are referred to collectively herein as "Conrail."



Pursuant to 49 C.F.R. § 1180.2(b)(1), this Responsive Application is a Minor Transaction. The acquisition of Conrail's 51% stock ownership of IHB by Responsive Applicants is not itself a transaction involving two or more Class I carriers and the transaction will have no anticompetitive effects. The statutory criteria for regulatory consideration of a Minor Transaction are provided in 49 U.S.C. §§ 11323-11325. Section 11324(d) sets forth the criteria by which such an application is judged:

(d) In a proceeding under this section which does not involve the merger or control of at least two Class I railroads, as defined by the Board, the Board shall approve such an application unless it finds 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.

#### **SECTION 1180.6(a)**

##### **IDENTIFICATION OF APPLICANTS AND PERSONS TO WHOM CORRESPONDENCE WITH RESPECT TO THIS APPLICATION SHOULD BE ADDRESSED**

Responsive Applicant EJE is a Class II railroad that owns and operates approximately 200 hundred miles of railroad and railroad trackage rights in Illinois and Indiana, generally between Waukegan, Illinois and Gary, Indiana. EJE is a wholly owned subsidiary of Transtar, Inc., a non-carrier transportation holding company which also owns the Bessemer & Lake Erie Railroad Company, a Class II rail carrier operating in Ohio and Pennsylvania; the Birmingham Southern Railroad Company, a Class

III switching and terminal carrier operating in Alabama; the Duluth, Missabe and Iron Range Railway Company, a Class II rail carrier operating in Minnesota and Wisconsin; The Lake Terminal Railroad Company, a Class III switching carrier operating in Lorain, Ohio; the McKeesport Connecting Railroad Company, a Class III switching carrier in McKeesport, Pennsylvania; The Pittsburgh & Conneaut Dock Company, which operates a rail/water dock facility on Lake Erie at Conneaut, Ohio; and the Union Railroad Company, a Class III rail carrier operating in Pennsylvania.<sup>2</sup>

Responsive Applicant EJE's name, business address and telephone number are as follows:

Elgin Joliet & Eastern Railway Company  
1141 Maple Road  
Joliet, Illinois 60432  
(815) 740-6900

Responsive Applicant EJE's counsel to whom correspondence with respect to this Responsive Application should be addressed is as follows:

Robert N. Gentile  
Vice-President Law, General Counsel  
and Secretary  
Transtar, Inc.  
135 Jamison Lane  
P.O. Box 68  
Monroeville, Pennsylvania 15146  
(412) 829-6890

---

<sup>2</sup> In Decision No. 30, served September 11, 1997, the Board granted EJE's request for clarification or waiver to exclude each of these affiliates from the definition of "applicant carrier."

William C. Sippel  
Oppenheimer Wolff & Donnelly  
Two Prudential Plaza, 45th Floor  
180 North Stetson Avenue  
Chicago, Illinois 60601  
(312) 616-1800

Responsive Applicant IMRL is a Class II rail carrier operating approximately 1386 miles of railroad and railroad trackage rights from Minneapolis/St. Paul, Minnesota to Kansas City, Kansas and Chicago, Illinois. IMRL is affiliated with Montana Rail Link, a Class II rail carrier which operates in Washington, Idaho and Montana.

Responsive Applicant IMRL's name, business address and telephone number are as follows:

I & M Rail Link, LLC  
1910 East Kimberly Road  
Davenport, Iowa 52808  
(319) 344-7600

Responsive Applicant IMRL's counsel to whom correspondence with respect to this Responsive Application should be addressed is as follows:

J. Fred Simpson  
Executive Vice-President  
I & M Rail Link, LLC  
1910 East Kimberly Road  
Davenport, Iowa 52808  
(319) 344-7613

William C. Sippel  
Oppenheimer Wolff & Donnelly  
Two Prudential Plaza, 45th Floor  
180 North Stetson Avenue  
Chicago, Illinois 60601  
(312) 616-1800

**SECTION 1180.6(a)(1)(i)**

**SUMMARY OF THE PROPOSED TRANSACTION**

Responsive Applicants will acquire proportionately the 51% Conrail stock ownership of IHB in a stock sale transaction. Each of EJE and IMRL will acquire one-half of Conrail's 51%. After the transaction, each will own 25.5% of the IHB shares of stock. Each will pay Conrail cash for their respective 25.5% based upon a fair market valuation of the stock. A Stock Purchase Agreement providing for the transaction is attached as Exhibit 2. The remaining 49% ownership of IHB held by Soo Line Railroad Company ("Soo") will remain unchanged. As independent owners of the IHB stock, each of EJE and IMRL will accede to all the rights and obligations of Conrail with respect to such stock. The Responsive Applicants anticipate a voting agreement between themselves concerning the voting of their respective proposed ownership of IHB stock in order to establish a status of the IHB as an independent carrier.

**SECTION 1180.6(a)(1)(ii)**

**PROPOSED TIME SCHEDULE FOR  
CONSUMMATION OF TRANSACTION**

The Responsive Applicants will consummate the proposed transaction as soon as practicable after the effective date of a final order of the Board approving the Primary Application.

**SECTION 1180.6(a)(1)(iii)**

**PURPOSE SOUGHT TO BE  
ACCOMPLISHED BY THE PROPOSED TRANSACTION**

The purposes for the proposed transaction sought by Responsive Applicants are to mitigate the adverse impact on existing competition for provision of intermediate switching services in the Chicago Switching District, to preserve essential switching capacity for shippers and carriers that use such services in the Chicago Switching District and to preserve effective competitive routing options for on-line shippers. Presently The Belt Railway Company of Chicago ("BRC") and the IHB hold themselves out as intermediate switching carriers and in fact perform intermediate switching services in the Chicago Terminal. The Baltimore & Ohio Chicago Terminal Railroad Company ("BOCT"), a wholly owned subsidiary of CSXT, has historically been designated a switching carrier but in fact performs little, if any, intermediate switching services that do not include direct interchange to CSXT or service to on line industries. In short, BOCT operates principally as an extension of CSXT and not as a true intermediate switching carrier. BOCT is owned 100% by CSXT. BRC is presently owned 25% by CSXT, 8.33% by NS (through the Norfolk & Western Railway Company) and 16.67% by Conrail. IHB is owned 51% by Conrail and 49% by Soo. Primary Applicants propose that upon completion of the Conrail merger/control, Conrail's 51% ownership of IHB will be jointly controlled by Primary Applicants (with CSX performing dispatching and appointing the general manager). The Primary Applicants will be



the largest shareholders of BRC, each having a 25% ownership. In effect, in the absence of the relief being sought in this Responsive Application, all three switching carriers in the Chicago Switching District will be either completely owned, controlled or dominated by CSX and NSR. This Responsive Application is intended to prevent that anticompetitive concentration of power in CSX and NSR.

Additionally, this Responsive Application is intended to preserve essential switching and routing alternatives in and through the Chicago Terminal for all remaining non-Primary Applicant carriers and more importantly, the shippers using their lines. Unlike mergers of the past 20 years, the present merger is proceeding against the backdrop of an industry where lack of capacity, not redundant capacity, is a critical issue. Removal of IHB from its present role as an intermediate switching carrier and subordination of its role to being primarily an operating adjunct of CSXT and NSR is inconsistent with national rail transportation policy of ensuring "the development and continuation of a sound transportation system . . . to meet the needs of the public," 49 U.S.C. § 10101(4), and would have an adverse affect "on the adequacy of transportation to the public." 49 U.S.C. § 11324(b)(1).

Finally, this Responsive Application is necessary to preserve effective competitive routing options which are today enjoyed by on-line shippers jointly served by IHB and EJE. The EJE provides a competitive alternative to IHB for certain on-line shippers whose traffic currently is interlined to/from points of



CSX and NS. As joint controlling owners of the IHB, NS and CSX would have every incentive to exercise their control in the market place to eliminate EJE as a competitive routing alternative to the IHB, just as Conrail in the market place does today with respect to traffic destined to/from Conrail points. The impacted shippers effectively would go from being served by two originating/terminating carriers to service exclusively by one carrier -- IHB -- solely for the benefit of CSX/NS.

**SECTION 1180.6(a)(1)(iv)**

**THE NATURE AND AMOUNT OF NEW  
SECURITIES AND OTHER FINANCIAL ARRANGEMENTS**

It is expected that stock acquisition sought in this transaction will not involve the issuance of any new securities by Applicants. Each of the carriers has sufficient resources available to purchase their proportionate share of stock. No new securities will be issued by IHB or Conrail.

**SECTION 1180.6(a)(2)**

**PUBLIC INTEREST JUSTIFICATIONS**

**(i) Effect of the Proposed Transaction on Competition.**

The proposed transaction is pro-competitive and in the public interest. It will mitigate the adverse impact that the Primary Application otherwise will have on competition and will preserve essential public services of a neutral, independent switching carrier in the Chicago Switching District. The market involved is that of the provision of switching and related terminal services in the Chicago Switching District. Today there are two principal switching roads that hold themselves out as

switching carriers that in fact do perform those services -- IHB and BRC. BOCT, which nominally is a switching road, in fact performs no switching service other than as linked to CSXT or on-line industries. Implementation of the Primary Application as proposed will place all three intermediate switch carriers under the ownership, control or dominance of CSXT and NSR. It is only through the means of this Responsive Application that the Chicago Switching District will have preserved competition in the provision of switching and related terminal services.

This Responsive Application will also preclude the anti-competitive effect of certain shippers losing their existing alternative routings of IHB or EJE origination/termination and being reduced to working exclusively with the IHB.

(ii) Financial Considerations.

EJE and IMRL expect to purchase the Conrail 51% stock ownership of IHB on the basis of a fair market value. There are various industry standards and practices by which that fair market value can be determined. Since Primary Applicants refused to comply with discovery requests concerning IHB, its operations, plant and financial condition, Responsive Applicants are unable to provide more detail concerning the value of Conrail's stock.<sup>3</sup>

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<sup>3</sup> Responsive Applicants are appealing to the STB seeking an order compelling Primary Applicants to provide data with respect to IHB. Responsive Applicants were also unsuccessful in seeking such data directly from IHB or from Soo. Responsive Applicants intend to amend this Responsive Application with further information at such time as Primary Applicants are required to provide information concerning IHB.

Along with current minority shareholder Soo, EJE and IMRL will undertake to improve IHB's financial performance. For these acquiring carriers, IHB is both an important operational link in Chicago and will represent an important financial investment. Whatever had been the priority for IHB under Class I ownership, Responsive Applicants will have sufficient incentives to develop IHB to its fullest extent, and make IHB's financial performance and development as a carrier a priority. In 1996, IHB had an operating ratio of approximately 89. By contrast EJE had an operating ratio of 72.2; IMRL is a new start up but its affiliate, Montana Rail Link had an operating ratio better than the EJE. It would be the objective of these Responsive Applicants, by focusing on more efficient IHB operation and development of more on-line business, thereby increasing revenue to IHB, to improve IHB's operating ratio to at least 80.

**(iii) Effect of Increase in Total Fixed Charges  
Resulting from the Transaction.**

Responsive Applicants' acquisition of the shares of stock of IHB will not increase any fixed charges at IHB. In fact, EJE and IMRL expect that overall financial performance and strength of IHB will be enhanced. IHB will have ownership focused on development of IHB business as an intermediate switching carrier and development of revenues from increased business with on-line shippers through the provision of superior service. EJE and IMRL will have every incentive to accomplish these objectives to the benefit generally of the shipping public. The Operating Plan of CSXT, instead, appears more narrowly

focused on using the IHB to serve its own purposes. However, under EJE and IMRL proposal, IHB will also benefit by performing increased work, as generally set forth in the Operating Plans of both CSXT and NSR. The additional levels of business outlined by CSXT in its Operating Plan would be accommodated by IHB under EJE and IMRL stock ownership. The result will be a stronger IHB with improved fixed charge coverage.

(iv) **Effect of Transaction Upon the Adequacy of Transportation Service to the Public.**

The proposed transaction will enhance the adequacy of transportation services available to the public. The transaction will establish IHB as an independent switching carrier and maintain that status. The market focus of EJE and IMRL will be brought to bear on making local switching services more economically and readily available to on-line shippers. Attached as Appendix A to this Responsive Application are statements from shippers expressing their support for an independent IHB. Moreover, the neutral management of IHB by these carriers will prevent IHB from being operated as an operating extension of CSXT as it now appears intended under the CSXT Operating Plan. Yet, while preventing this subordination of the IHB to CSXT operations, management by EJE and IMRL will still be able to substantially accomplish the efficiencies which CSXT seeks in its Operating Plan. Finally, neutral management of IHB will preserve effective competitive routing options for on-line shippers.



(v) Effect of Transaction on Employees.

It is not expected that the transfer of stock ownership to EJE and IMRL will have any adverse affect on employees. If anything, Responsive Applicants believe that full development of IHB's commercial potential in the Chicago Terminal would likely result in increased employment on IHB.

(vi) Inclusion of Other Railroads in the Territory.

Inclusion is not a relevant consideration in this Responsive Application since the proposed transaction does not involve the merger or control of at least two Class I railroads. See 49 U.S.C. § 11324(b)(2) and (d). Nonetheless, the proposed transaction will not result in harm to the essential services provided by any carrier and, therefore, there is no basis for ordering the inclusion of any carrier in the transaction.

**SECTION 1180.6(a)(3)**

**OTHER SUPPORTING INFORMATION**

The Verified Statements of Mel Turner, General Manager, EJE, James H. Danzl, Director of Marketing - West, Transtar, and William Brodsky, President of IMRL, are submitted with this Responsive Application. Copies of statements from shippers supporting the Responsive Application are also being submitted with this Application as Appendix A following the Verified Statements. Also attached are certain excerpts from depositions and certain responses to interrogatories generated during discovery.

**SECTION 1180.6(a)(4)**

**OPINION OF COUNSEL**

Opinions of counsel for each of EJE and IMRL are attached to this Application.

**SECTION 1180.6(a)(5)**

**STATES WHERE APPLICANTS OWN PROPERTY**

EJE owns and operates railroad property in the states of Illinois and Indiana. IMRL owns and operates railroad property in the states of Minnesota, Iowa, Missouri, Kansas, and Illinois.

**SECTION 1180.6(a)(6)**

**MAPS - EXHIBITS 1(a), (b) and (c)**

Maps depicting the rail lines of each of EJE and IMRL are attached as Exhibits 1A and 1B. Also attached as Exhibit 1C is a map depicting the rail lines of IHB, and its connections to the rail lines of each of EJE and IMRL.

**SECTION 1180.6(a)(7)(i)**

**DESCRIPTION OF THE TRANSACTION**

Responsive Applicants will acquire proportionately the 51% Conrail stock ownership of IHB in a stock sale transaction. Each of EJE and IMRL will acquire half of Conrail's 51%. After the transaction, each will own 25.5% of the IHB shares of stock. Each will pay Conrail cash for their respective 25.5% based upon a fair market valuation of the stock. A Stock Purchase Agreement providing significant terms for the transaction is attached as Exhibit 2. The remaining 49% ownership of IHB held by Soo will



remain unchanged. As independent owners of the IHB stock, each of the carriers will accede to all the rights and obligations of Conrail with respect to such stock. The Responsive Applicants anticipate a stock voting agreement between themselves concerning the voting of their respective proposed ownership of IHB stock in order to establish the status of IHB as an independent carrier.

**SECTION 1180.6(a)(7)(ii)**

**AGREEMENT - EXHIBIT 2**

A proposed Stock Purchase Agreement containing significant terms of the proposed transaction is submitted with this Responsive Application as Exhibit 2.

**SECTION 1180.6(a)(7)(iii)**

**INFORMATION REGARDING THE CONSOLIDATED ENTITY**

This criterion is not applicable to this Responsive Application because neither a consolidation nor a merger is proposed.

**SECTION 1180.6(a)(7)(iv)**

**COURT ORDER**

This subsection is not applicable to this Responsive Application, because neither a trustee, receiver, assignee, nor personal representative of EJE or IMRL is an Applicant herein.

**SECTION 1180.6(a)(7)(v)**

**PROPERTY INVOLVED IN THE PROPOSED TRANSACTION**

EJE and IMRL seek to acquire Conrail's 51% stock ownership of IHB. The proposed transaction does not involve any

property of IHB itself. Other than the stock owned by Conrail, no property of the Primary Applicants is involved in the proposed transaction. The details of the transaction are described in the Summary of the Proposed Transaction, p. 6, supra, and depicted on Maps attached as Exhibits 1A, 1B and 1C.

**SECTION 1180.6(a)(7)(vi)**

**PRINCIPAL ROUTES, TERMINI, POINTS OF  
INTERCHANGE AND MILEAGE OF THE INVOLVED LINES**

The principal routes, termini, points of interchange and involved lines are shown on the maps attached as Exhibits 1A, 1B and 1C. In brief, the IHB operates main line trackage throughout the Chicago Terminal and into Indiana. It operates over 500 track-miles of track and trackage rights. Its route begins at a point in Franklin Park, IL and extends southerly along the western edge of Chicago and then east into Blue Island Yard. East of Blue Island, the railroad fans out on a variety of short branch lines. The easternmost point served by the IHB is near Miller, Indiana. The IHB operates three major yards and several smaller yards. The major yards are Blue Island, a 44-track hump yard, Gibson Yard, a 19-track flat switching yard in northern Indiana and Michigan Avenue Yard, a 26-track flat switching yard. IHB also has smaller yards at Norpaul (Franklin Park, Illinois), Argo (Summit, Illinois), Calumet City and Burnham (South Chicago, Illinois). The IHB interchanges with every carrier operating in the Chicago Terminal.

**SECTION 1180.6(a)(7)(vii)**

**GOVERNMENT FINANCIAL ASSISTANCE**

No governmental financial assistance is involved in the proposed transaction.

**SECTION 1180.6(a)(8)**

**ENVIRONMENTAL DATA**

On October 1, 1997, after consultation with the Board's Section of Environmental Analysis, EJE filed a Verified Statement of No Significant Environmental Impact (EJE-7). As established therein, the proposed acquisition of 51% of IHB's stock will not result in reasonably foreseeable changes in carrier operations that will exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5). See EJE-7 at 2-3. Under 49 C.F.R. § 1105.8(b)(1) and (3), the proposed transaction also is exempt from historic preservation reporting requirements. Accordingly, no energy or environmental documentation is necessary with respect to this Responsive Application.

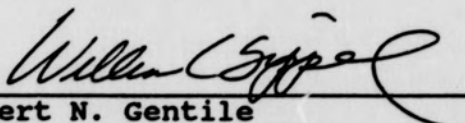
**SECTION 1180.8(b)**

**OPERATING PLAN/MINOR - EXHIBIT 15**

Responsive Applicants' operational data is set forth in their Operating Plan (Exhibit 15).

WHEREFORE, Elgin, Joliet & Eastern Railway Company and I & M Rail Link, LLC respectfully request that the Board accept this Responsive Application for consideration and authorize the stock purchase transaction proposed herein.

Respectfully submitted,

By: 

Robert N. Gentile  
Colette Ferris-Shotton  
Transtar, Inc.  
35 Jamison Lane  
P.O. Box 68  
Monroeville, PA 15146  
(412) 829-6600

William C. Sippel  
Thomas J. Healey  
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180 North Stetson Avenue  
Chicago, IL 60601-6710  
(312) 616-1800

ATTORNEYS FOR TRANSTAR, INC.,  
ELGIN, JOLIET AND EASTERN RAILWAY  
COMPANY AND I & M RAIL LINK, LLC

Dated: October 21, 1997

**SECTION 1180.4(c)(2)(i)**

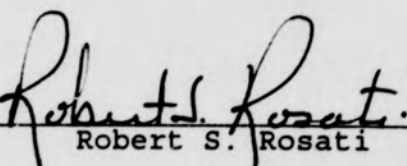
**SIGNATURES, OATHS, AND CERTIFICATIONS  
OF APPLICANTS' EXECUTIVE OFFICERS**



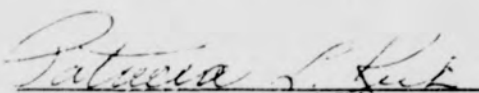
VERIFICATION

Commonwealth of Pennsylvania    )  
  )    SS:  
County of Allegheny                    )

Robert S. Rosati, being duly sworn, deposes and says that he is President and Chief Executive Officer of Elgin, Joliet and Eastern Railway Company, an applicant herein; that he has been duly authorized and designated by Elgin, Joliet and Eastern Railway Company to sign, verify and file the foregoing application with the Surface Transportation Board; that he has examined all of the statements contained in said application; that he has knowledge of the matters set forth therein insofar as those matters relate to Elgin, Joliet and Eastern Railway Company; and that all such statements made and matters set forth therein with respect to Elgin, Joliet and Eastern Railway Company are true and correct to the best of his knowledge, information and belief.

  
Robert S. Rosati

SUBSCRIBED AND SWORN to  
before me this 16<sup>th</sup> day  
of October, 1997.

  
Notary Public

My Commission expires:

Notarial Seal Patricia L. Kirk, Notary Public Monroeville Boro. Allegheny County My Commission Expires July 13, 2000
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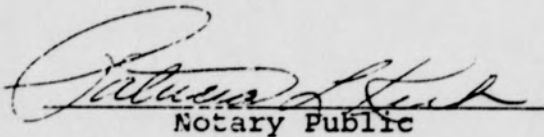
**CERTIFICATION**

Commonwealth of Pennsylvania )  
County of Allegheny ) SS:

I, Colette Ferris-Shotton, am Assistant Secretary of Elgin, Joliet and Eastern Railway Company, and I hereby certify that Robert S. Rosati is President and Chief Executive Officer of Elgin, Joliet and Eastern Railway Company and is duly authorized and designated to sign, verify and file the foregoing Application on behalf of Elgin, Joliet and Eastern Railway Company.

Colette Ferris Shotton

SUBSCRIBED AND SWORN to  
before me this 16<sup>th</sup> day  
of October, 1997.

  
Notary Public

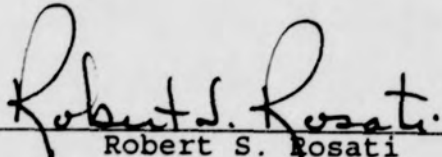
My Commission expires:

Notarial Seal  
Patricia L. Kirk, Notary Public  
Monroeville Boro, Allegheny County  
My Commission Expires July 13, 2000

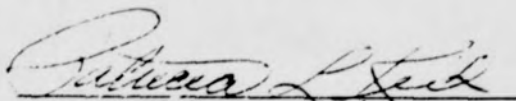
VERIFICATION

Commonwealth of Pennsylvania    )  
  )    SS:  
County of Allegeny                    )

Robert S. Rosati, being duly sworn, deposes and says that he is President and Chief Executive Officer of Transtar, Inc., the parent of the applicant herein; that he has been duly authorized and designated by Transtar, Inc. to sign, verify and file the foregoing application with the Surface Transportation Board; that he has examined all of the statements contained in said application; that he has knowledge of the matters set forth therein insofar as those matters relate to Transtar, Inc.; and that all such statements made and matters set forth therein with respect to Transtar, Inc. are true and correct to the best of his knowledge, information and belief.

  
Robert S. Rosati

SUBSCRIBED AND SWORN to  
before me this 16<sup>th</sup> day  
of October, 1997.

  
Notary Public

My Commission expires:

Notarial Seal  
Patricia L. Kirk, Notary Public  
Monroeville Boro. Allegheny County  
My Commission Expires July 13, 2000

CERTIFICATION

Commonwealth of Pennsylvania )  
County of Allegheny ) SS:

I, Colette Ferris-Shotton, am Assistant Secretary of Transtar, Inc., and I hereby certify that Robert S. Rosati is President and Chief Executive Officer of Transtar, Inc. and is duly authorized and designated to sign, verify and file the foregoing Application on behalf of Transtar, Inc.

Colette Ferris-Shotton

SUBSCRIBED AND SWORN to  
before me this 16<sup>th</sup> day  
of October, 1997.

Patricia L. Kirk  
Notary Public

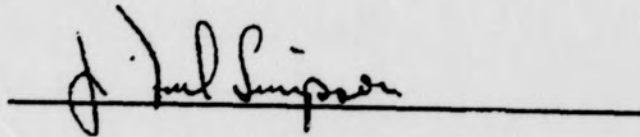
My Commission expires:

Notarial Seal  
Patricia L. Kirk, Notary Public  
Monroeville Boro, Allegheny County  
My Commission Expires July 13, 2000

## CERTIFICATION

State of Montana     )  
                              )  
County of Missoula    )

J. Fred Simpson, being duly sworn, deposes and says that he is Executive Vice President of I & M Rail Link, LLC, an applicant herein; that he has been duly authorized and designated by I & M Rail Link, LLC, to sign, verify and file the foregoing application with the Surface Transportation Board; that he has examined all of the statements contained in said Application; that he has knowledge of the matters set forth therein insofar as those matters relate to I & M Rail Link, LLC; and that all such statements made and matters set forth therein with respect to I & M Rail Link, LLC are true and correct to the best of his knowledge, information and belief.



\_\_\_\_\_

SUBSCRIBED AND SWORN to before me this twentieth day of October, 1997.



\_\_\_\_\_  
Notary Public

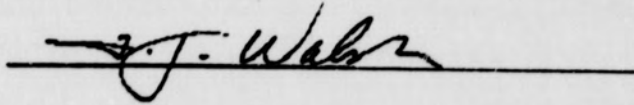
My commission expires: 8/24/00

# CERTIFICATION

State of Montana )

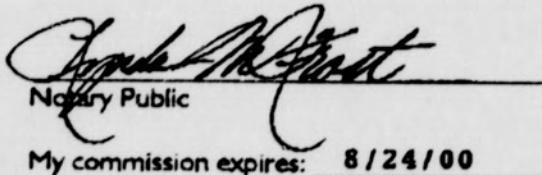
County of Missoula )

I, Thomas J. Walsh, am Secretary of I & M Rail Link, LLC, and I hereby certify that J. Fred Simpson is Executive Vice President of I & M Rail Link, LLC, and is duly authorized and designated to sign, verify and file the foregoing Application on behalf of I & M Rail Link, LLC.



\_\_\_\_\_

SUBSCRIBED AND SWORN to before me this twentieth day of October, 1997.



\_\_\_\_\_  
Notary Public  
My commission expires: 8/24/00





Transtar, Inc.  
135 Jamison Lane  
P.O. Box 68  
Monroeville, PA 15146  
412-829-6890

Robert N. Gentile  
Vice President-Law  
General Counsel  
and  
Secretary

October 21, 1997

Surface Transportation Board  
1925 K Street N.W.  
7th Floor  
Washington, D.C. 20006

**Re: Finance Docket No. 33388 (SUB - NO. 61)  
CSX Corporation and CSX Transportation, Inc. - Norfolk Southern  
Corporation and Norfolk Southern Railway Company - Control and  
Operating Leases/Agreements Conrail, Inc. and Consolidated Rail  
Corporation**

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To Whom It May Concern:

As counsel for Applicants Transtar, Inc. and Elgin, Joliet & Eastern Railway Company, I have examined the accompanying Responsive Application for authority under 49 U.S.C. Sections 11321, 11323, 11324, and 11325 and the Railroad Consolidation Procedures, 49 C.F.R. Part 1180, Subpart A, for Elgin, Joliet & Eastern Railway Company to acquire a portion of Consolidated Rail Corporation's 51% stock ownership of the Indiana Harbor Belt Railroad Company. I am of the opinion that the transaction described in the Responsive Application meets the requirements of the law, is within the corporate powers of Transtar, Inc. and Elgin, Joliet & Eastern Railway Company and will be legally authorized and valid if approved by the Surface Transportation Board.

Respectfully submitted,

Robert N. Gentile  
Vice President - Law  
General Counsel & Secretary

**COUNSEL FOR TRANSTAR,  
INC. AND ELGIN, JOLIET AND  
EASTERN RAILWAY COMPANY**

Operating Companies:

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Bessemer and Lake Erie Railroad Company • Birmingham Southern Railroad Company • Duluth Missabe and Iron Range Railway Company  
Elgin, Joliet and Eastern Railway Company • The Lake Terminal Railroad Company • McKeesport Connecting Railroad Company  
The Pittsburgh & Conneaut Dock Company • Union Railroad Company • USS Great Lakes Fleet, Inc. • Warrior & Gulf Navigation Company

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William C. Sippel  
(312) 616-5874

October 20, 1997

Brussels

Chicago

Minneapolis

New York

Paris

Saint Paul

Washington, D.C.

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W., Room 700  
Washington, D.C. 20423-0001

Re: **Finance Docket No. 33388**  
**CSX Corporation and CSX Transportation, Inc.,**  
**Norfolk Southern Corporation and Norfolk Southern**  
**Railway Company – Control and Operating Leases/**  
**Agreements – Conrail Inc. and Consolidated Rail Corporation**

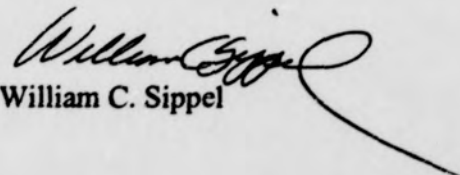
**I & M Rail Link, LLC Responsive Application**

Dear Secretary Williams:

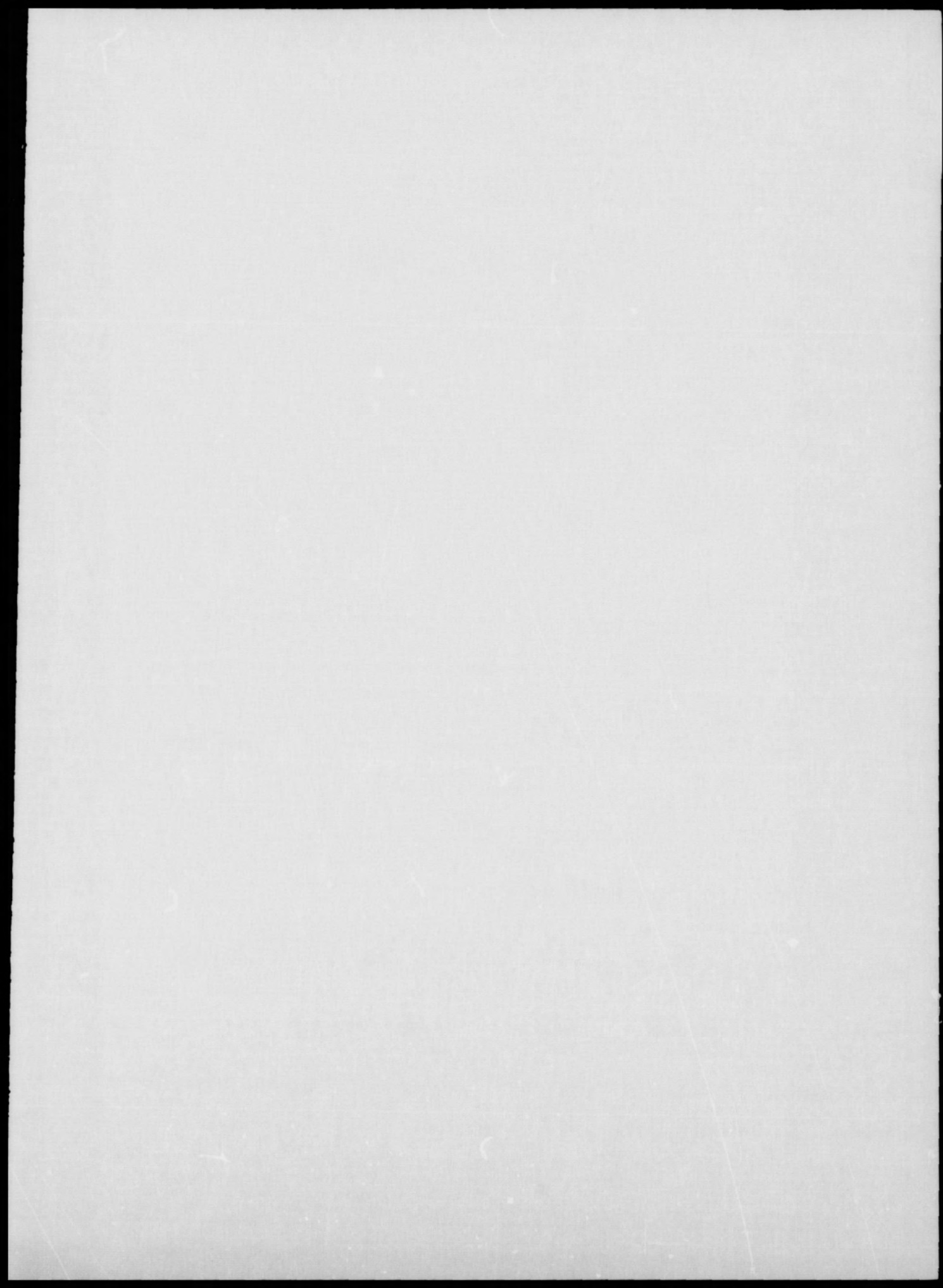
As Counsel for I & M Rail Link, LLC, I have examined the accompanying Application for authority under 49 U.S.C. § 11323, *et seq.*

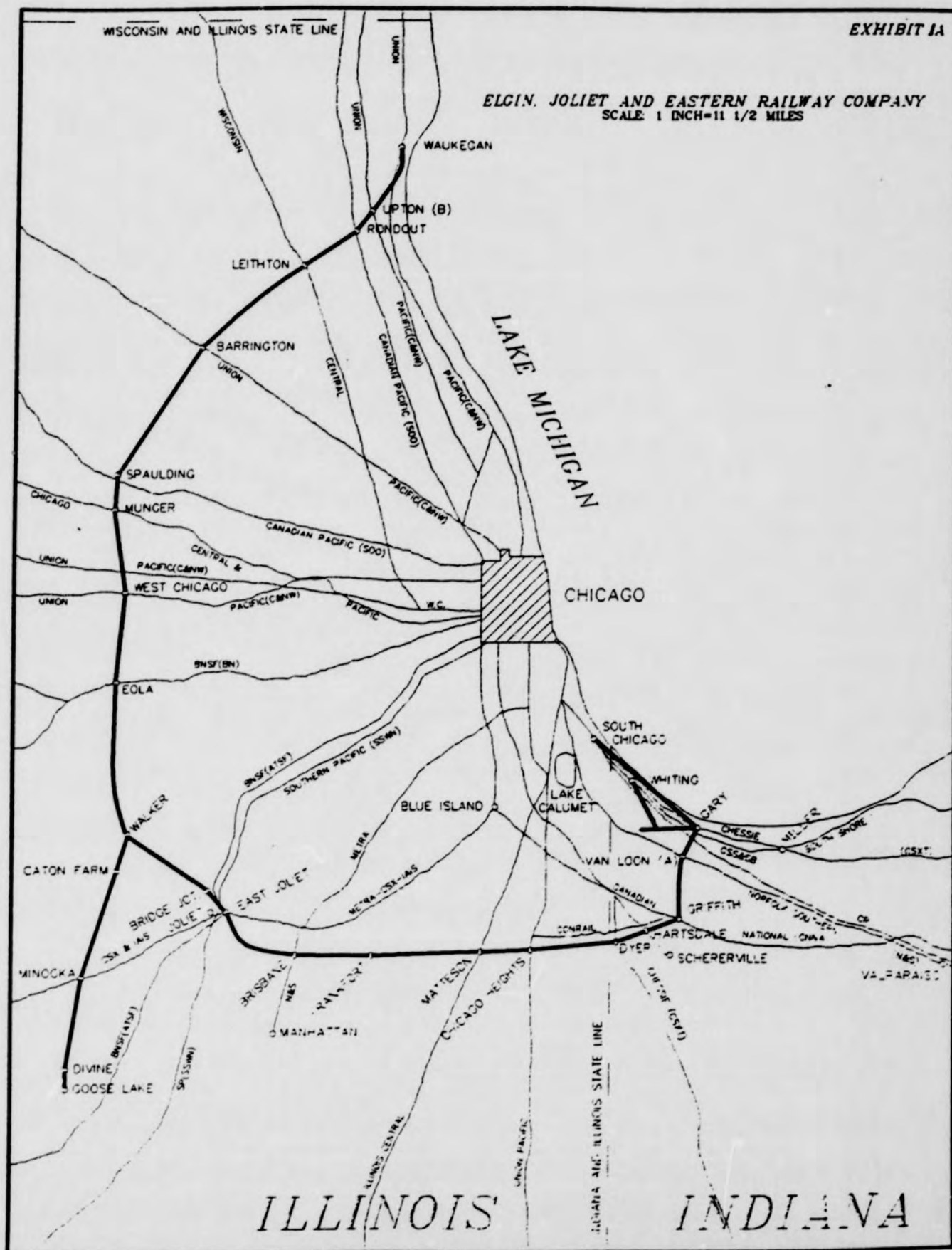
It is my opinion that the transaction described in the Application meets the requirements of law, is within the corporate powers of Applicant, and will be legally authorized and valid, if approved by the Surface Transportation Board.

Very truly yours,

  
William C. Sippel

WCS/pj







# INDIANA HARBOR BELT RAILROAD COMPANY





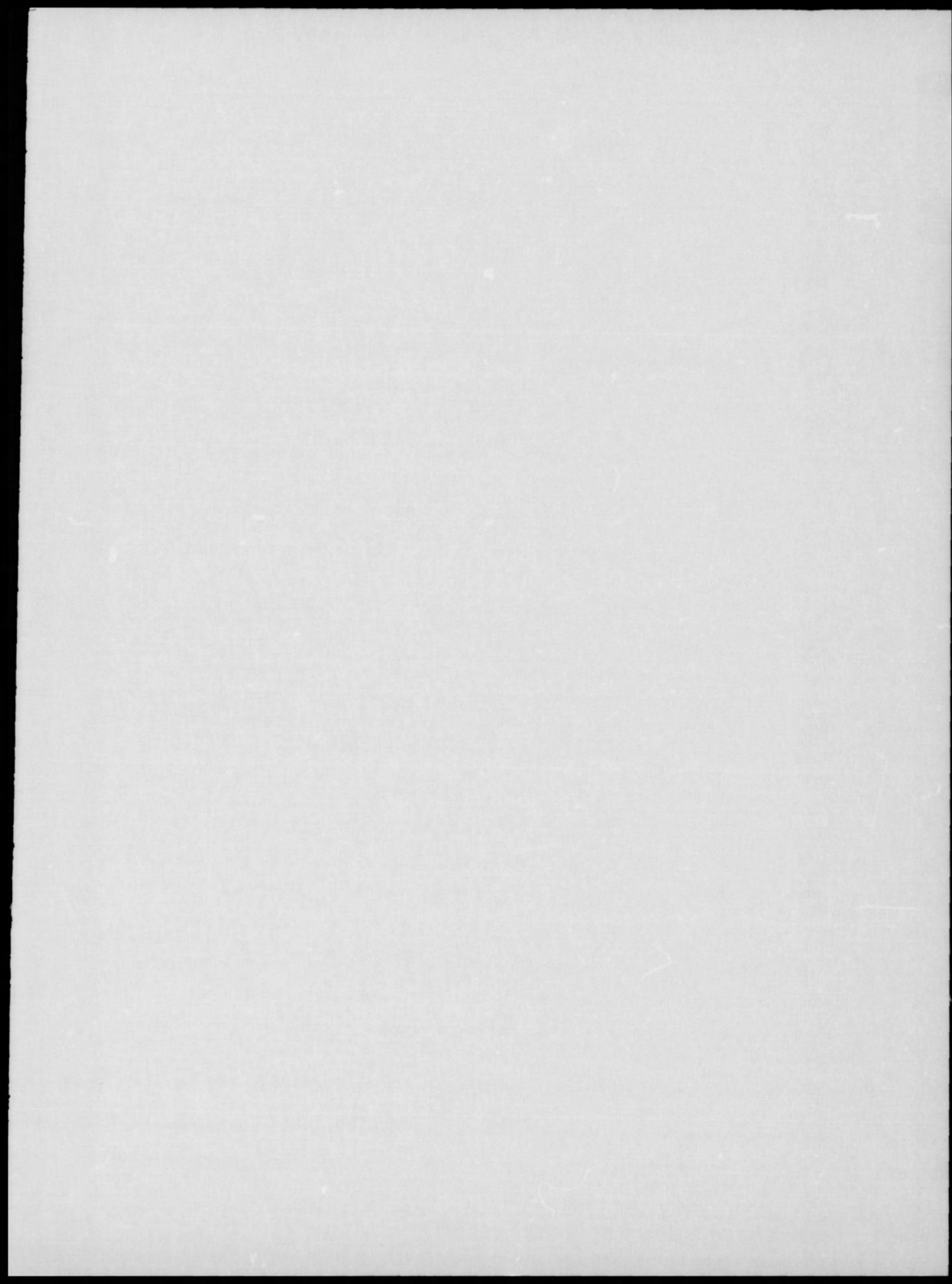


EXHIBIT 2  
DRAFT

CERTAIN PRINCIPAL TERMS  
STOCK PURCHASE AGREEMENT

dated as of \_\_\_\_\_, 1998 BETWEEN:

CONSOLIDATED RAIL CORPORATION,  
a \_\_\_\_\_ corporation  
(hereinafter called "Conrail")

AND:

ELGIN JOLIET & EASTERN RAILWAY COMPANY  
an \_\_\_\_\_ corporation  
(hereinafter called "EJE")

AND:

I & M RAIL LINK,  
a \_\_\_\_\_ LLC  
(hereinafter called "IMRL")

WHEREAS, Conrail is the owner of \_\_\_\_\_ shares of stock,  
\$ \_\_\_\_\_ par value (the "Shares"), of the Indiana Harbor Belt Railroad Company  
("IHB") which constitutes 51% of the issued and outstanding shares of its capital stock; and

WHEREAS, as a condition to the approval granted by the Surface Transportation  
Board in Finance Docket 33388, CSX Corporation and CSX Transportation, Inc., Norfolk  
Southern Corporation and Norfolk Southern Railway Company -- Control and Operating  
Leases/Agreement -- Conrail Inc. and Consolidated Rail Corporation, Conrail has been required  
to dispose of its 51% stock ownership interest in IHB, and EJE and IMRL ("Buyers") desire to  
purchase from Conrail, the IHB in accordance with the terms and conditions of this Agreement;  
and

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein the parties hereto agree as follows:

1. Purchase and Sale of Shares. Subject to the terms and conditions hereof, Conrail agrees to sell and deliver to each of EJE and IMRL, and EJE and IMRL each agree to purchase from Conrail, on and as of the Closing Date (as hereinafter defined); one-half each of the Conrail Shares of the IHB.

2. Purchase Price. The total purchase price for the Shares shall be \$ \_\_\_\_\_. Each of EJE and IMRL shall be responsible for payment of one-half (1/2) of the aggregate purchase price.

3. Representations and Warranties of Conrail. Conrail represents and warrants as follows:

(a) The execution, delivery and performance of this Agreement has been duly authorized by the Board of Directors of Conrail.

(b) Conrail owns the Shares free and clear of all liens, claims and encumbrances which would in any way impair its right to sell the Shares to EJE and IMRL under this Agreement.

4. Disclaimer. Conrail does not make, and expressly disclaims, any representation or warranty regarding the physical condition or maintenance history of any asset owned by Conrail. EJE and IMRL acknowledge that each is acquiring said assets represented by the shares on an "as is, where is" basis.

5. Representations and Warranties of EJE and IMRL, and each of them. The Buyers represent and warrant as follows:

(a) Each Buyer is duly organized and existing and in good standing under the laws of the respective states in which each is incorporated or chartered, with full corporate power to enter into this Agreement and to carry out the terms and provisions hereof.

(b) The execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action, and each Buyer has obtained all necessary governmental authorizations and approvals required in connection therewith.

(c) The execution, delivery and performance of this Agreement will not result in a breach or violation by any Buyer of, or constitute a default by any Buyer under, the Articles of Incorporation or By-laws of any Buyer or any agreement, instrument or order to which any Buyer is a party or by which any Buyer is bound.

7. Closing. The closing (the "Closing") shall take place at the offices of \_\_\_\_\_, on such date as the parties may mutually agree upon, but in any event no later than \_\_\_\_\_ days after the exercise of Control Authority by CSX or NS pursuant to Finance Docket 33388.

8. Miscellaneous.

(a) Brokers; Expenses. Buyers and Conrail represent that they have not incurred any liability for any brokers or similar fees in connection with the sale of the Shares. Buyers and Conrail will each pay their own expenses in connection with this Agreement.

(b) Successors; Assigns. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns but shall not be assignable by any party hereto without the prior written consent of the other parties.

(c) Illinois Law. This Agreement shall be governed by and construed in accordance with the laws and regulations of the State of Illinois.

(d) Severability. If any provision herein shall be deemed or declared unenforceable, invalid, or void, the same shall not impair any of the other provisions contained herein, which shall be enforced in accordance with their respective terms.

(e) Entire Agreement. This Agreement contains the entire agreement of the parties hereto with respect to the sale of the Shares, and there are no representations, warranties, understandings or agreements between the parties other than those specifically set forth herein. This Agreement may be modified, amended or supplemented only by a writing executed by all parties hereto.

(f) Headings. All headings preceding the paragraphs herein are for the purpose of identification only and may not be used for the purpose of construing any provisions contained herein.

(g) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed one and the same original instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement  
as of the date first written above.

CONSOLIDATED RAIL CORPORATION

By \_\_\_\_\_

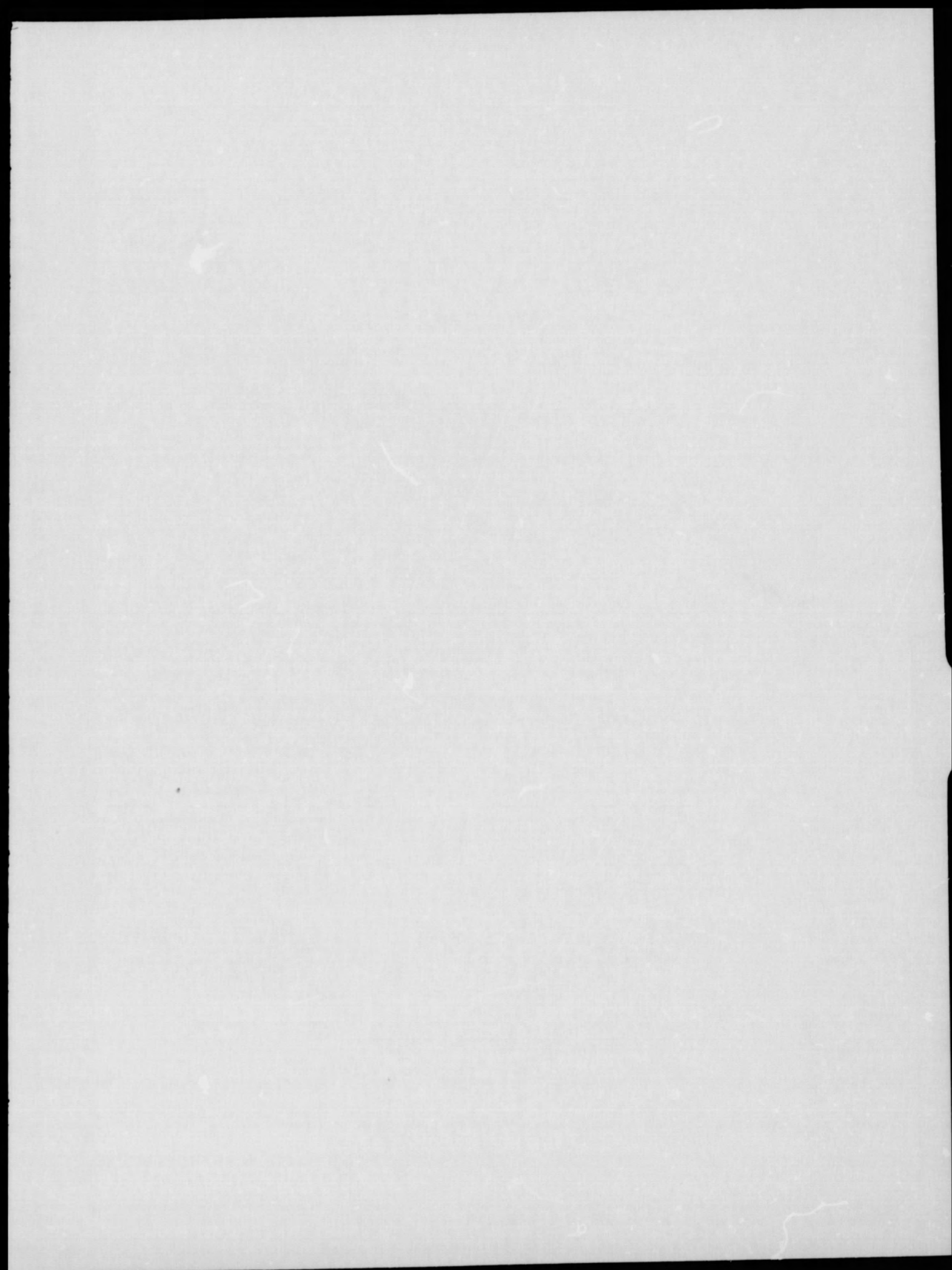
ELGIN, JOLIET & EASTERN RAILWAY COMPANY

By \_\_\_\_\_

I & M RAIL LINK, LLC

By \_\_\_\_\_





OPERATING PLAN - MINOR

Both CSXT and NSR have filed separate Operating Plans as part of the Primary Application, each of which includes general discussions of their operations in the Chicago Switching District and, in part, their use of the IHB. CSX/NS-19, Vol. 2A at 453-460; CSX/NS-20, Vol. 3A at 181-188; CSX/NS-20, Vol. 3B at 250-254.

As part of their Operating Plan, Responsive Applicants intend generally to accommodate the rail operations set forth generally in the Primary Applicants' plans.

Responsive Applicants have been denied access to IHB data with which to formulate their own operating plan (See Appendix A). Responsive Applicants intend to supplement this Operating Plan with greater detail after Primary Applicants have provided to them information concerning IHB operations. However, it is the intention of Responsive Applicants to continue existing operations on IHB, serving on-line shippers and connecting carriers with switching services.

IHB conducts no passenger or commuter operations and none are anticipated in the future. Responsive Applicants do not rely upon or anticipate any specific operating economies in connection with the transfer of stock ownership. Responsive Applicants anticipate no discontinuances of services or abandonments.

**VERIFIED STATEMENT  
OF  
JAMES H. DANZL**

**I. Biographical Information**

My name is James H. Danzl. I am Director of Marketing - West for Transtar, Inc. ("Transtar"). Transtar owns a variety of Class II and Class III railroads, including the Elgin, Joliet and Eastern Railway Company (also known as the "EJ&E," or simply the "J"), the Duluth, Missabe and Iron Range Railway Company ("DM&IR"), and the Bessemer and Lake Erie Railroad Company ("B&LE").

I have worked in railroad marketing departments for almost twenty years. After school, I was hired by the DM&IR on August 1, 1978 as a Market Analyst, where my responsibilities included pricing and forecasting. After an increase in responsibilities and transfer to B&LE on November 1, 1979, I was promoted to General Agent - Iron and Steel for the EJ&E in August of 1981, where I assumed responsibility for sales for certain iron and steel customers. I assumed pricing authority for these customers and was promoted to Account Manager - Iron and Steel in June, 1985. In February of 1986 I was promoted and transferred to the DM&IR as Assistant Manager of Marketing, where I assumed responsibility for sales and pricing for non-taconite accounts. I was promoted again in November, 1989, when I was named the EJ&E's Manager of Marketing - Iron and Steel, with responsibility for sales and pricing on all EJ&E steel accounts. On March 1, 1994, I was promoted to Director of Marketing Steel and General Products. After a realignment in December of 1995, I was

appointed as the EJ&E's Director of Marketing - West, my current position. My job responsibilities include oversight of all sales, marketing and pricing administrative activities undertaken by the EJ&E and the DM&IR.

I am submitting this Verified Statement in support of the Responsive Application of the EJ&E. In that Application, the EJ&E and I & M Rail Link, LLC ("I&M") seek to acquire Conrail's 51% stock ownership of the Indiana Harbor Belt Railroad Company ("IHB"). Although I believe that the overall Conrail merger transaction presents some potential for positive benefits, such as renewed competition for certain shippers in New England and Northeastern states, the impact of the transaction on the movement of rail freight in the area of the Chicago Switching District will not be in the public interest. To the contrary, I believe that certain shippers will face the reduction, and possibly the elimination, of competition for many of their rail movements. In this statement, I will explain how this phenomena will occur, and how it is currently occurring to limited effect for some of our shippers. I will then explain how the divestiture condition sought by the EJ&E and I&M will serve to alleviate this harm.

## **II. Description of the EJ&E**

The EJ&E is a Class II common carrier by rail, operating over approximately 200 miles of rail lines in Illinois and Indiana. The EJ&E's main line forms a semi-circle around the City of Chicago roughly 30 to 35 miles from the center of the City, a circumstance which has caused some to dub the railroad



"The Outer Belt." The main line starts in Waukegan, Illinois, then stretches southward to Barrington, Elgin, Joliet, then east to Chicago Heights, Illinois and Griffith and Gary, Indiana. Our main yard facility is Kirk Yard in Gary, Indiana. The railroad also has a large yard in Joliet, and several smaller yards throughout the system. For further particulars of the EJ&E's rail structure, I would refer the reader to the Verified Statement of Mel S. Turner.

The EJ&E maintains open interchanges with all rail carriers operating into or out of Chicago. Traditionally, the EJ&E has been associated with the steel industry, and in fact for many years the railroad was owned directly by U.S. Steel, prior to transfer of the EJ&E and its sister steel roads by Transtar in 1988. The primary products moved by the EJ&E include steel and raw materials for the Northwest Indiana steel industry, chemicals, and coal. A healthy mixture of "freight all kinds" makes up the remainder of our traffic.

In many ways, the EJ&E serves a unique role in the Chicago area rail network. Because our main line is located far from the congestion of the downtown yards, we are able to serve as an effective bypass around the city. Thus, for example, we have been able to participate as a vital link in the ore/coal backhaul move handled by Southern Pacific Transportation Company (now Union Pacific ("UP")) and Wisconsin Central Ltd. Our route structure is a key component in getting these unit trains through the Chicago area without excessive yard time. Similarly, we have recently initiated run-through trains between Grand Trunk Western



Railroad, Inc. (CN) at Griffith, Indiana and UP at Chicago Heights, Illinois. These trains do not stop in the Chicago area, and utilizing the EJ&E significantly improves the transit times by eliminating routings through CN's and UP's marshaling yards. Our expansive system has allowed us to develop a significant quantity of on-line industries. These industries benefit from our ability to interchange their traffic with any trunk line in Chicago.

### **III. My Belief That Problems Will Arise Post-Transaction**

In reviewing the scope of the transactions proposed by CSX Transportation, Inc. ("CSXT") and Norfolk Southern Corporation ("NS") (collectively "Applicants"), I have noted with concern their proposed handling of Conrail's 51% stock ownership interest in the IHB. It is my understanding that post-transaction, an entity related to the current Conrail will continue to own this stock, but that in turn the stock will be controlled by NS and CSXT on a 50-50 basis. The Applicants' joint control of the IHB will cause an undue concentration of control over switching capacity in the Chicago Switching District and, I am convinced, lead to a loss of competitive routings for a variety of shippers located in Northwest Indiana who today enjoy competitive routing alternatives between the IHB and the EJ&E.

An understanding of the problems I foresee requires a discussion of the service currently provided to these shippers. Along our rail lines in Northwest Indiana, there are a number of industries which are open to be served directly by either the IHB or the EJ&E. These industries include Inland Steel, LTV Steel,

Amoco Oil, U.S. Gypsum, A.M.G. Inc., Cozzi Iron and Metal, Safety Kleen, and several smaller shippers. Due to commodity characteristics and route distances, some of the traffic moving into or out of these plants is not competitive for truck movement.

In large part due to the EJ&E's efficient rail structure, high standard of maintenance, large rail car fleet, timely service, and variety of rail connections, we have been able to compete with the IHB for the movement of most of the rail traffic into and out of these facilities. In fact, I have no reason to believe that the EJ&E is not viewed as a fully capable competitor with the IHB for this traffic.

After the approval of the Applicants' proposed transaction, I believe that the competitive routing options available to these shippers will be diminished. I believe that these shippers are going to lose a competitive routing option on their traffic that is moving to or from points on CSXT or NS, and will be effectively reduced to service from only the IHB. Although physically the EJ&E will still serve these plants, and we will remain ready, willing and able to provide effective connections to all carriers, it will be in the vested interests of CSXT and NS to exclude the EJ&E from any traffic routed in connection with CSXT and/or NS.

It is not at all hard to see why CSXT and NS will, post-transaction, have both the motivation and the ability to exclude the EJ&E as a competitor at these locations. Prior to this transaction, because neither CSXT nor NS had an ownership

interest in either the IHB or the EJ&E, they were both willing to work with us as a competitor with the IHB to serve these plants. In essence, CSXT and NS are neutral as to which carrier they use for these movements, and both carriers work with us to offer competitive rail options to these customers. The playing field is level, providing the shipper with competition for its traffic based solely on concerns such as price, equipment, service, and dependability. The shipper in this open, competitive market determines its transportation service.

Subsequent to the transaction proposed by Applicants, CSXT and NS will not be neutral as to which carrier serves these plants. Indeed, it will be in their vested interests to secure all of this traffic for the IHB. Because CSXT and NS will each own a portion of the IHB, they will be motivated to eliminate the EJ&E as an option for these movements.

In addition to their newly-acquired motivational interests, CSXT and NS will also have the practical ability to exclude the EJ&E as a competitor for this traffic. Although it is often said in these proceedings that "the shipper controls the routing" on rail traffic, that view only pertains to an open market not influenced by ownership factors. In fact, as the long-haul carriers for these movements, CSXT and NS have the ability to exclude the EJ&E from acting as an effective competitor for this traffic. By way of example, today the EJ&E has formed equipment pools with both CSXT and NS in order to share in the responsibility to supply cars to our shippers. The EJ&E has a large fleet of cars but cannot supply 100% of our

shipper's needs. By dissolving these pools, and hence making it much more difficult for us to timely provide our customers with an adequate car supply, both CSXT and NS will be able to divert traffic to the IHB regardless of competitive pricing. As another example, currently the EJ&E's sales and marketing staff have a two-way street on developing business with their CSXT and NS counterparts. By this I mean that on occasion, we bring marketing opportunities to them, and they bring opportunities to us. After the merger, I believe that this street will become one way only, with the Applicants refusing to deal with us.

It is clear to me that the shippers I have described above are going to lose competitive routing options as a result of this transaction. CSXT and NS will have both the motivation and the ability to remove the EJ&E as a competitor. The shippers' alleged ability to control the routing for its traffic will ring hollow in the face of ownership interest activities designed to steer this traffic onto the IHB. The public interest will suffer from the removal of a competitor in this market.

#### **IV. A Current Example of the Anticipated Anti-Competitive Effects**

Lest the reader conclude that the EJ&E is unwarranted in its concern over the loss of competition referenced above, we have experienced this very phenomena occurring today at these same plants. Despite our ability to compete for traffic moving into and out of facilities which are jointly served by the IHB and the EJ&E, there has been one element of this traffic on which we could, but have not been allowed to, compete.



Specifically, for any traffic moving in or out of these facilities which originates or terminates on Conrail, we have undeniably been foreclosed from competing. In most instances, we are not even invited to bid for traffic in concert with Conrail. Conrail does not make us aware of the potential to bid on traffic, and I understand that to the extent we do submit bids, Conrail refuses to transmit those bids to the shipper. Conrail's discrimination against these plants has become routine to our marketing department.

I know of no reason why the EJ&E could not serve as an effective competitor for this traffic. Our crews operate at all hours of the day and night in the steel and chemical areas of northwest Indiana; thus, pick-up and delivery times should not be an issue. Further, we have an exceptional location for interchange with Conrail. At Pine Junction, which is located immediately adjacent to our major yard facility at Kirk Yard, a six track yard facility is devoted to interchanging cars with Conrail. Pine Junction is located along Conrail's primary main line into the Chicago area. In short, there is no reason why the EJ&E could not serve as an effective, efficient origination or destination carrier for traffic to these facilities.

As further proof of Conrail's real world discrimination in favor of the IHB routings, one need look no further than to U.S. Steel's Gary Works. This enormous facility is solely served by the EJ&E. Because there is no possibility for the IHB to directly serve the Gary Works, Conrail actively works with our marketing department to formulate very competitive service



options for this facility. Conrail's enthusiasm to work with the EJ&E disappears, however, when they have an opportunity to keep all of the revenue in house with the IHB.

I am able to provide one more example of Conrail's behavior in situations where the EJ&E competes with the IHB. At one facility, Amoco's oil refinery in Whiting, Indiana, both the EJ&E and the IHB serve the plant directly. Currently, the EJ&E does handle some traffic moving from this facility to a few Conrail destinations. I understand that we are allowed to compete for this traffic only because the IHB is unable to offer acceptable levels of service. In other words, if Conrail did not utilize EJ&E's superior service, the traffic would be lost to trucks, and Conrail would not get any part of the haul. This is the only traffic we handle with Conrail from industries that are served by both the EJ&E and the IHB.

Although we have never been told directly by Conrail why we are not allowed to compete for most of this traffic in competition with the IHB, I believe that the reason is obvious: Conrail's 51% ownership interest in the IHB gives it a vested interest in making sure that the IHB originates or terminates as much of the traffic for these facilities as it can possibly handle. Because 51 cents of every revenue dollar taken in by IHB is revenue for a Conrail subsidiary, it is in Conrail's best interests to exclude the EJ&E as a routing possibility for these shippers. The fallout to the shipping public is that without competitive bidding, shippers never know if their transportation package is the best that is available. In essence, Conrail, and

not the shippers, has dictated routings by controlling the bidding process and submissions to the customer.

V. Conclusion

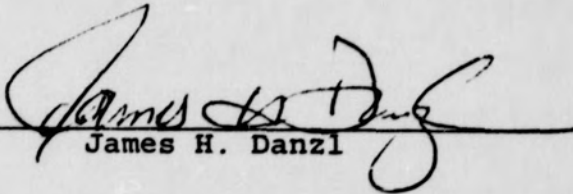
I believe that the very forces that today have reduced the competitive marketplace by preventing the EJ&E from competing for traffic from facilities in Northwestern Indiana in conjunction with Conrail, to the detriment of those shippers, will, after approval of the Applicants' transaction, also begin to adversely affect the competitive marketplace on traffic that today is going to or from points served by CSXT and/or NS. There is nothing in CSXT's or NS' filings which would lead to any different conclusion.

For this reason, I believe that the Surface Transportation Board should carefully examine what CSXT and NS have proposed in the Chicago area and remedy the very real public harms that will otherwise result by directing the divestiture of Conrail's IHB ownership in accordance with our Responsive Application.

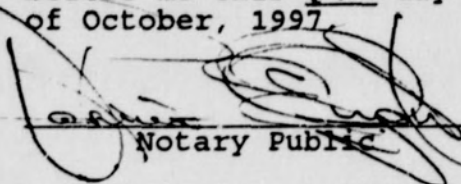
VERIFICATION

State of Illinois     )  
                              ) SS:  
County of Cook        )

James H. Danzl, being duly sworn, deposes and says that he is Director of Marketing - West for Transtar, Inc., that he has read the foregoing statement and knows the facts asserted therein, and that the same are true as stated.

  
James H. Danzl

SUBSCRIBED AND SWORN to  
before me this 17<sup>th</sup> day  
of October, 1997.

  
Notary Public

My Commission expires:

OFFICIAL SEAL  
PATRICIA LYNN ELLINGTON  
NOTARY PUBLIC STATE OF ILLINOIS  
MY COMMISSION EXP. OCT. 22, 1999

**VERIFIED STATEMENT  
OF  
MEL TURNER**

**1. Introduction**

My name is Millard ("Mel") Turner. I am the General Manager of the Elgin, Joliet & Eastern Railway Company, which is more commonly known as the "EJ&E" or simply the "J." My job responsibilities include oversight of operations on the EJ&E, including its train operations via trackage rights by other rail carriers over the EJ&E. My responsibilities extend to all maintenance support activities including track, car, locomotive, and so on.

I began my employment with the EJ&E in 1966. My first position with the EJ&E was Management Trainee. Other positions I have held with the railroad include Staff Assistant, Assistant Trainmaster, Manager Car Distribution, Assistant Superintendent, Superintendent, and General Superintendent. I was promoted to the position of General Manager for the EJ&E earlier this year. In addition to my employment with the EJ&E, I have worked as Superintendent Operations for several of the other Transtar-owned railroads, including the Bessemer and Lake Erie Railroad Company, the Union Railroad Company, and the McKeesport Connecting Railroad Company.

My purpose in submitting this statement is to support the Responsive Application of EJ&E and I&M Rail Link L.L.C. ("I&M") seeking the sale of Conrail's 51% stock ownership of the Indiana Harbor Belt Railroad Company, which is commonly known as the "IHB" or the "Harbor." In this statement, I will provide

some historical background on the EJ&E, explain its role and the role of the three primary terminal carriers in the Chicago Switching District, and discuss the importance of a neutral intermediate switching carrier within the District.

## 2. Historical Perspective On The EJ&E

### 2.a. Trackage

The official corporate history of the EJ&E dates to 1888, but the rail lines forming the railroad's main line were primarily constructed by corporate predecessors before that. The railroad formed a semi-circle around Chicago about 35 miles out from the center of the city. The railroad as built is largely the railroad that exists today. Beginning in Waukegan, which is due north from Chicago, the railroad proceeds southwest to the City of Barrington, and from there on to the eastern edge of Elgin. From Elgin, the EJ&E travels due south, and then southeast to skirt the northern and eastern sides of Joliet. The EJ&E's East Joliet Yard (the second biggest yard on the system) is located here, and serves as a dividing line between the Western Subdivision (Joliet to Waukegan) and the Eastern Subdivision (Joliet to Gary, Indiana).

From the East Joliet Yard, the EJ&E's main line travels east through Frankfort, Matteson, and Chicago Heights, Illinois, and Dyer, Schrevereille and Griffith, Indiana. From Griffith, the railway travels north to Gary, Indiana, and then west along the Lake Michigan shoreline to South Chicago, Illinois, completing the semi-circle around Chicago.



Kirk Yard, located in Gary, is the EJ&E's largest yard and engine service facility. It is a retarder yard, and has the capacity to classify 1400 cars daily.

In circling Chicago, the EJ&E's main line crosses (either at grade, over, or under) each railroad which enters Chicago. The EJ&E is thus able to interchange traffic with all railroads entering the Chicago gateway. At most of these locations, a small yard is located nearby to allow for the storage of cars to be interchanged.

Because the EJ&E is located approximately 35 miles from downtown Chicago, it does not have multiple connections with the traditional intermediate switching carriers in Chicago - the IHB, the Belt Railway of Chicago ("BRC"), and (to a much more limited extent) the Baltimore & Ohio Chicago Terminal Railroad Company ("B&OCT"). The only location where these connections are made is in the Northwest Indiana/East Chicago and South Chicago area.

#### 2.b. Traffic

Historically, the EJ&E has always been associated with the steel industry. This association was reflected for many years in the EJ&E's ownership, which was directly held by U.S. Steel until a transfer in the late 1980's to the current owner, Transtar, Inc., a non-carrier holding company which also holds the shares of the Bessemer & Lake Erie Railroad Company, the Duluth, Missabe and Iron Range Railway Company, and the Union Railroad Company. Further, given its configuration, the EJ&E is well suited to provide a variety of services to the steel-making industry. Kirk Yard is located adjacent to U.S. Steel's Gary

Works. Traditionally, the primary function of Kirk Yard has been to provide rail services to this large mill as well as to Inland Steel and LTV Steel located along the lake shore at East Chicago, Indiana. In addition, Kirk Yard has also served the South Works complex, although in recent years this operation has been reduced, and finally closed. East Joliet Yard also has served the steel finishing facilities in Joliet, although these too have decreased their rail shipments over the last 30 years. It now provides a base of operations for various shippers in and around the Joliet area.

In addition to finished and semi-finished steel, the EJ&E has also traditionally moved large quantities of the raw materials for steel making (including ore, coke and coal) to on-line facilities. Overall, rail movements related to steel production have provided the largest percentage of traffic on our system.

The EJ&E has also historically moved other bulk commodities, including coal and aggregates. More recently, the EJ&E has moved large quantities of chemical traffic to and from several facilities located in East Morris, which is served off of a branch line located west of Joliet.

Finally, the EJ&E's "outer belt" location (located far from the center of the city, historically near many open areas and farm properties) has allowed it to provide excellent locations for on-line industries. Indeed, in the last thirty years, a number of industries have opened adjacent to the EJ&E's main line, including facilities in the greater Morris,

Plainfield, Aurora, Romeoville and Chicago Heights, Illinois, areas. As the suburbs of Chicago have expanded out to meet and surpass the limits of the railroad, the EJ&E has been able to play a role in providing employment possibilities at newly-created on-line industries. Given the EJ&E's ability to interchange with all railroads entering Chicago, we have traditionally believed that industries locating on the EJ&E are provided with an important strategic advantage in moving raw materials in and finished products out of their plants.

One might assume that, given the EJ&E's strategic connections with all Chicago carriers, it would participate in a large amount of intermediate switching traffic. Historically, this has not proven to be the case. Indeed, intermediate switching traffic has provided but a small percentage of the EJ&E's overall traffic. I believe that this is so because, with few exceptions, the EJ&E's tracks do not cross other carriers near their terminals, instead crossing ten or more miles away. Thus, in order to provide intermediate switching, the cars have to be moved by trunk carriers out from their main yards to a small interchange yard for movement beyond. The strategic disadvantage of this extra movement is difficult to overcome competitively.

### 3. The EJ&E Today

Over the last ten years, traffic patterns on the EJ&E have by and large been dictated by the fortunes of the domestic steel industry. As the reader is undoubtedly aware, those fortunes have not generally been favorable. This downturn has

had a compounded effect on the EJ&E: reduced movement of raw materials, reduced movement of semi-finished steel to finishing mills, and reduced shipments of finished steel. The closure of the South Works plant, and the greatly reduced role of the finishing mill in Joliet, have had significant adverse effects on the EJ&E's traffic levels.

Despite these setbacks, the EJ&E has made great strides in gaining new sources of traffic. Many of these efforts have been directed towards the development of increased on-line traffic. As mentioned above, shipments of chemicals to and from several large facilities in the East Morris, Illinois area (particularly to the Millennium Petrochemicals, Inc. plant) have increased, occupying the shift of one, and sometimes two, crews. Car storage for this operation occupies a large portion of the East Joliet Yard.

Additionally, the EJ&E has continued to develop movements of coal. There were three coal burning power plants on the railroad, located at Waukegan, Illinois and Hammond and Gary, Indiana. Recently, the EJ&E has been able to extend its service to a fourth power plant in Romeoville, Illinois. Coal in unit trains, interchanged by BNSF at Eola, Illinois, and UP at West Chicago, Illinois, are now currently moving into these facilities.

In November of 1995, the EJ&E entered into a "haulage" agreement with the Southern Pacific Transportation Company ("SP") to move ore trains from our interchange with the Wisconsin Central Ltd. ("WC") at Vernon Hills, Illinois to our interchange



with the SP at Joliet, Illinois. This agreement permitted this traffic to bypass the congested Chicago gateway and be handled via the "outer belt" route.

In February of 1997, the Union Pacific Railroad Company ("UP") was granted trackage rights on the EJ&E between Chicago Heights, Illinois and the interchange with the Grand Trunk Western/Canadian National ("GTW") at Griffith, Indiana. This permitted pre-blocked trains between the GTW and the UP to bypass the congested facility operated by the UP at Dolton, Illinois. Negotiations are currently underway to expand the use of our right-of-way to avoid the congested Chicago gateway via trackage rights and other haulage agreements.

In March 1997 we entered into an agreement to handle utility coal via a haulage agreement to a plant not located on the EJ&E due to concerns of a major customer.

The EJ&E currently operates about 50 crews per day starting at Waukegan and Joliet, Illinois and Gary, Indiana. We provide service to 168 on-line customers.

#### 4. Role Of IHB, BRC, B&OCT In Chicago

Within the Chicago rail network, the roles filled by the IHB, the BRC, and the B&OCT (who collectively comprise the three largest "terminal carriers" in the Chicago Switching District) are far different than that performed by the EJ&E. The IHB and the BRC are what I would consider to be "true intermediate switching railroads." By this I mean that one of their primary focuses is on the movement of traffic from one railroad to another. Both the IHB and the BRC are well suited to



performing this function. First, each of them has trackage and operating rights within and just on the outskirts of Chicago. Their close connections to trunk line carriers facilitate the movement of freight from one railroad to another expeditiously. They each also possess large yard facilities which are designed to facilitate the switching of freight cars into sorting or classification tracks for movement on to other railroads. The BRC's Clearing Yard, located on the southwest side of the city, is particularly well suited towards this purpose, given its large size and easy access to other railroads. The IHB's Blue Island Yard, while not as centrally located as Clearing Yard, also provides a good location for the multiple switching chores required of an intermediate switching carrier. These terminals permit blocked trains to originate in all directions from the Chicago gateway.

By contrast to the IHB and the BRC, the third terminal carrier in Chicago, the B&OCT, does not engage in what I consider to be "true intermediate switching." Rather, the B&OCT functions more as a terminal company for CSXT. In other words, the B&OCT is involved in intermediate switching, but only to the extent that one of the railroads involved in the interchange is CSXT. Indeed, the B&OCT performs many of the functions that CSXT itself would perform if it had a greater presence in Chicago, such as the operation of Barr Yard. Although Barr Yard could serve as a yard for the classification of intermediate switching (much as Clearing and Blue Island yards do), its primary purpose is to

provide a location for other carriers to interchange traffic with CSXT, and to support the B&OCT's on-line customers.

5. Importance Of Independence In  
Intermediate Switching In Chicago

Given what I know of the IHB, BRC and B&OCT in Chicago, I believe it is clearly important that the parties currently providing intermediate switching in Chicago (IHB and BRC) remain neutral in their operations. Indeed, neutral operations must remain at the heart of any true intermediate switching carrier. I believe this is true because when a switching carrier is neutral in its operations, it provides an equal opportunity for all parties using that carrier to fully utilize its services. Efficiency is enhanced for all parties because no one party has an unfair priority.

The importance of neutrality in Chicago's intermediate switching carriers is magnified for smaller trunk lines or short lines. This is true for several reasons. First, smaller carriers generally do not have any ownership interest in any of the three intermediate switching carriers. Thus, they have no ability to appoint board members, set policy, or have any direct influence on the day-to-day operations of these carriers. Moreover, smaller carriers do not interchange as much traffic with the major carriers as other major carriers do. They therefore have less opportunity to develop relationships with larger carriers which might result in better treatment from the intermediate switching carriers controlled by the larger carrier. Finally, because smaller railroads generally do not interchange

the same volume of traffic through intermediate switching carriers as larger carriers do, it would be easy for their traffic to become lost in the shuffle of switching operations. Smaller cuts of cars mean less economic clout, which could translate into less of a voice with a captive intermediate switching carrier.

All of these principles are easily observable in the three terminal carriers in Chicago. There are few opportunities to work with the B&OCT because they function more as an alter-ego of CSXT. By contrast, although IHB is owned 51% by Conrail, it has continued to function as a neutral intermediate switching carrier because the loss of intermediate switching traffic to other carriers in Chicago (primarily the BRC) would result in no benefit to Conrail. In other words, CSXT has elected to have the B&OCT operate as an extension of CSXT. Conrail, although it owns a majority interest in the IHB, allows the IHB to function more independently. While the IHB is clearly not free of Conrail's influence, it is more focused than the B&OCT in providing equal access for all carriers to its services.

6. Applicants Could Reduce The IHB's Historic Independence

It is my understanding that in this proceeding CSXT and Norfolk Southern Railroad Company ("NS") have proposed to evenly split Conrail's 51% ownership of the IHB. CSXT, which will assume control over the IHB's Blue Island Yard, has also proposed a reorientation of the IHB's traditional role as an intermediate switching carrier to provide for more emphasis on expedited operation of run-through trains through Chicago. Overall, this

may serve to relieve some congestion within the switching district. However, it occurs to me that much of the benefits CSXT anticipates in Chicago could be derived today, if CSXT were to negotiate for certain operating rights (such as trackage rights into Blue Island yard) with the IHB. Further, the plan appears heavily dependent upon CSXT's success in getting the western carriers to cooperate with CSXT's desired blocking schemes.

However, my greatest concern in this transaction is that the transfer of ownership of the IHB to CSXT and NS, combined with CSXT's revised operations on the IHB, will lead to a change in the IHB's historic neutrality. Indeed, it seems inevitable that the changes proposed for the IHB operations by CSXT will lead to a reduced emphasis on intermediate switching services for smaller railroads in Chicago. CSXT's role in the operation of all three terminal carriers in the Chicago Switching District will disadvantage the railroads who today are most dependent upon neutral operation of at least one of those railroads. I also believe that dispatching neutrality may be compromised under CSXT's proposal.

7. IHB Should Remain Neutral

In order to avoid some of the problems I foresee with CSXT's alteration of the IHB's traditional independence, I believe that some mechanism is needed to assure that smaller carriers in Chicago are given a say in the operations of at least one of the terminal carriers. In this proceeding, the neutrality of the IHB could be assured if Conrail's current 51% ownership



interest were divested from Conrail and divided between the EJ&E and I&M.

As an initial matter, I believe that nothing short of stock ownership will bring about the type of neutrality which is critical to effective operation of an intermediate switching carrier. In my railroad experience, I am generally familiar with agreements providing for "fair and equal access", "unbiased treatment", and the like. While these agreements provide a fundamental groundwork for the understanding between carriers as to how certain operations are to function, they often lack the teeth necessary for enforcement. In other words, all the aggrieved carrier is assured of is costly and uncertain litigation and/or arbitration. By contrast, an ownership interest allows periodic review to determine whether an operation is operating according to plan, and if not, why not. Ownership is, I believe, of great importance in overseeing the actual functioning of alleged "neutral" operations.

Further, transfer of an ownership interest in the IHB would prevent CSXT from having a dominant role in dictating the operations of all three terminal carriers in Chicago. As I previously mentioned, currently the B&OCT operates as more of a ward of CSXT than as a true intermediate switching carrier. Further, it is my understanding that CSXT currently owns a portion of the stock of the BRC. Approval of the Primary Application in this proceeding will give CSXT an ownership role in the IHB, effectively giving CSXT a say in the operation of all three of these carriers, and control over two of them. At a



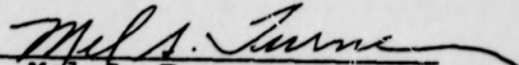
minimum, I believe that CSXT will now have the ability to transform the operations of each of these carriers to fit its needs. More ominously, any party having a dispute with CSXT will have nowhere to turn; because CSXT will have a substantial role in the operation of all three terminal carriers in Chicago.

In short, it is clear to me that the transaction as proposed would effectively transfer control of the Chicago gateway to CSXT and NS. For all of the reasons stated above, it is important to maintain a neutral, independent intermediate switching carrier in Chicago.

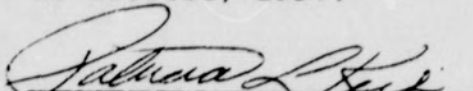
VERIFICATION

State of Illinois     )  
                              )   SS:  
County of Will        )

Mel S. Turner, being duly sworn, deposes and says that he is General Manager of the Elgin, Joliet and Eastern Railway Company, that he has read the foregoing statement and knows the facts asserted therein, and that the same are true as stated.

  
Mel S. Turner

SUBSCRIBED AND SWORN to  
before me this 16<sup>th</sup> day  
of October, 1997.

  
Notary Public

My Commission expires:

Notarial Seal  
Patricia L. Kirk, Notary Public  
Monroeville Boro, Allegheny County  
My Commission Expires July 13, 2000

STB FD 33388 (Sub 36) 10-23-97 A 183053 2/3

**VERIFIED STATEMENT  
OF  
WILLIAM H. BRODSKY**

My name is William H. Brodsky. I am President of Montana Rail Link, Inc. ("MRL") and I & M Rail Link, L.L.C. ("I&M"). I am filing this Verified Statement in support of the Responsive Application of I&M and the Elgin, Joliet & Eastern Railway Company ("EJ&E") because I am gravely concerned about the adverse impact which the transaction proposed by Norfolk Southern Corporation ("NS") and CSX Transportation, Inc. ("CSXT") (collectively NS and CSXT are referred to herein as "Applicants") will have on intermediate switching in the Chicago Switching District. More particularly, if the Applicants' proposed transaction is approved without conditions, the Applicants will effectively control each of the three terminal carriers in the Chicago Switching District. Because I&M's operations are heavily dependent upon effective, efficient, neutral intermediate switching services in Chicago, I believe that Applicants' transaction will have a serious detrimental impact upon our shippers and upon all shippers located on all of the smaller railroads operating in Chicago.

**I. Personal And Corporate Background**

I began my railroad career with the Milwaukee Road, where I hired on in 1970. For a few years in the late 1970's, I served as the Milwaukee's Terminal Superintendent in Chicago, during which time I became acquainted with the layout of rail lines in and around the city. I also gained an understanding of the role of intermediate switching carriers in Chicago. In 1980,

I went to work for the Atchison, Topeka and Santa Fe Railway, and I was eventually promoted to the position of Director, System Operations Center. In 1987, I left the Santa Fe to become President and Chief Executive Officer of MRL. I am also President of I&M.

MRL operates approximately 1,000 route-miles of track in Montana, Idaho, and Washington. We started the company in 1987 with the purchase of a main line and some branch lines from the Burlington Northern Railroad. In addition to originating and terminating a significant amount of traffic, the railroad also serves as an effective link between Minneapolis/St. Paul and Spokane, Washington. Last year, we moved approximately 300,000 carloads of traffic, with the bulk of our traffic base being grain, forest products and petroleum products. MRL employs approximately 1,000 people.

I&M, a sister railroad of MRL, began operations in April, 1997. I&M operates approximately 1386 miles of railroad in Illinois, Wisconsin, Iowa, Missouri, Minnesota, and Kansas. The railroad roughly approximates a capital letter "Y" turned on its side, with the main stem terminating in Kansas City and the other legs reaching north toward Chicago and the Minneapolis/St. Paul area. Although I&M does not have a lengthy operating history, we anticipate that grain and other farm-related commodities (such as fertilizers and other chemicals) will comprise the largest section of the railroad's traffic, with a broad base of plastics, automobiles, paperboard and other mixed freight forming the remainder. The railroad's headquarters are



located in Davenport, Iowa. I&M employs approximately 630 people.

MRL and I&M are both owned principally by Dennis Washington.

One of the primary reasons MRL and a few other regional railroads have thrived has been through taking a very aggressive approach to soliciting on-line business. Rather than simply focusing on maintenance of the traffic which existed on start-up, MRL has actively sought out shippers who abandoned railroad transportation as a competitive transportation option many years ago. Regional railroads are able to successfully win this traffic back because of two primary advantages they hold over their Class I predecessors. First, a reduced cost structure allows us to price traffic more competitively with trucks. Second, and in many cases more important, we offer greater service flexibility to our customers, tailoring our operations to their needs. In essence, rather than stating "here's what we have to sell," we interact closely with our customers to determine what their needs are, and how we can satisfy those needs. We have worked diligently to bring this same approach to I&M.

## **II. Neutral Intermediate Switching Service In Chicago Is Critical To I&M**

As referenced above, one leg of I&M's rail system extends into the Chicago area. More particularly, I&M's ownership interests in the line ends at Pingree Grove, a point west of Elgin, Illinois. From Pingree Grove, I&M operates on

trackage rights over the Commuter Rail Division of the Regional Transit Authority ("Metra") into the Chicago Switching District. I&M has rights to operate into three yards in Chicago: Bensenville Yard, operated by CP/Soo; Norpaul Yard, operated by the Indiana Harbor Belt Railroad Company ("IHB"), and Clearing Yard, operated by the Belt Railroad of Chicago ("BRC"). Operations into Bensenville Yard are designed exclusively for purposes of interchanging traffic with the CP/Soo system. We operate trains into Norpaul and Clearing Yards for purposes of using the intermediate switching services of IHB and BRC, respectively. Each of those carriers is capable of providing connections for traffic to any trunk line in Chicago.

Due to the structure of I&M's track facilities, it is probably more dependent upon the intermediate switching services of Chicago's terminal carriers than any other railroad. On the I&M's system, the most eastern yard suitable for blocking trains is located at Davenport, Iowa. Pingree Grove, while the termination of our ownership, has no facilities for interchanging traffic; indeed, the only connection provided there is with a commuter operation. Further, the railroad owns no yard facilities in the Chicago area, and its rights to operate into the three yards listed above are solely for purposes of interchanging traffic with those carriers. In short, the only connections we can make with a trunk carrier in Chicago are with CP/Soo, from whom we purchased this property. In order to make connections with any other rail carriers in Chicago, we must use the intermediate switching services of the IHB and the BRC.

Given the heavy emphasis that our operations place on intermediate switching carriers in Chicago, it is easy to see why the neutrality of those carriers is vital, perhaps even critical, to the success of I&M. Under the current arrangement, we are free to use either the IHB or the BRC, and we make use of both for our traffic. Each of these carriers is able to provide us with efficient, effective connections to other trunk lines, particularly the eastern carriers (NS, CSXT, and Consolidated Rail Corporation ("Conrail")).

If we were to ever reach the point with either carrier where we felt that our traffic was not being handled properly, or was otherwise being discriminated against, we could always turn to the other carrier with confidence that they would be more fair in operations. I believe this to be so because of the separation in both ownership and control of these two carriers. It is my understanding that IHB is owned 51% by Conrail, and 49% by CP/Soo. BRC, on the other hand, is owned by a variety of carriers. Because of the separation of ownership, neither intermediate switching carrier can afford to slight cars handled for I&M or any other railroad. Instead, traffic lost by one carrier to the other is genuinely "lost." This helps to foster a relatively level playing field.

To be clear, the neutrality of intermediate switching carriers I am discussing can be compromised in a variety of ways, some of which are more subtle than others. For example, because we are operating on trackage rights into both the IHB's and the BRC's yards, we are dependent upon fair dispatching by their

dispatchers. Given the general level of rail congestion within the Chicago rail network, it would be very easy for their dispatchers to prioritize the movements of certain railroads over those of others, without providing any overt indicia of favoritism. Additionally, either of these carriers could delay in blocking our cars within their yards, resulting in missed connections and increased transit times. In such a circumstance, we would have almost no way of determining whether in fact yard operations were simply slow, or whether our traffic was purposefully being delayed.

Because of the sometimes subtle nature of the way discrimination might be practiced by an intermediate switching carrier, in many respects we must rely upon their neutrality as a method of assuring that our traffic is being accorded fair and impartial treatment. Because neither IHB nor BRC (nor their owners) benefits from the transfer of our intermediate switching services from one carrier to the other, they each have great incentive to treat us fairly and impartially.

### **III. The Harm I See From This Transaction**

I believe that the transaction proposed by CSXT and NS in this proceeding will have anti-competitive effects for shippers dependent upon intermediate switching services in Chicago. These anti-competitive effects will occur because of the concentration of control over the intermediate switching carriers in the hands of CSXT. It is my understanding that CSXT currently owns 100% of the B&OCT. Further, in the Primary Application, NS and CSXT propose to give control over the



operation of the IHB, including dispatching authority, to CSXT. Effectively, CSXT will have control over both the B&OCT and the IHB. Coupled with CSXT's ownership interest in the BRC (the largest block held by any owner, I note), CSXT will play a dominant role in the management of all three terminal carriers in Chicago.

Concern over CSXT's control of Chicago's intermediate switching carriers is heightened when one considers the manner in which CSXT currently operates the one terminal carrier it controls today, the B&OCT. Unlike the IHB and the BRC, the B&OCT does not actively solicit intermediate switching business. Rather, it functions largely as a renamed element of CSXT, providing most (if not all) of its "intermediate" switching services between CSXT and other carriers.

I also note that in the Operating Plan sponsored by CSXT, there appears to be little thought given to the continuation of IHB's traditional role as an intermediate switching carrier. Indeed, what little references there are to the operation of the IHB appear to focus on the new run-through service which Applicants project between themselves and the Class I western carriers. While this service may serve to reduce congestion within Chicago, it does not indicate that IHB will continue its focus on smaller carriers, who do not have the luxury of huge yards to be used as staging areas outside of Chicago.

I believe that the Board should cast an especially critical eye on this transaction due to the unique forces which



are currently shaping the railroad market, forces which by and large have previously been unseen in the industry. The current state of the railroad system in this country is by and large a product of the mergers which have occurred over the last forty years. In the majority of these mergers, one or more failing roads was merged out of existence, with the impact of the transaction being the elimination of duplicative facilities, the consolidation of routes, and the reduction of work forces.

At some point, as less route miles and less employees are used to move more tonnage, the nation's rail system must reach a critical mass at which a shortage of capacity, of resources, of people, must be scrutinized. No longer are the returns from consolidations "diminishing." Instead, they are now negative returns. The system, rather than benefiting from the pruning of neglected and decaying resources, in fact is sapped of necessary elements, causing congestion, inertia, and eventually, a standstill.

While I confess that I have performed no studies or other analyses to support these observations, I believe them to be true based upon my 27 years in the railroad industry. Indeed, one look no further than the situation currently existing in the Western states to see that even a strong, capable railroad such as the UP can fail when it attempts to extract more performance from the system than the system is capable of generating. I believe that "capacity," rather than "redundancy," will be the watch-word for the railroad industry in the coming decade. Decisions to abandon key sections of rail because of momentary

downturns in traffic will be rued when that traffic returns. BNSF's recent experience with the re-opening of Stampede Pass is clear evidence of this process in action.

In this environment, it is critical that the Board consider the effect of consolidating dominance of all three of Chicago's terminal carriers in CSXT. It is entirely possible that post transaction, CSXT will make management decisions on these railroads which, while seemingly a logical decision to CSXT in light of the capacity it controls in Chicago's terminal carriers, provide no benefit to (and, in all likelihood, make no provision for) Chicago's smaller carriers. While CSXT's operations are preserved, the needs of smaller carriers, denied a voice in the operation of any of these carriers, will not be met. There is only one course to assure that the needs of all shippers moving rail traffic through Chicago are met.

#### **IV. Divestiture Is The Only Appropriate Remedy**

The only way to assure neutral, unbiased intermediate switching service in Chicago is through the divestiture of Conrail's 51% stock ownership in the IHB to I&M and the EJ&E. Without an ownership interest in the IHB, smaller carriers such as I&M and the EJ&E will have no assurances of having neutral service. Unfortunately, neither I&M nor the EJ&E has sufficient economic clout with NS or CSXT to assure fair treatment. Thus, unlike the major western carriers (UP and BNSF), these smaller railroads will have neither the economic force nor the ownership interest (both UP and BNSF have an ownership interest in the BRC) to maintain a level playing field.

It is also clear to me that anything short of actual ownership would not be sufficient to assure the neutrality essential for operation of the intermediate switching carriers in Chicago. Without a say in board meetings, without access to internal corporate data, the interests of non-owners will simply not be accorded any measure. Contractual guarantees of "equal access" or "neutral-based dispatching" fall short of the mark, particularly in light of the difficulty an aggrieved party would experience in attempting to prove a violation of those guarantees.

Further, I am convinced that the marketing focus brought by I&M to the ownership of the IHB will bring positive benefits to that carrier. As referenced above, regional carriers have thrived by identifying traffic possibilities too small for the Class I titans. This same focus, when applied to a carrier such as the IHB, would allow the IHB to enhance its on-line traffic possibilities while at the same time maintaining a focus on intermediate switching.

**V. This Proposal Is Consistent With Applicants' Operating Plans**

It is important to note that what I&M and the EJ&E are proposing does not require CSXT and NS to abandon their plans for run-through interchange service within the Chicago Switching District. In fact, from the limited information provided by Applicants in their Operating Plans, I believe that the proposal put forth by I&M and the EJ&E for the IHB is substantially consistent with those plans. For example, if Applicants do perform most of their blocking for western carriers outside the

switching district, and manage to convince their western counterparts to do the same, that should generate additional yard capacity in which the IHB's business opportunities might be enhanced. The income generated by CSXT's run-through trains would be a valued and easily maintained revenue item for the IHB. Neutral ownership of the IHB would also be able to provide NS with the trackage rights it seeks in this proceeding.

It is safe to say that the transfer of Conrail's ownership of the IHB would not impinge upon the Applicants' plans for the IHB, and would not diminish or eliminate the benefits Applicants seek in this transaction. Instead, what is proposed by I&M and the EJ&E is to make greater use of the capabilities of the IHB, use which does not appear to be currently contemplated by the Applicants. We accept the Operating Plans proposed by Applicants (such as we can determine theirs contents from the materials provided to date by Applicants), and we believe within the framework of those Plans, there exist opportunities for protecting the traditional role of IHB as a neutral intermediate switching carrier.

#### **VI. Our Proposal Provides for Reduced Employee Impacts**

Because I&M and the EJ&E propose to operate the IHB much as it is operated today, with an emphasis on intermediate switching while allowing for increased run-through interchange for Class I carriers, I believe that the impact of our proposal on the existing IHB labor force will be minimal. If anything, a transfer of control over IHB to I&M and the EJ&E will serve to preserve the existing labor arrangements. An independent IHB,



such as exists today, will undoubtedly employ more people than one which operates under the coordinated thumb of CSXT. The overhead, which Applicants are likely to eliminate through force reductions, will be needed to support a flourishing, growth-oriented organization. Further, with a renewed marketing focus, and the resulting increase in business, it is likely that employment might have to be increased.

Given the Applicants' intentions to transform IHB into a series of connecting tracks for Class I interchange, I have no doubt that the proposal put forth by I&M and the EJ&E would result in higher levels of employment on a revitalized IHB.

#### **VII. The Stock Purchase**

Although clearly a host of financial arrangements would have to be worked out at a later date, I&M would propose that it and the EJ&E would each purchase an equal share of Conrail's 51% stock ownership of the IHB. We propose that the stock be transferred at fair market value. The final price paid for the stock would be the subject of negotiation between Conrail, I&M, and the EJ&E. If a price for the stock could not be worked out, the parties could return to the Board for its determination of the fair market price. Any such proceeding before the Board would of necessity be put on a short schedule, to minimize the intrusion onto the Applicants' transaction. The purchase of Conrail's stock could be effected promptly upon the exercise of control authority.



#### **VIII. Conclusion**

In summary, the transaction proposed by Applicants in this proceeding presents a tangible, demonstrable, and ominous threat to the public interest, through the dominance of CSXT in the provision of intermediate switching services in Chicago. The needs of the shipping public will only be maintained through the continuation of a neutral and independent switching carrier in Chicago. I&M believes that, working in connection with the EJ&E, it can enhance the ability of the IHB to compete effectively for all intermediate switching traffic in Chicago, while maintaining the IHB's capacity to provide the services necessary for Applicants to realize the benefits of their transaction. A neutral IHB would function to the benefit of the public interest, not just to the benefit of Class I rail carriers.

**CERTIFICATION**

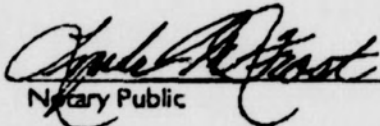
State of Montana     )  
                              )  
County of Missoula    )

William H. Brodsky, being duly sworn, deposes and says that he is the President of I & M Rail Link, LLC, that he has read the foregoing statement and knows the facts asserted therein, and that the same are true as stated.

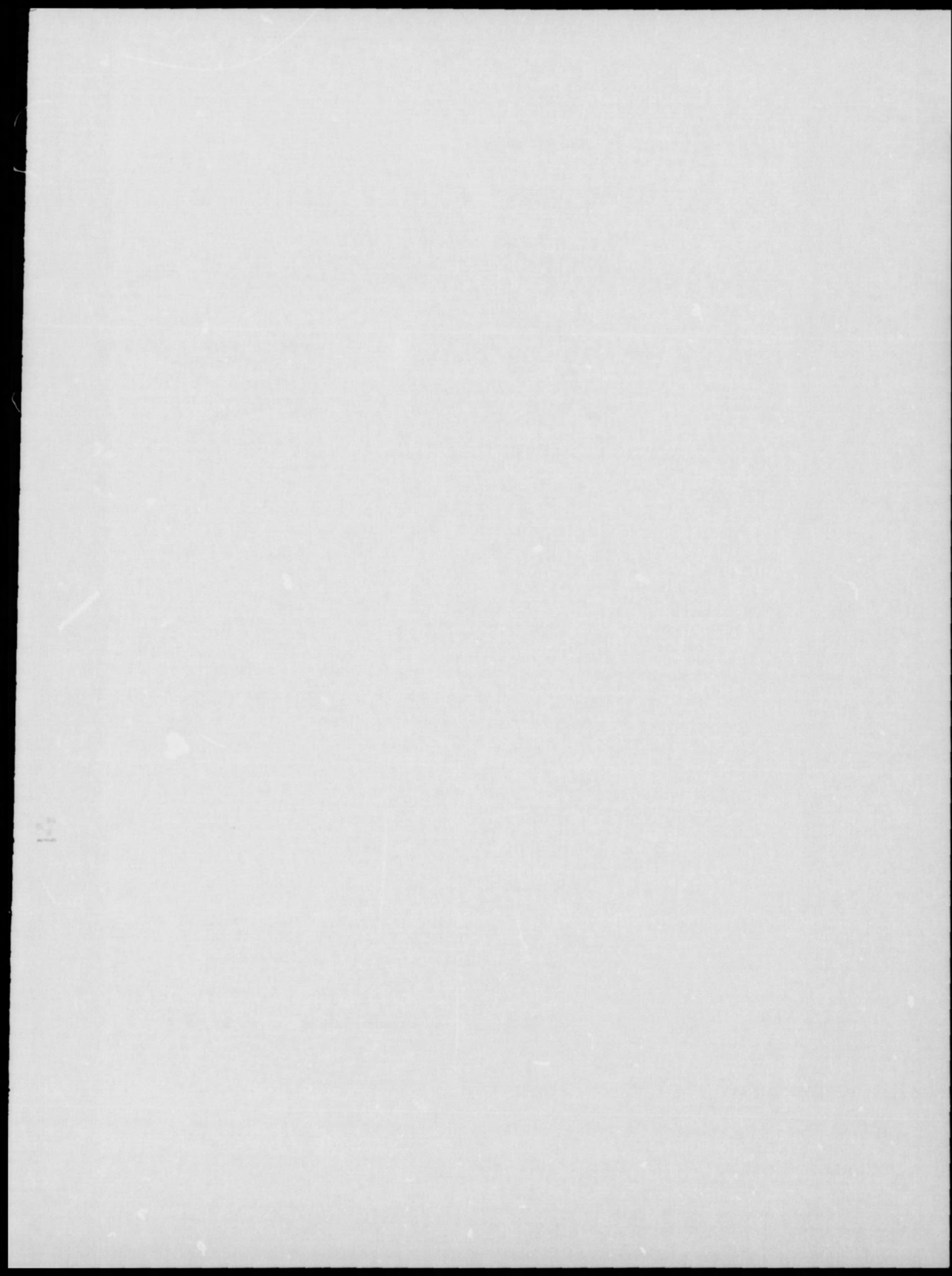


William H. Brodsky

SUBSCRIBED AND SWORN to before me this twentieth day of October, 1997.

  
Notary Public

My commission expires: 8/24/00



## **APPENDIX A**

### **SHIPPER STATEMENTS**

<b>Shipper</b>	<b>Representative</b>
Alan Josephsen, Co., Inc.	Alan Josephsen
CertainTeed	George F. Milligan, Jr.
Ferro Corp.	Jerry Moynihan
Fraser Papers Inc.	Ajit Kumar
GenCorp	Stanford D. Hagler
Hockers Bros. Brick & Tile, Inc.	Bill Martin
Lignotech, USA	Mary Zurn
Manistique Papers, Inc.	Larry Koski
Marport Smelting Co.	David Alvarez

# Alan Josephsen Co., Inc.

## Paper Stock

Office: 205 E. Park St./ Plant: 101 E. Maple Ave., Mundelein, IL 60060 Telephone (847) 949-0700, Fax (847) 949-0720

October 17, 1997

Office of Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K. Street, N.W.  
Washington, DC 20423

Re: Finance Docket No. 33388

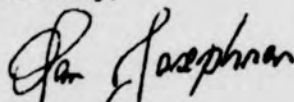
Dear Mr. Secretary:

We are very concerned about the potential ramifications to us and other industries should CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NS) be permitted to acquire Conrail's 51% interest in the IHB, as proposed in the pending application in the Conrail acquisition case. We are particularly concerned about the effect of CSXT's proposed control and administration of the IHB on the vital neutral switching services that IHB now provides.

The Chicago Switching District is both an extremely important and an extremely congested terminal area. Efficient switching service accessible to everyone on an equal basis is vital for the movement of my company's traffic - not to mention for the handling of the vast amount of other freight that moves through this vital gateway. We believe that CSXT's control of IHB will seriously diminish IHB's capability and availability to serve this role. With CSXT seeking to utilize IHB for its own purposes, we are concerned about the impact on charges assessed other line-haul carriers for intermediate switching on our traffic. In addition, CSXT's prior performance and its record for fair and equitable dispatching of trains and switching of customers has been less than commendable.

We feel that, in the best interest of the shipping public, the Surface Transportation Board should order that an independent owner or owners acquire Conrail's share of the IHB, and continue the neutral control and operation of the IHB in conjunction with IHB's existing minority interest owner, Soo Line Railroad Company (Canadian Pacific).

Sincerely,

  
Alan Josephsen  
President



Roofing Products Group

CertainTeed Corporation  
750 E. Swedestord Road  
PO Box 860  
Valley Forge, PA 19482-0102  
610 341-7000

**CertainTeed** 

October 16, 1997

Office of Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423

Dear Mr. Secretary:

I am George F. Milligan Jr., Manager of Transportation Operations for the Roofing Products Group, CertainTeed Corporation, located in Valley Forge, PA. CertainTeed Corp. is a leading manufacturer of building and roofing materials throughout the United States. The Roofing Products Group purchases roofing granules from Wausau, WI for its facility at Avery, OH. This traffic is routed WC - Chicago - NS, and moves through the Chicago Switching District, over the IHB.

CertainTeed is very much concerned about the potential ramifications to us and other industries should CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NS) be permitted to acquire Conrail's 51% interest in the IHB, as proposed in the pending application in the Conrail acquisition case. We are particularly concerned about the effect of CSXT's proposed control and administration of the IHB on the vital neutral switching services that IHB now provides. CSXT will dispatch and manage IHB and, as we understand the CSXT/NS application makes clear, will utilize IHB largely to accommodate and service CSXT's own line-haul traffic to and from Chicago.

The Chicago Switching District is both an extremely important and an extremely congested terminal area. Efficient switching services accessible to everyone on an equal basis are vital for the movement of my company's traffic - not to mention for the handling of the vast amount of other freight that moves through this vital gateway. CertainTeed believes that CSXT's control of IHB will seriously diminish IHB's capability and availability to serve this role. With CSXT seeking to utilize IHB for its own self-serving purposes, we are concerned about the impact on charges assessed other

line-haul carriers for intermediate switching service on our traffic. In addition, CSXT's prior performance and its record for fair and equitable dispatching of trains and switching of customers has been less than commendable.

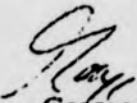
The proposed Conrail transaction also would diminish any possible alternatives we might have to a CSXT-dominated IHB. As the Board is aware, there are three major terminal and transfer carriers serving Chicago and the Northeast Indiana industrial area - IHB, the Belt Railway Company of Chicago (BRC) already owns BOCT outright. It is also a sizable (in fact, the largest) owner of the BRC. If its application in this proceeding is approved as submitted, CSXT would not only own and operate BOCT, but would further increase its dominant holdings in the BRC (and together with NS would control half of BRC's stock) and manage the day-to-day operations of IHB. The ownership and control of IHB will give CSXT a stranglehold on the vital Chicago switching district.

CertainTeed feels that, in the best interests of the shipping public, the Surface Transportation Board should order that an independent owner or owners acquire Conrail's share of the IHB, and continue the neutral control and operation of the IHB in conjunction with IHB's existing minority interest owner, Soo Line Railroad company (Canadian Pacific).

A consortium consisting of the Elgin, Joliet and Eastern Railway company and its parent, Transtar, Inc. Wisconsin Central Ltd. and I & M Rail Line, LLC has indicated its desire to acquire Conrail's interest in the IHB and continue to operate the carrier as an independent and neutral provider of switching services. We feel this is a desirable and viable alternative to the CSXT proposal.

CertainTeed strongly urges you to take these facts and comments into consideration in your deliberation of this very important issue.

Sincerely,

  
George F. Milligan  
Manager of Transportation Operations

GFM/ja



KEIL CHEMICAL DIVISION  
FERRO CORPORATION

HAMMOND SITE  
3000 SHEFFIELD AVENUE  
HAMMOND, INDIANA 46327  
TELEPHONE: (219) 931-2630  
FACSIMILE: (219) 931-0695

October 20, 1997

Office of Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423

RE: FINANCE DOCKET NO. 33388

Dear Mr. Secretary:

I am Jerry Moynihan, the Material Manager for Keil Chemical Division, Ferro Corporation. Keil Chemical is a metalworking manufacturer which is located in the Chicago Switching District and served by the Indiana Harbor Belt Railroad Company (IHB). IHB provides both terminal and intermediate switching service throughout the District.

We are very much concerned about the potential ramifications to us and other industries should CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NS) be permitted to acquire Conrail's 51% interest in the IHB, as proposed in the pending application in the Conrail acquisition case. We are particularly concerned about the effect of CSXT's proposed control and administration of the IHB on the vital neutral switching services that IHB now provides. CSXT will dispatch and manage IHB and, as we understand the CSXT/NS application makes clear, will utilize IHB largely to accommodate and service CSXT's own line-haul traffic to and from Chicago.

The Chicago Switching District is both an extremely important and an extremely congested terminal area. Efficient switching services accessible to everyone on an equal basis are vital for the movement of my company's traffic - not to mention for the handling of the vast amount of other freight that moves through this vital gateway. We believe that CSXT's control of IHB will seriously diminish IHB's capability and availability to serve this role. With CSXT seeking to utilize IHB for its own self-serving purposes, we are concerned about the impact on charges assessed other line-haul carriers for intermediate switching service and for terminal service to access our facilities. In addition, CSXT's prior performance and its record for fair and equitable dispatching of trains and switching of customers has been less than commendable.

The proposed Conrail transaction also would diminish any possible alternatives we might have to a CSXT dominated IHB. As the Board is aware, there are three major terminal and transfer carriers serving Chicagoland and the Northeast Indiana industrial area - IHB, the Belt Railway Company of Chicago (BRC) and The Baltimore & Ohio Chicago Terminal Railroad Company (BOCT). CSXT already owns BOCT outright. It is also a sizable (in fact, the largest) owner of the BRC. If its

Mr. Secretary  
Page 2  
October 20, 1997

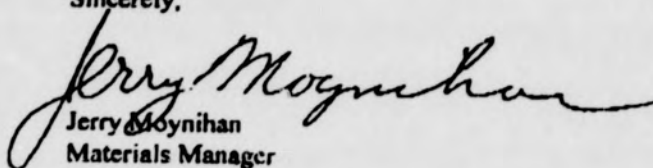
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We feel that, in the best interests of the shipping public, the Surface Transportation Board should order that an independent owner or owners acquire Conrail's share of the IHB, and continue the neutral control and operation of the IHB in conjunction with IHB's existing minority interest owner, Soo Line Railroad Company (Canadian Pacific).

A consortium consisting of the Elgin, Joliet and Eastern Railway Company and its parent, Transtar, Inc., Wisconsin Central Ltd. and I & M Rail Link, LLC has indicated its desire to acquire Conrail's interest in the IHB and continue to operate the carrier as an independent and neutral provider of switching services. We feel this is a desirable and viable alternative to the CSXT proposal.

We strongly urge you to take these facts and comments into consideration in your deliberation of this very important issue.

Sincerely,

  
Jerry Moynihan  
Materials Manager

Fraser Papers Inc.  
Park Falls Operations  
200 First Avenue North  
Park Falls WI 54552  
715 762 3231 Tel  
715 762 5299 Fax



**FraserPapers**

October 16, 1997

Office of Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423

RE: Finance Docket No. 33388

Dear Mr. Secretary:

I am Ajit Kumar, the Director of Lignin Products for Fraser Papers, Inc., at Park Falls, Wisconsin. Lignin Products produced at this mill are shipped via rail, which moves traffic in and through the Chicago Switching District.

We are very much concerned about the potential ramifications to us and other industries should CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NS) be permitted to acquire Conrail's 51% interest in the IHB, as proposed in the pending application in the Conrail acquisition case. We are particularly concerned about the effect of CSXT's proposed control and administration of the IHB on the vital neutral switching services that IHB now provides. CSXT will dispatch and manage IHB and, as we understand, the CSXT/NS application makes clear, will utilize IHB largely to accommodate and service CSXT's own line-haul traffic to and from Chicago.

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A Noranda Forest Company



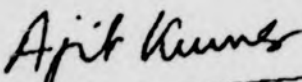
Office of Secretary  
Case Control Unit  
Surface Transportation Board  
October 16, 1997  
Page 2

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We feel that, in the best interests of the shipping public, the Surface Transportation Board should order that an independent owner or owners acquire Conrail's share of the IHB, and continue the neutral control and operation of the IHB in conjunction with IHB's existing minority interest owner, Soo Line Railroad Company (Canadian Pacific).

We strongly urge you to take these facts and comments into consideration in your deliberation of this very important issue.

Sincerely,

  
Ajit Kumar  
Director of Lignin Products

AK:lmc

# GENCORP

## Specialty Polymers Division

Mogadore Plant  
165 South Cleveland Avenue  
Mogadore, Ohio 44260-1505

Tel: 330-628-9925

October 16, 1997

The Honorable Vernon A. Williams  
Office of the Secretary  
Surface Transportation Board  
STB Finance Docket No. 33388  
1925 K Street, NW  
Washington, DC 20423-0001

RE: Finance Docket No. 33388.

Dear Mr. Secretary:

I am Stanford D. Hagler, Director of Purchases and Traffic for the Specialty Polymers Division of GenCorp, Inc. GenCorp Inc. produces styrene/butadiene latices at Green Bay, Wisconsin and moves both inbound raw material and outbound products through the Chicago Switching District.

We are very much concerned about the potential ramifications to us and other industries should CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NS) be permitted to acquire Conrail's 51% interest in the IHB, as proposed in the pending application in the Conrail acquisition case. We are particularly concerned about the effect of CSXT's proposed control and administration of the IHB on the vital neutral switching services that IHB now provides. CSXT will dispatch and manage IHB and, as we understand the CSXT/NS application makes clear, will utilize IHB largely to accommodate and service CSXT's own line—haul traffic to and from Chicago.

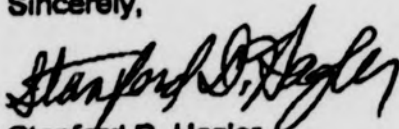
The Chicago Switching District is both an extremely important and an extremely congested terminal area. Efficient switching services accessible to everyone on an equal basis are vital for the movement of my company's traffic – not to mention for the handling of the vast amount of other freight that moves through this vital gateway. We believe that CSXT's control of IHB will seriously diminish IHB's capability and availability to serve this role. With CSXT seeking to utilize IHB for its own self-serving purposes, we are concerned about the impact on charges assessed other line-haul carriers for intermediate switching service on our traffic.

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We feel that, in the best interest of the shipping public, the Surface Transportation Board should order that an independent owner or owners acquire Conrail's share of the IHB, and continue the neutral control and operation of the IHB in conjunction with IHB's existing minority interest owner, Soo Line Railroad Company (Canadian Pacific).

We strongly urge you to take these facts and comments into consideration in your deliberation of the very important issue.

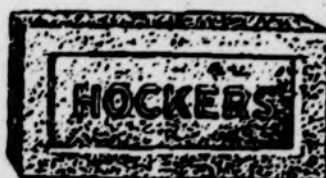
Sincerely,



Stanford D. Hagler  
Director of Purchases & Traffic

# HOCKERS BROS. BRICK & TILE CO., INC.

FACE BRICK - COMMON BRICK  
FIRE BRICK - BRICK CLEANERS  
THIN BRICK PANELS  
O-CLEARANCE FIREPLACES  
WOOD PRODUCTS (MANTELS)



SPECTRA-GLAZE - FORMS & DAMPERS  
FLUE LINING - CEMENT PRODUCTS  
STONE SILLS  
MANTELS  
CULTURED STONE

2870 SOUTH BROADWAY • GREEN BAY, WISCONSIN 54304  
2190 AMERICAN DRIVE • NEENAH, WISCONSIN 54956  
TELEPHONE: GREEN BAY (414) 499-0687 or (414) 499-0688 • NEENAH (414) 776-3211

October 16, 1997

Office of Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K. St. N.W.  
Washington, DC 20423

RE: Finance Docket No. 33388

Dear Mr. Secretary,

I am Bill Martin, the consultant for Hockers Brick. Hockers Brick is a retail and wholesaler of business, purchasing throughout the United States, which is located in the Chicago Switching District and served by the Indiana Harbor Belt Railroad Company (IHB). IHB provides both terminal and intermediate switching service throughout the District.

We are very much concerned about the potential ramifications to us and other industries should CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NS) be permitted to acquire Conrail's 51% interest in the IHB, as proposed in the pending application in the Conrail acquisition case. We are particularly concerned about the effect of that IHB now provides. CSXT will dispatch and manage IHB and, as we understand the CSXT/NS application makes clear, will utilize IHB largely to accommodate and service CSXT's own line-haul traffic to and from Chicago.

The Chicago Switching District is both an extremely important and an extremely congested terminal area. Efficient switching services accessible everyone on an equal basis are vital for the movement of my company's traffic - not to mention for the handling of the vast IHB will seriously diminish IHB's capability and availability to serve this role. With CSXT charges assessed other line-haul carriers for intermediate switching service and for terminal service to access our facilities. In addition, CSXT's prior performance and its record for fair and equitable dispatching of trains and switching of customers has been less than commendable.

INDUSTRIAL - RESIDENTIAL

COMMERCIAL

- SINCE 1869 -

# HOCKERS BROS. BRICK & TILE CO., INC.

FACE BRICK - COMMON BRICK  
FIRE BRICK - BRICK CLEANERS  
THIN BRICK PANELS  
O-CLEARANCE FIREPLACES  
WOOD PRODUCTS (MANTELS)



SPECTRA-GLAZE - FORMS & DAMPERS  
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MANTELS  
CULTURED STONE

2870 SOUTH BROADWAY • GREEN BAY, WISCONSIN 54304  
2190 AMERICAN DRIVE • NEENAH, WISCONSIN 54956  
TELEPHONE: GREEN BAY (414) 499-0887 or (414) 499-0888 • NEENAH (414) 738-3211

October 16, 1997

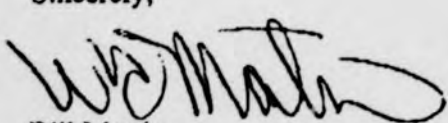
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We feel that, in the best interests of the shipping public, the Surface Transportation Board should order that an independent owner or owners acquire Conrail's share of the IHB, and continue the neutral control and operation of the IHB in conjunction with IHB's existing minority interest owner, Soo Line Railroad Company (Canadian Pacific).

A consortium consisting of the Elgin Joliet and Eastern Railway Company and its parent Transtar, Inc., Wisconsin Central Ltd. and I & M Rail Link LLC has indicated its desire to acquire Conrail's interest in the IHB and continue to operate the carrier as an independent and neutral provider of switching services. We feel this is a desirable and viable alternative to the CSXT proposal.

We strongly urge you to take these facts and comments into consideration in your deliberation of this very important issue.

Sincerely,

  
Bill Martin  
Hockers Brick

INDUSTRIAL - RESIDENTIAL  
COMMERCIAL

- SINCE 1869 -





**LIGNOTECH**  
**USA**

MEMBER OF THE BORREGAARD GROUP

October 15, 1997

Office of Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423

**RE: Finance Docket No. 33388**

Dear Mr. Secretary:

I am Mary Zurn, the Traffic Supervisor for LignoTech USA, Inc. LignoTech USA is a lignin processing plant which moves traffic in and through the Chicago Switching District.

We are very much concerned about the potential ramifications to us and other industries should CSX Transportation (CSXT) and Norfolk Southern Railway Company (NS) be permitted to acquire Conrail's 51% interest in the IHB, as proposed in the pending application in the Conrail acquisition case. We are particularly concerned about the effect of CSXT's proposed control and administration of the IHB on the vital neutral switching services that IHB now provides. CSXT will dispatch and manage IHB and, as we understand the CSXT/NS application makes clear, will utilize IHB largely to accommodate and service CSXT's own line-haul traffic to and from Chicago.

The Chicago Switching District is both an extremely important and an extremely congested terminal area. Efficient switching services accessible to everyone on an equal basis at equitable charges is vital. We believe that CSXT's control of IHB will diminish IHB's capability to handle the vast amount of other freight that moves through this important gateway.

The proposed Conrail transaction also would diminish any possible alternatives we might have to a CSXT-dominated IHB. The ownership and control of IHB, along with its ownership of BOCT and sizable ownership portion of the BRC, will give CSXT a stranglehold on the vital Chicago Switching District.

We feel that, in the best interests of the shipping public, the Surface Transportation Board should order that an independent owner(s) acquire Conrail's share of the IHB, and continue the neutral control and operation of the IHB in conjunction with IHB's existing minority interest owner, Soo Line Railroad Company (Canadian Pacific). We strongly urge you to take these facts and comments into consideration in your deliberation of this very important issue.

Sincerely,

Mary Zurn  
LignoTech USA, Inc.



**MANISTIQUE PAPERS, INC.**  
453 S. MACKINAC AVE. • MANISTIQUE, MI 49854  
906-341-2175 FAX # 906-341-5635

October 16, 1997

Office of Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423

Re: Finance Docket No. 33388

Dear Mr. Secretary:

I am Larry Koski, the General Sales Manager of Manistique Papers, Inc. Manistique Papers, Inc. is a manufacturer of 100% recycled groundwood specialty papers which moves traffic in and through the Chicago Switching District.

We are very much concerned about the potential ramifications to us and other industries should CSX Transportation, Inc. (CSXT) obtain ownership and control of Conrail rights and assets as proposed. We are particularly concerned about the effect of CSXT's proposed control and administration of the IHB on the vital neutral switching services that IHB now provides. CSXT will dispatch and manage IHB and, as we understand the CSXT/NS application provides, will utilize IHB largely to accommodate and service CSXT's own line-haul traffic to and from Chicago. We understand that CSX already owns Baltimore & Ohio Terminal Railway Company ("BOCT") and will be the largest shareholder of The Belt Railway Company with about 1/3 ownership.

The Chicago Switching District is both an extremely important and an extremely congested terminal area. Efficient switching services accessible to everyone on an equal basis are vital for the movement of my company's traffic – not to mention for the handling of the vast amount of other freight that moves through this vital gateway. We believe that CSXT's domination of terminal switching capacity will seriously diminish available rail capacity serving this role. With CSXT seeking to utilize IHB for its own self-serving purposes, we are concerned about the impact on charges assessed other line-haul carriers for intermediate switching service on our traffic. Our prior experience with movements through the Chicago Switching District is that it is costly and often requires far too much time. We are concerned about the future for fair, equitable and prompt dispatching of trains and switching of customers.



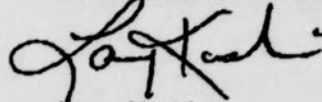
We understand that Wisconsin Central Ltd. Has proposed acquiring and operating a portion of BOCT trackage known as the Altenheim Subdivision and a portion of Conrail trackage known as the Panhandle Line. We also understand that WCL would invest in improving these routes. We strongly support these sales as a condition to approval of CSX and NS acquisition of Conrail. Each will mitigate the impact of CSX domination of switching and serve to preserve and increase critical rail capacity in the Switching District.

We also believe the Board should seriously consider a condition which would assure that the IHB operations and facilities are dispatched on a fair and neutral basis, preventing the IHB from being operated primarily for the benefit of CSX.

We strongly urge you to take these facts and comments into consideration in your deliberation of this very important issue.

Sincerely,

MANISTIQUE PAPERS, INC.



Larry Koski  
General Sales Manager

LK:mlf



## MARPORT SMELTING CO.

4323 KENNEDY AVENUE  
EAST CHICAGO, INDIANA 46312  
PHONE: (219) 397-0562  
FAX: (219) 392-0517

OCTOBER 17, 1997

Office of Secretary  
Case Control Unit  
Surface Transportation Board  
1925 K Street N. W.  
Washington, DC 20423

Re: Finance Docket No. 33388

Dear Mr. Secretary:

I am David R. Alvarez, the Traffic Manager for Marport Smelting L.L.C.. Marport is a Aluminum Smelter business which is located in the Chicago Switching District and served by the Indiana Harbor Belt Railroad Company (IHB). IHB provides both terminal and intermediate switching service throughout the District.

We are very much concerned about the potential ramifications to us and other industries should CSX Transportation, Inc. (CSXT) and Norfolk Southern Railway Company (NS) be permitted to acquire Conrail's 51% interest in the IHB, as proposed in the pending application in the Conrail acquisition case. We are particularly concerned about the effect of CSXT's proposed control and administration of the IHB on the vital neutral switching services that IHB now provides. CSXT will dispatch and manage IHB and, as we understand the CSXT/NS application makes clear, will utilize IHB largely to accommodate and service CSXT's own line-haul traffic to and from Chicago.

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We feel that, in the best interests of the shipping public, the Surface Transportation Board should order that an independent owner or owners acquire Conrail's share of the IHB, and continue the neutral control and operation of the IHB in conjunction with IHB's existing minority interest owner, SooLine Railroad Company (Canadian Pacific).

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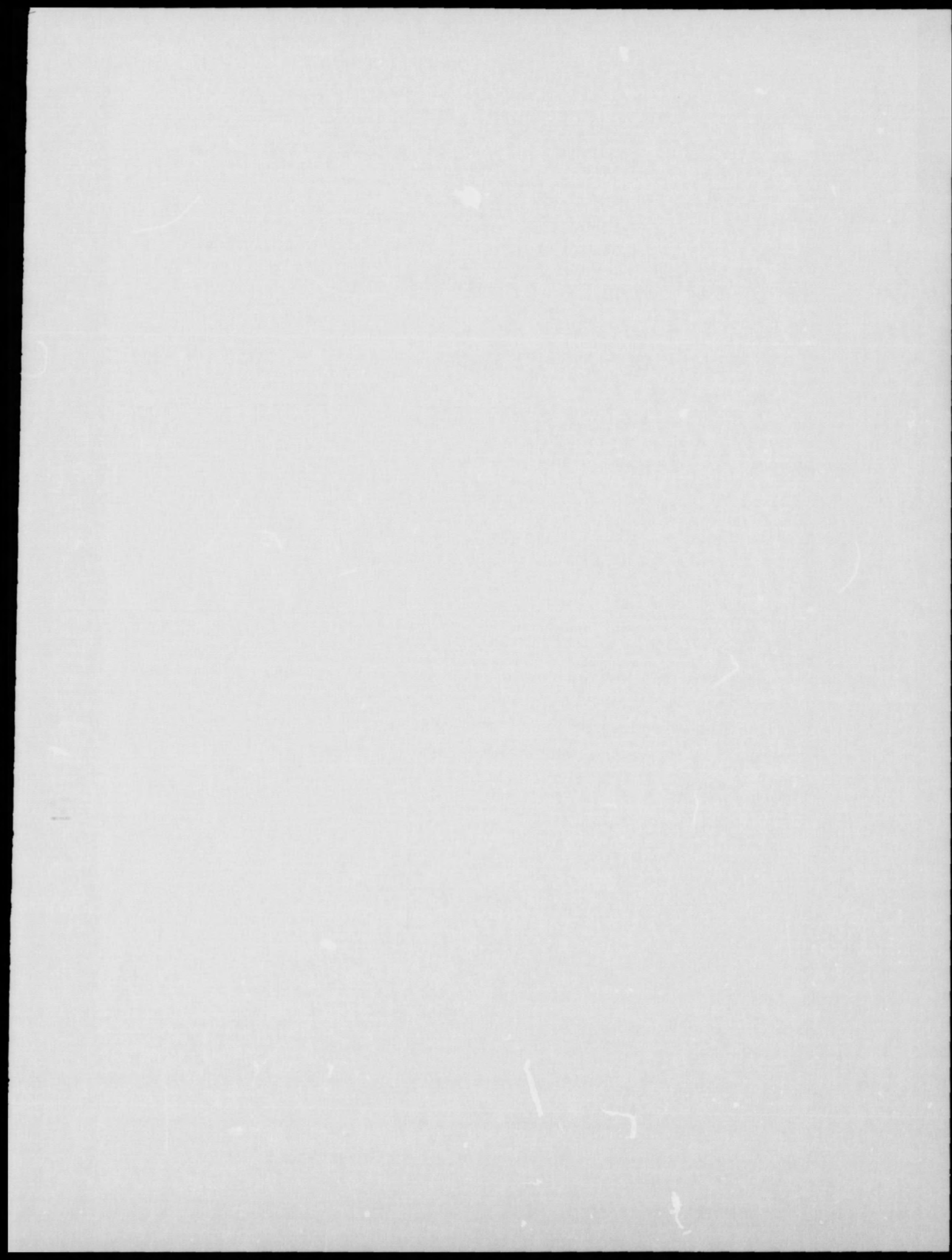
We strongly urge you to take these facts and comments into consideration in your deliberation of this very important issue.

Sincerely,



David R. Alvarez  
Traffic Manager





## **APPENDIX B**

### **SELECTED DISCOVERY RESPONSES**

1. Excerpts from deposition of Stephen Tobias, Executive Vice President- Operations, Norfolk Southern Corporation
2. Excerpts from deposition of D. Michael Mohan, consultant, The Kingsley Group, Inc.
3. Excerpts from deposition of John W. Orrison, General Manager, Field Operations Development, CSX Transportation, Inc.
4. Selected Documents Produced in Discovery (confidential)
5. Answers to Selected Interrogatories

**1. Excerpts from deposition of  
Stephen Tobias, Executive Vice President - Operations  
Norfolk Southern Corporation**

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- (1) overriding reason. I think it's not uncommon for  
 (2) people to look after their own interests.  
 (3) Q. Can you describe for me the principal  
 (4) differences between the Monongahela Railway,  
 (5) former Monongahela Railway proposed operation and  
 (6) the operation of the shared assets area other  
 (7) than that there won't be a neutral party?  
 (8) A. Say that again, please.  
 (9) MR. REEVES: Can you read it back.  
 (10) THE REPORTER: "Question: Can you  
 (11) describe for me the principal differences between  
 (12) the Monongahela Railway, former Monongahela  
 (13) Railway proposed operation and the operation of  
 (14) the shared assets area other than that there  
 (15) won't be a neutral party?"  
 (16) THE WITNESS: The shared asset area is  
 (17) an area which encompasses the former Monongahela  
 (18) Railroad. It will be dispatched by Norfolk  
 (19) Southern in an environment in which CSX will have  
 (20) equal operational configuration. The shared  
 (21) asset areas - you asked me to exclude the  
 (22) neutral party.  
 (23) In the shared asset area, each entity.  
 (24) NS and CSX, will have the right to operate within  
 (25) the confines of the shared asset area subject to

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- (1) whatever operational configurations are in place  
 (2) from the neutral operator who will control the  
 (3) dispatching.  
 (4) BY MR. REEVES:  
 (5) Q. Right. Is the operation of the  
 (6) Monongahela Railway projected to be significantly  
 (7) different from operation of CSX over NS in a  
 (8) normal trackage rights situation?  
 (9) A. Yes. I would say so.  
 (10) Q. How is that?  
 (11) A. By the nature of the agreement.  
 (12) Q. Is that the extent of the access?  
 (13) A. The nature of the agreement and the  
 (14) relationship of the track configuration and the  
 (15) access. Each operating area from a trackage  
 (16) standpoint for plants are very different. The  
 (17) operation in the shared access areas is much  
 (18) different than the operation in a coal field  
 (19) environment.  
 (20) MR. PLUMP: Shared access or asset?  
 (21) THE WITNESS: Shared asset versus the  
 (22) operation in a coal environment and the shared  
 (23) access area of the Monongahela.  
 (24) BY MR. REEVES:  
 (25) Q. Do you know if extra motive power is

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- (1) going to have to be supplied to move coal from  
 (2) Youngstown over the Ashtabula line?  
 (3) A. Extra beyond what we're doing today?  
 (4) Q. Extra being beyond what it takes to get  
 (5) the train out of the Monongahela Railway area.  
 (6) A. No. I don't know.  
 (7) Q. You don't know?  
 (8) A. I don't know that.  
 (9) Q. Do you know who will approve  
 (10) significant capital expenditures by the shared  
 (11) assets operator?  
 (12) A. The board.  
 (13) Q. Of directors of the shared assets  
 (14) operator?  
 (15) A. Yes.  
 (16) MR. REEVES: Thank you, Mr. Tobias.  
 (17) That's all I have.  
 (18) Discussion off the record.  
 (19) EXAMINATION BY COUNSEL FOR THE BURLINGTON  
 (20) NORTHERN AND SANTA FE RAILWAY COMPANY  
 (21) BY MR. STEEL:  
 (22) Q. Mr. Tobias, my name is Adrian Steel and  
 (23) I represent The Burlington Northern and Santa Fe  
 (24) Railway Company in this proceeding and I have a  
 (25) series of questions that focus principally upon

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- (1) the existing relationships between Conrail and  
 (2) Norfolk Southern in principal east-west gateways,  
 (3) Chicago, St. Louis, Kansas City, Memphis, and New  
 (4) Orleans, but I want to clarify something first in  
 (5) terms of these transition teams.  
 (6) Is there a transition team that focuses  
 (7) on or is responsible for yards and common point  
 (8) activities?  
 (9) A. Yes.  
 (10) Q. And who is on that transition team, if  
 (11) you know?  
 (12) A. I can't relate the membership of the  
 (13) transition teams.  
 (14) Q. Is there a transition team that focuses  
 (15) upon or is responsible for train operations at  
 (16) terminals, and by that I mean in terms of  
 (17) blocking, routings, scheduling of trains through  
 (18) the terminals I mentioned earlier?  
 (19) A. Yes.  
 (20) Q. And again do you have any awareness of  
 (21) who might be involved in those teams?  
 (22) A. Not specifically. I just don't recall.  
 (23) Q. Have you seen any work product from  
 (24) either of those two teams?  
 (25) A. Not that I specifically recall.

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- (1) Q. Are you aware of whether or not in the  
 (2) process either of those teams have produced any  
 (3) draft work product or any kind of work product?  
 (4) A. Not having recalled seeing any. I don't  
 (5) know.  
 (6) Q. Is it something that will come to your  
 (7) attention eventually you believe?  
 (8) A. I believe that it would.  
 (9) Q. This coordinating group headed by Nancy  
 (10) Fleischman, have you seen any documents produced  
 (11) from that?  
 (12) A. I have not.  
 (13) Q. Have you talked to anybody on that  
 (14) committee about their status on that committee?  
 (15) A. Not that I can articulate the  
 (16) conversation, no.  
 (17) Q. Thank you, sir. Turning to the  
 (18) terminal activities in the City of Chicago.  
 (19) Mr. Mohan testified on Friday that he  
 (20) characterized his analysis, an operating plans  
 (21) analysis, of the activities there in at least two  
 (22) major activities, one was yard and common point  
 (23) activities which was a team headed by Mr. Haig I  
 (24) believe and a transportation team which focused  
 (25) on train operations and train flows at the

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- (1) terminals and in particular Chicago, and that was  
 (2) headed by Mr. Kimball and Mr. Davenport I  
 (3) believe.  
 (4) Are you aware of any changes in the  
 (5) yard and common point setup arrangements in  
 (6) Chicago that will occur as a result of the  
 (7) transaction?  
 (8) A. Yes, in a general sense.  
 (9) Q. And what do you recall or what are you  
 (10) aware of in that regard?  
 (11) A. The regard that those changes are  
 (12) depicted in the operating plan.  
 (13) Q. Are you aware of whether any particular  
 (14) physical interchanges between Conrail or Norfolk  
 (15) Southern, NS combined as the Norfolk Southern,  
 (16) will be required between Western carriers?  
 (17) A. Be required?  
 (18) Q. Well, as the new Norfolk Southern  
 (19) establishes the way it's going to operate in the  
 (20) Chicago area in terms of its yards and common  
 (21) points, is that going to require any changes in  
 (22) the way the Western carriers interchange with the  
 (23) new Norfolk Southern, if you're aware?  
 (24) A. Well, obviously there is the  
 (25) opportunity post-transaction to create a



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- (1) different interchange configuration with BN/Santa
- (2) Fe at Sreator.
- (3) Q That's correct. And Mr. Mohan
- (4) testified about that. But that's focusing more
- (5) on the train flows and train operations and
- (6) blockings and routings. And I'd like to confirm
- (7) that the physical interchanges that exist today
- (8) whether they're direct physical interchanges, are
- (9) there interchanges using one of the three
- (10) principal terminal switch carriers, IHB, B&OCT,
- (11) and BRC, if you're aware of any physical
- (12) interchanges that will change?
- (13) A. Outside of the plan?
- (14) Q. Well, I don't know that there are any
- (15) even reflected in the plan. Mr. Mohan indicated
- (16) he was not aware of any. Are you aware of any?
- (17) A. I'm trying to understand your question.
- (18) Q. Changes, any changes in the physical
- (19) interchanges between the rail carriers that will
- (20) occur?
- (21) A. Other than the Sreator opportunity.
- (22) I'm not aware of any interchange point
- (23) reconfigurations in the plan. I'm not aware of
- (24) any additional interchange reconfigurations that
- (25) are presently being discussed or negotiated.

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- (1) That's not to say that, at some point in the
- (2) future, as it relates to two parties
- (3) renegotiating an interchange point, that that
- (4) can't take place.
- (5) Q. Right. Thank you, sir. And I guess
- (6) that's what I was looking at. We know what the
- (7) plan says. And I guess I was interested, since
- (8) that time, since Mr. Mohan has not been involved
- (9) in any going forward, whether you're aware of any
- (10) such change?
- (11) A. I'm not aware of any significant
- (12) changes in that regard or for that matter any
- (13) other changes to the plan.
- (14) Q. So you're not aware of any closures or
- (15) downrating or downgrading of facilities that will
- (16) occur in Chicago? And I don't want to mislead
- (17) you because I believe Calumet will change.
- (18) A. That's covered in the plan.
- (19) Q. Right.
- (20) A. That's very clearly covered in the
- (21) plan, that some of the switching operations at
- (22) Calumet will be dealt with at Elkhart. That's
- (23) not to say that Calumet is being phased out.
- (24) Calumet will still function as a facility for
- (25) Norfolk Southern in Chicago.

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- (1) Q. Do you have plans to expand that on the
- (2) intermodal side?
- (3) A. That is a possibility, has been
- (4) discussed. No decision has been reached.
- (5) Q. And there may be other changes that are
- (6) reported in the plan. But do you recall any
- (7) other changes besides Calumet, even as reported
- (8) in the plan, that are of a significant nature in
- (9) terms of the changes of the operations in Chicago
- (10) and other than the Sreator bypass opportunity
- (11) that you mentioned?
- (12) A. As it relates to interchange?
- (13) Q. Yes, sir, with the Western carriers.
- (14) A. No, not that I recall.
- (15) Q. Thank you, sir. Are you aware of any
- (16) changes in practices or procedures that will be
- (17) required by any of those three terminal switching
- (18) railroads that I referenced earlier as a result
- (19) of the plan or going forward from the development
- (20) plan?
- (21) A. And the three carriers were?
- (22) Q. IHB, B&OCT, and BRC.
- (23) A. I'm not aware at this point of any
- (24) changes in Chicago, outside the confines of the
- (25) plan. Obviously the IHB is going to undergo

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- (1) some yet to be determined reconfigurations as a
- (2) result of the plan, if this transaction is
- (3) approved by the STB.
- (4) Q. One of the reconfigurations as I
- (5) understand it, and I don't understand it very
- (6) well, involves I believe the Blue Island Yard
- (7) that CSX is going to have principal use of and
- (8) responsibility for, is that correct?
- (9) A. That's my understanding.
- (10) Q. Could you explain, I don't know how
- (11) that fits in and how that will affect, if at all,
- (12) currently existing operations in Chicago for
- (13) other carriers?
- (14) A. Well, under the circumstances I think
- (15) that question would best be addressed to CSX.
- (16) Q. Okay. That's fine. Currently BN/Santa
- (17) Fe, for instance, has I believe automobile
- (18) traffic classified by IHB perhaps at Gibson and
- (19) perhaps not involving Blue Island. But you're
- (20) not aware of in your discussions any effect that
- (21) transaction will have on any of the Western
- (22) carriers and their changes or transactions in
- (23) Chicago?
- (24) A. Not other than what is depicted in the
- (25) plan.

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- (1) Q. With respect to Sreator, you suggested
- (2) that it was possible and the plan may project
- (3) that certain volumes will be interchanged at
- (4) Sreator rather than Chicago with BN Santa Fe, is
- (5) that correct, sir?
- (6) A. I think, in response to your question,
- (7) I said that Sreator offered the opportunity for
- (8) interchange reconfiguration.
- (9) Q. Do you anticipate that Norfolk Southern
- (10) is going to pursue that opportunity?
- (11) A. Well, that again would be as a result
- (12) of any coordination that was reached with
- (13) BN Santa Fe to that extent.
- (14) Q. Who is or will be responsible for doing
- (15) that coordination with BN/Santa Fe?
- (16) A. Well, traditionally that would fall
- (17) under the service design group and operations in
- (18) Atlanta.
- (19) Q. And who is responsible for that
- (20) function, the name of the person?
- (21) A. Don Zurich, assistant vice president of
- (22) transportation.
- (23) Q. Are you aware of whether or not he or
- (24) anyone in his group has started discussions with
- (25) BN Santa Fe in that regard?

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- (1) A. I'm not aware that that has taken place
- (2) at this point. It may, it may not have.
- (3) Q. In the traffic diversion projections,
- (4) it is anticipated by NS's traffic diversion
- (5) expert, John Williams, that volumes will transfer
- (6) from Chicago and St. Louis to Kansas City in the
- (7) extended haul type situation and bring more
- (8) Norfolk Southern traffic there for interchange
- (9) with BN/Santa Fe and perhaps with UP also.
- (10) Are you aware of what volumes Norfolk
- (11) Southern anticipates will move from Chicago to
- (12) Kansas City?
- (13) A. I think that's a question that should
- (14) either be addressed to Mohan or to Williams.
- (15) Q. But it's not something you know?
- (16) A. As opposed to an operational
- (17) configuration.
- (18) Q. I understand that may be. But you
- (19) don't know?
- (20) A. I'm not sure I'm comfortable with your
- (21) premise that the reductions are as a result of
- (22) traffic being diverted to Kansas City.
- (23) Q. As a result of the transaction, NS
- (24) anticipates an increased volume of traffic at
- (25) Kansas City, is that correct?



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- (1) A. As a result of the transaction, nothing
- (2) other than what may be encompassed in the plan
- (3) from a traffic standpoint.
- (4) Q. And the same would go with respect to
- (5) Memphis?
- (6) A. Yes.
- (7) Q. I believe you discussed that earlier
- (8) today, perhaps this morning. And what about New
- (9) Orleans?
- (10) A. I'm not aware of any significant
- (11) changes at Memphis outside of what may be
- (12) depicted in the plan.
- (13) MR. PLUMP: The question was about New
- (14) Orleans.
- (15) THE WITNESS: Same answer.
- (16) BY MR. STEEL:
- (17) Q. And Birmingham?
- (18) A. Birmingham, same answer.
- (19) Q. At any of those other terminals, are
- (20) you aware of any issues of the nature that you
- (21) talked about in Chicago, something that's going
- (22) to take attention, the Sireator situation, that
- (23) will require focus from the company in a decided
- (24) plan as to how to approach it, in St. Louis the
- (25) bridge situation or relations with TRA, any of

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- (1) these cities, do you have similar issues that
- (2) you're concerned about? We can do it city by
- (3) city, if that's easier.
- (4) A. I'm not sure we've established what I
- (5) know about TRRA.
- (6) Q. Do you know what TRRA is? It's the
- (7) terminal railroad in St. Louis.
- (8) A. I'm conversant with TRRA in St. Louis
- (9) And certainly the TRRA is going through a
- (10) rationalization process. There is a team with
- (11) representation from each of the owner roads to
- (12) include BN Santa Fe. And those - the decisions
- (13) or the impacts of that rationalization study to
- (14) my knowledge have not been finalized.
- (15) There may be some changes in St. Louis
- (16) and in the interrelationship between the carriers
- (17) because of that process. But it would be
- (18) premature for me to even attempt to comment on it
- (19) beyond that. I'm not aware of another like issue
- (20) as the TRRA brings at St. Louis in either Memphis
- (21) or New Orleans or Birmingham.
- (22) Q. Just to educate me a little bit as to
- (23) the problems that TRRA is presenting in St. Louis
- (24) with its rationalization, is it a matter of
- (25) downsizing or what?

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- (1) A. I'm not sure that it's fair to
- (2) characterize it as TRRA presenting a problem.
- (3) It's a matter that the owner roads and the TRRA
- (4) management have decided that, with some of the
- (5) traffic reconfigurations, there may be some
- (6) opportunity to rationalize some of the operations
- (7) of TRRA as it relates to St. Louis. That's being
- (8) evaluated.
- (9) Q. Is it your view that that's really
- (10) related in any way to the transaction going on
- (11) here or now or that would be going on in any
- (12) event?
- (13) A. From my point of view, it has no
- (14) bearing whatsoever.
- (15) Q. With respect to the blocking of trains,
- (16) is that any responsibility of you or your
- (17) department?
- (18) A. Yes.
- (19) Q. What changes do you anticipate will
- (20) occur with respect to the blocking of trains in
- (21) east-west markets? I know it's in the operating
- (22) plan. But, in a general sense, do you have
- (23) particular ideas or strategies that you believe
- (24) you'll follow?
- (25) A. I think that, as it relates to the

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- (1) plan, the blocking modeling that's been done
- (2) that's relative to the train scheduling that's in
- (3) the plan speaks for itself. It's been NS's
- (4) philosophy for a number of years, as it relates
- (5) to classification, that we want to block a car or
- (6) switch or classify a car in a hump yard one time,
- (7) if we have to do it then. And that philosophy
- (8) has been applied to the plan that's been
- (9) developed.
- (10) Q. Do you have your verified statement
- (11) there, sir? If you could look at page 480 of
- (12) your statement. And there's a paragraph there, I
- (13) believe it's on your left-hand side, it talks
- (14) about benefits in east-west traffic. And part of
- (15) this is the ability to reroute, about the third
- (16) or fourth sentence, block, or designate traffic
- (17) to the appropriate Western gateway. I'm just
- (18) trying to get from you a sense of where you think
- (19) the patterns of that activity will be?
- (20) A. Well, I think the patterns of that
- (21) activity are pretty clear, if you look at the
- (22) proposal and the train operation plan and the
- (23) blocking modeling that's in the plan.
- (24) Q. Let's assume that. What would I find?
- (25) A. Certainly NS is interested in a viable

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- (1) run-through operation in Chicago as evidenced by
- (2) our plan to take advantage of the classification
- (3) facilities at Elkhart and Conway to classify or
- (4) run through a connection to the extent we can
- (5) make those arrangements with the Western roads.
- (6) Q. If you're in Conway, how will you
- (7) decide where to best bypass Chicago, what factors
- (8) go into your considerations, do you go through
- (9) St. Louis or continue to bypass Chicago or even
- (10) further south to Memphis?
- (11) A. Well, in many cases the shippers have
- (12) some say in this and it's not totally an
- (13) arbitrary decision by the railroads, as the
- (14) commercial aspects of that are taken into
- (15) consideration, and the blocking can be developed
- (16) because of volumes of business. NS is interested
- (17) in expediting traffic across our system and
- (18) through interchange and I suspect BN/Santa Fe is
- (19) as well.
- (20) Q. Back to Chicago for a second. Are you
- (21) aware of any analysis that's been done to
- (22) determine whether the three switching carriers
- (23) have the capacity or the facilities to sort of
- (24) handle the changes that will occur as a result of
- (25) the transaction, has the company done any

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- (1) analysis of the ability of the three switching
- (2) carriers to handle the changes that will be
- (3) required as a result of the transaction?
- (4) A. NS - I'm not aware of any studies that
- (5) have been done by NS relative to the third-party
- (6) switch carriers that exist in Chicago.
- (7) Q. Do you believe those third-party switch
- (8) carriers have the capacity to handle whatever
- (9) changes are going to occur?
- (10) A. That would be my assessment.
- (11) Q. There's been some concern expressed by
- (12) a couple of parties about the combined ownership
- (13) of Norfolk Southern and CSX of IHB. As I
- (14) understand it, IHB is still going to be owned 51
- (15) percent by CRC, Conrail, the continuing Conrail,
- (16) and Norfolk Southern and CSX are simply going to
- (17) each own 50 percent of that 51 percent. So that
- (18) IHB will be under the guidance and control of the
- (19) two entities.
- (20) B&OCT is 100 percent controlled by
- (21) CSXT, and several parties have expressed concern
- (22) about the possibility of difficulties in terms of
- (23) unfavorable switching, unfavorable discrimination
- (24) in terms of the operation of the terminal
- (25) carriers. Are you aware of any concerns by NS in

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(1) that regard?

(2) A. None whatsoever. My view of the

(3) interchange configuration in Chicago as a result

(4) of this transaction is fairly direct. NS has the

(5) existing interchange capacities that it presently

(6) enjoys. It also has the opportunity to

(7) interchange via the Conrail interchange

(8) configurations.

(9) In addition to that, there has been a

(10) creation of an opportunity to interchange via

(11) Streator as well as route structuring over the

(12) IH&B as well as the BOCF. So, from the

(13) standpoint of flexibility and opportunity, I

(14) think it's a fairly wide open playing field.

(15) Q. But you're comfortable and it's NS's

(16) position I assume that the concerns expressed by

(17) a couple different carriers, three or four

(18) different carriers, about the possibility of

(19) discrimination against them in terms of the use

(20) of the third-party carriers is unfounded?

(21) A. I really can't address your comment

(22) because I don't know of any basis for it. I

(23) don't know what the source of the comment is.

(24) Q. That's fine. I have just a few more

(25) questions, then I'll be finished. And some of

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(1) these may be more specific than you're able to

(2) respond. And, if so, that's fine. Do you know

(3) how the automotive loading and unloading

(4) facilities and assembly plants have been

(5) allocated between NS and CSX?

(6) A. No. That would be a more appropriate

(7) question for the strategic planning people.

(8) Q. Do you know anything about the

(9) automotive facilities at the various ports, as to

(10) who is going to serve those?

(11) A. Again I would give you the same

(12) response.

(13) Q. What are, if any, NS's plans for

(14) intermodal facility expansion in New York?

(15) MR. PLUM: Intermodal facility

(16) expansion in New York?

(17) BY MR. STEEL:

(18) Q. In the New York area, yes, sir.

(19) A. Well, I think there are some intermodal

(20) expansion initiatives that are covered in the

(21) plan. Outside of that, I'm not aware of any.

(22) Q. Do you recall what these are in the

(23) plan?

(24) A. Not specifically, no.

(25) Q. In the Chicago area, what are NS's

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(1) plans for an intermodal facility expansion? I

(2) think we've already touched on the possibility of

(3) Calumet being one area of possible expansion?

(4) A. I think we addressed that question

(5) already.

(6) Q. Are there any others other than Calumet

(7) that you're aware of?

(8) A. Not that I'm aware of. And as I said

(9) there's been no decision made with reference to

(10) an intermodal expansion at Calumet.

(11) Q. What are your plans, and by you I mean

(12) Norfolk Southern's plans, to offer competitive

(13) intermodal service to the New England area? That

(14) may be a little general, but how do you plan to

(15) serve that area?

(16) A. From an operating perspective, I think

(17) that question should best be addressed to the

(18) commercial side of the house.

(19) Q. Thank you, sir. How do you intend to

(20) divide Conrail's current multilevel and auto

(21) parts boxcar fleets, if you know?

(22) A. That is also covered in the plan, it

(23) will be divided on a 50-50 basis on the basis of

(24) series and condition.

(25) Q. And at various locations Norfolk

(1) Southern is going to have a certain amount of

(2) intermodal terminal capacity, some of which could

(3) be allocated for east-west intermodal traffic,

(4) some which could be allocated for north-south

(5) intermodal traffic. How do you go about making

(6) that allocation of capacity?

(7) A. That's also a question for the

(8) commercial side.

(9) MR. STEEL: I believe that's all, sir.

(10) Thank you very much for taking the time, and I'll

(11) pass the baton to somebody.

(12) (Recess.)

(13) EXAMINATION BY COUNSEL FOR READING BLUE MOUNTAIN

(14) & NORTHERN RAILROAD COMPANY, BETHLEHEM STEEL

(15) CORPORATION AND ITS SUBSIDIARY RAILROADS, BUFFALO

(16) & PITTSBURGH RAILROAD, INC., ALLEGHENY & EASTERN

(17) RAILROAD, INC., ROCHESTER & SOUTHERN RAILROAD,

(18) INC., and PITTSBURGH & SHAWMUT RAILROAD, INC.

(19) BY MR. STOYCOS:

(20) Q. Okay. Hello, Mr. Tobias, my name is

(21) Will Stoycos and I represent a number of clients

(22) from Pennsylvania or that are located in

(23) Pennsylvania and New York, they are Bethlehem

(24) Steel and its subsidiary railroads, Buffalo &

(25) Pittsburgh Railroad, Allegheny & Eastern

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(1) Railroad, Pittsburg & Shawmut Railroad, Rochester

(2) & Southern Railroad, and finally Reading Blue

(3) Mountain & Northern Railroad. So I just want to

(4) say I appreciate your patience and cooperation

(5) today. I know it's been a long day.

(6) I'd like to start first with the issue

(7) of diverted traffic as a result of this

(8) transaction. On page 5 of your verified

(9) statement, you state that, quote, the operation

(10) of the expanded new Norfolk Southern system was

(11) modified to account for additional traffic

(12) predicted through diversion studies, close

(13) quotes.

(14) I'm wondering if you can tell me what

(15) form that data on diverted traffic was in that

(16) was used by the team that formulated the

(17) operating plan?

(18) A. I can't tell you that.

(19) Q. You can't tell me that. You have no

(20) knowledge about that?

(21) A. No, sir.

(22) Q. Okay. Let me ask you a related

(23) question, and the answer may be the same. I

(24) assume that the people who prepare the operating

(25) plan, they were given projected traffic flow for

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(1) individual Norfolk Southern lines, correct.

(2) post-transaction?

(3) A. I'm not sure I understand your

(4) definition of projected traffic flow.

(5) Q. What I mean is the team that was

(6) preparing the operating plan, I believe they were

(7) given data on traffic projected for the Norfolk

(8) Southern system as a result of this transaction.

(9) A. I would suspect they had to have some

(10) basis along that line to make their projections,

(11) but I can't tell you where that came from or

(12) anything about it. That's something that you

(13) really should direct towards John Williams or

(14) Mike Mohan.

(15) Q. Okay. Just indulge me one more

(16) question on this subject and then I'll move on,

(17) because it's pretty clear you don't have any

(18) information about this. So you would not know

(19) whether that particular data was broken down into

(20) categories of existing traffic, diverted traffic,

(21) and new traffic?

(22) A. No, I do not know that.

(23) Q. Okay. In formulating the operating

(24) plan, was any consideration given to your

(25) knowledge of inclusion of any particular carriers

2. **Excerpts from deposition of D. Michael Mohan,  
Consultant, The Kingsley Group, Inc.**

1 directly to BN/SF at Corwith or at whatever point  
2 that BN/SF and NS may agree upon.

3 Q. What about intermodal traffic?

4 A. Again, with respect to Chicago, I don't  
5 recall any anticipated change in interchange  
6 point between BN/SF and what is today Conrail's  
7 Chicago line.

8 Q. Do you have any view or opinion as to  
9 how the activities of any of the three switching  
10 terminal carriers, IHB, BRC, and BOCT, will  
11 change as a result of the transaction?

12 A. Yes. As I understand the basic  
13 agreement between NS and CSX, Blue Island Yard  
14 operated by IHB will principally handle CSX  
15 traffic.

16 Q. Who is going to control Blue Island?

17 A. The agreement governing the IHB and  
18 Blue Island was not our specific responsibility.  
19 I can tell you that there are elements involved  
20 in dispatch control. Ultimately CSXT would  
21 intend to dispatch the IHB with the exception of  
22 the segment from Indiana Harbor to Osborn.

23 The contemplation is, for purposes of  
24 ownership, the ownership would continue to reside  
25 in the entity called Conrail. But, with respect

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1 to predominant use, my recollection is that CSX  
2 would become the major user of the facility.

3 Q. Are you aware of any joint facility  
4 arrangements for the actual facilities, the joint  
5 facilities arrangements that will need to be  
6 modified in order to handle any increased traffic  
7 by the new NS and Chicago?

8 A. Could you repeat the question, please.

9 Q. Are there any facilities in which other  
10 carriers in addition to the Norfolk Southern or  
11 CSX or Conrail participate or have an ownership  
12 interest in in which they will require capital  
13 expenditures or other expansions in order to  
14 accommodate these increased volumes that Norfolk  
15 Southern or CSX anticipate receiving?

16 A. I'm not aware of any, no.

17 Q. You're not aware of any occasion then  
18 when other carriers including BN/Santa Fe would  
19 be asked or required to contribute to  
20 improvements, capacity, expansions in order to  
21 accommodate these new volumes?

22 A. I'm not personally aware of any.

23 Q. Was that issue studied, do you know, by  
24 you or your group in preparing the operating  
25 plan?

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1 A. No.

2 Q. Are you aware of any closures or  
3 downgrading of any facilities in the Chicago area  
4 that will result as a consequence of the  
5 transaction?

6 A. With respect to significant changes in  
7 use, certainly Calumet will. With respect to  
8 downrating or outright closure, I don't recall  
9 any, no.

10 Q. And what about any switch in functions  
11 of facilities? Calumet may be one, of course.

12 A. Certainly Calumet. Otherwise, as a  
13 result of the transaction, no.

14 Q. Did you or anyone from Norfolk Southern  
15 to your understanding analyze the impact of the  
16 transaction on any of the three Chicago switching  
17 or terminal carriers?

18 A. There are nodes established in the  
19 multimodal model to capture activities to and  
20 from certain Chicago switching operations  
21 including those to the best of my recollection of  
22 the BRC. Other than that our focus was on the  
23 applicants' plans and the applicants'  
24 facilities.

25 Q. Was any analysis done of the capacity

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1 of the three carriers in Chicago to handle either  
2 the increased traffic or the different functions  
3 that might be required?

4 A. And the three carriers you're referring  
5 to?

6 Q. The switching carriers in Chicago.

7 A. My recollection of the terminal  
8 activity measurements in Chicago were such that  
9 no detailed study was required. And, if I can be  
10 of some help, with some traffic swinging to  
11 Kansas City, some swinging to Streator, and in  
12 general traffic splitting between CSX and NS in  
13 some way, there isn't an apparent strain at any  
14 interchange facility.

15 Q. Thank you. How will the new Norfolk  
16 Southern access BN/Santa Fe's Cicero Yard?

17 A. That would be an activity for the  
18 transition teams, whatever arrangement the new NS  
19 and BN/SF are able to agree upon.

20 Q. Conrail I believe today accesses it up  
21 the Lakefront Line, 17th Street, and over to  
22 Ashland Avenue. Any reason to believe that would  
23 be different?

24 A. Not that I'm aware of.

25 Q. Did the operating plan take into

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1 account in any way that BN/Santa Fe is closing or  
2 has closed Cicero with respect to merchandise or  
3 general carload traffic?

4 A. Not explicitly, no, for those reasons.  
5 Base operations for this plan are operated on a  
6 '95 base. I believe the Cicero closure was  
7 subsequent to '95. Also because there's a  
8 tendency as a result of the judgments of the  
9 traffic witness to funnel traffic towards Kansas  
10 City and towards Streator and consequently  
11 diminish the volume of traffic over Chicago.

12 Q. Are you aware of any issues that you've  
13 identified that need to be resolved with respect  
14 to Chicago area yard activity or Chicago area  
15 train operations?

16 A. Let me answer you this way, please  
17 understand that this is an operating plan filing  
18 to describe to the readers the principal changes  
19 in service patterns and facility use, impacts on  
20 labor, passenger service, and the environment.

21 Such a plan in my experience is always  
22 followed by detailed transition planning efforts  
23 of teams. It's typical for the teams to work  
24 with connecting carriers and resolve the  
25 operational issues that are necessary to make

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1 effective interchange work.

2 The entire list of detailed operational  
3 interaction between expanded NS and BN/SF would  
4 be the list that the teams need to focus upon.

5 Q. I understand that, sir, and I  
6 appreciate that. But, in your opinion and with  
7 your expertise in operating matters and years of  
8 experience with other carriers and as a  
9 consultant, what issues do you see, if any, that  
10 need to be resolved or are being presented by the  
11 Chicago yard situation or Chicago train  
12 operations?

13 A. I don't personally see anything that  
14 would cause me to alter my previous answer.

15 Q. Your previous answer as I understand it  
16 was that the transition team has a list of issues  
17 to work with and you're not particularly aware of  
18 what those might be. And I take this answer to  
19 be that you are not at this time aware of any  
20 particular issues presented by Chicago yard  
21 operations or train operations?

22 A. That's basically correct.

23 Q. Thank you. With respect to Streator,  
24 what is your understanding of how operations  
25 there, train operations through there will

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**3. Excerpts from deposition of John W. Orrison,  
General Manager, Field Operations Development,  
CSX Transportation, Inc.**



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- (1) Q. I'm really interested in the ability to  
 (2) switch them back and forth between the tracks.  
 (3) Will it help that as well?  
 (4) A. But I don't understand. The purpose of  
 (5) the connection is to allow trains to move east  
 (6) and west so that they can move from CSX tracks to  
 (7) the IHB track.  
 (8) Q. And presently they can't do that at  
 (9) this location?  
 (10) A. There's no connection there now.  
 (11) MR. DOWD: Okay. That's all I have.  
 (12) Thank you very much.  
 (13) (Whereupon, at 12:25 p.m., the  
 (14) deposition in the above-entitled matter was  
 (15) recessed, to reconvene at 1:25 p.m., this same  
 (16) day.)  
 (17)  
 (18)  
 (19)  
 (20)  
 (21)  
 (22)  
 (23)  
 (24)  
 (25)

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- (1) AFTERNOON SESSION  
 (2) (1:35 p.m.)  
 (3) Whereupon,  
 (4) JOHN W. ORRISON,  
 (5) the witness on the stand at the time of recess,  
 (6) having been previously duly sworn, was further  
 (7) examined and testified as follows:  
 (8) EXAMINATION BY COUNSEL FOR THE BURLINGTON  
 (9) NORTHERN AND SANTA FE RAILWAY COMPANY  
 (10) BY MR. STEEL:  
 (11) Q. Mr. Orrison, my name is Adrian Steel,  
 (12) and I represent The Burlington Northern and Santa  
 (13) Fe in this proceeding. And I have just a few  
 (14) questions to ask you concerning a little bit  
 (15) about the process of the development of the  
 (16) operating plan and then some about particular  
 (17) areas. Chicago and St. Louis and maybe one or two  
 (18) other terminals.  
 (19) In your verified statement, on page 34,  
 (20) it indicates I believe that specialized teams  
 (21) were formed to focus on various geographic and  
 (22) commodity and other areas. Was there a  
 (23) particular team that focused on yard and yard  
 (24) operations or consolidations?  
 (25) A. The regional teams, the geographic

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- (1) teams that are addressed on page 34, within those  
 (2) geographic territories the yards were reviewed by  
 (3) those teams.  
 (4) Q. And did those teams create any  
 (5) documents to your knowledge?  
 (6) A. They created analyses to support their  
 (7) work.  
 (8) Q. Do you know whether or not any of those  
 (9) analyses are included in the document depository?  
 (10) A. There are papers in the depository.  
 (11) yes.  
 (12) Q. From those regional teams?  
 (13) A. For example, there's a report that  
 (14) outlines the yard activity levels, the maximum  
 (15) cars a yard could handle, the base period of  
 (16) cars, and then the expected change in cars  
 (17) switched.  
 (18) Q. The work of the regional team that  
 (19) would have included the Chicago area, who headed  
 (20) that team and conducted that work?  
 (21) A. The work was all conducted under my  
 (22) direction. So it was myself. And then we had,  
 (23) you know, individuals that were under my  
 (24) direction that were doing the work.  
 (25) Q. Who would have been responsible for

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- (1) making determinations concerning traffic and  
 (2) train operations at a terminal as opposed to yard  
 (3) consolidations, yard changes?  
 (4) A. The process that we used to develop the  
 (5) operating plan, it was an iterative process, one  
 (6) where, once we received the traffic volumes, we  
 (7) developed a blocking plan. And from there then  
 (8) we developed analyses to look and see whether the  
 (9) blocks in the blocking plan could be accommodated  
 (10) at the yards.  
 (11) Once through an iterative process, as  
 (12) we had adopted a set plan for the blocking levels  
 (13) at the yard, we then designed the train movements  
 (14) to move the blocks to and from the yard. So it's  
 (15) a very iterative process in terms of relating  
 (16) from the start of the blocking plan through the  
 (17) development of plans for the yard operations.  
 (18) Q. And the we includes yourself and other  
 (19) individuals working on that aspect: is that  
 (20) correct?  
 (21) A. Yes.  
 (22) Q. And who might those have been?  
 (23) A. The individuals are Jim Root, Bob  
 (24) Walker, Jim Bradley.  
 (25) Q. And any documents that that effort

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- (1) would have produced to your knowledge have been  
 (2) included in the document depository?  
 (3) A. Their work papers leading up to the  
 (4) development of the operating plan were submitted.  
 (5) yes.  
 (6) Q. Thank you, sir. I believe you  
 (7) submitted two verified statements in the  
 (8) application: is that right?  
 (9) A. I submitted a verified statement for  
 (10) the operating plan and a verified statement on  
 (11) behalf of the IHB operations.  
 (12) Q. On page 18 of your verified statement  
 (13) in the operating plan, if you would find that,  
 (14) sir.  
 (15) A. I'm on page 18.  
 (16) Q. Yes, sir. There for a page or so and  
 (17) elsewhere in your statement you address the  
 (18) Chicago area and the need for attention. Could  
 (19) you explain why CSX believed it was necessary to  
 (20) undertake in your words substantial improvements  
 (21) in the Chicago area?  
 (22) A. The operating plan that CSX has  
 (23) developed envisions very effective train  
 (24) operations and movements of trains to and from  
 (25) all points across our network. That includes the

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- (1) area of Chicago.  
 (2) Chicago is an area that in the past has  
 (3) been challenged with congestion of movements of  
 (4) trains, numbers of interchanges, delays to  
 (5) shippers' business. And what we were trying to  
 (6) do in the development of the operating plan is to  
 (7) design an operating plan that could accommodate a  
 (8) renewal of train operations to be very efficient  
 (9) and effective to eliminate congestion. And so  
 (10) that was our intentions.  
 (11) Q. Did you speak with or coordinate the  
 (12) development of that plan with Norfolk Southern or  
 (13) its representatives?  
 (14) A. We developed our plan for the Chicago  
 (15) areas independent of Norfolk Southern.  
 (16) Q. Have you, since the time the  
 (17) application was filed or your plan was prepared,  
 (18) had an opportunity to review Norfolk Southern's  
 (19) plan?  
 (20) A. I have reviewed portions of Norfolk  
 (21) Southern's plan, yes.  
 (22) Q. With respect to the Chicago area?  
 (23) A. Briefly in the Chicago area I have  
 (24) reviewed some of it, yes.  
 (25) Q. Do you know whether or not changes

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- (1) would be required to CSX's proposed plan as a  
 (2) result of what NS proposes or vice versa?  
 (3) A. No, I do not.  
 (4) Q. Have you undertaken any analysis in  
 (5) that regard?  
 (6) A. We haven't performed any analysis to  
 (7) say that we would change now our operating plan  
 (8) based off of what NS submitted in their filing.  
 (9) Q. On pages 18 and 19, you describe what  
 (10) appear to be two sort of categories of  
 (11) improvements in the Chicago area. One, the first  
 (12) on the bottom of page 18 deals with improvements  
 (13) of a physical nature, construction. Can you just  
 (14) generally describe what CSX plans to do from a  
 (15) physical point of view at Chicago?  
 (16) A. It's probably best described by, you  
 (17) know, this document. That's what we were trying  
 (18) to do in the operating plan in terms of outlining  
 (19) the flow of trains. Briefly I can give you some  
 (20) additional comments which are we looked at  
 (21) Chicago and we wanted to improve the movement of  
 (22) trains to and from all points as best determined  
 (23) in terms of where trains are trying to traverse  
 (24) in Chicago.  
 (25) Based off of that knowledge, we then

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- (1) set forth investment to construct connections to  
 (2) build new ways of moving trains through the  
 (3) Chicago area. We tried to develop analyses and  
 (4) we completed that to figure out where capacity  
 (5) improvements needed to be made on the line and  
 (6) road in terms of main line speeds, track,  
 (7) connections, crossovers, sidings, main tracks,  
 (8) and so forth.  
 (9) We then also looked at the investment  
 (10) in yard facilities and structures that support  
 (11) the switching operations to receive trains,  
 (12) depart trains in the Chicago area. So, not that  
 (13) that's the comprehensive list, but, in terms of  
 (14) investment, those were the categories of items we  
 (15) were looking at.  
 (16) Q. And I understand that the specific  
 (17) investments are identified either in your  
 (18) statement or the operating plan, and I appreciate  
 (19) that. Were you speaking just a minute ago  
 (20) principally about investments on the new CSX  
 (21) system in Chicago?  
 (22) A. I was speaking on behalf of the  
 (23) investments that we were planning on making in  
 (24) our operating plan which include investments on  
 (25) CSX properties and also on other properties in

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- (1) coordination with other railroads  
 (2) Q. What other properties and other  
 (3) railroads would those be?  
 (4) A. Examples would be investments in the  
 (5) IHB on their main tracks and also their yards,  
 (6) the construction of connections between us and  
 (7) other railroads such as the Union Pacific; those  
 (8) would be examples.  
 (9) Q. In analyzing the use of the three belt  
 (10) or terminal railroads that you identified today,  
 (11) IHB, BOCT, and the BRC, how did you determine  
 (12) that those three would be able to accommodate  
 (13) CSX's proposed operating plan?  
 (14) A. Again it was through the development of  
 (15) the operating plan being an iterative process.  
 (16) Once we understood the traffic studies and the  
 (17) flows of traffic in the data that we received,  
 (18) building blocking plans and train plans, we went  
 (19) back and forth in terms of analyzing a strategy  
 (20) that would allow us to handle the volume of  
 (21) traffic in the Chicago yard areas, that being the  
 (22) BOCT, Blue Island, and the Barr Yard, I guess -  
 (23) maybe you need to correct this. But BOCT is Barr  
 (24) Yard, the BRC, and then the IHB.  
 (25) One thing, and it's in the operating

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- (1) plan and it may be in my verified statement, we  
 (2) looked at the flows of traffic to and from the  
 (3) Western carriers. And we found in our network  
 (4) that we could build long blocks and through-train  
 (5) operations to, in effect, have trains go through  
 (6) Chicago but bypass intermediate switching yards  
 (7) in Chicago.  
 (8) We found benefits that allowed us to do  
 (9) that. We actually scheduled trains that operate  
 (10) in our plan. There are planned trains to run  
 (11) nonstop to points on the BN, nonstop to points on  
 (12) the UP, and vice versa. We were looking at the  
 (13) operating plans that were submitted by the BN/SF,  
 (14) the operating plan submitted by the UP/SP, and we  
 (15) were trying to pair up to the operations that  
 (16) were envisioned by those companies once they had  
 (17) completed their merged operations to couple our  
 (18) blocking plan to those plans.  
 (19) The result of this was a reduction in  
 (20) the total number of cars that needed to be  
 (21) switched in the Chicago area. And so, in effect,  
 (22) it has provided for additional capacity in the  
 (23) Chicago area for new railroad cars that would be  
 (24) coming to be switched in the Chicago area.  
 (25) Q. Do you anticipate an increased volume

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- (1) of - I take it from your answer not. But an  
 (2) increased volume of new CSX traffic through  
 (3) Chicago?  
 (4) A. There will be an increased volume of  
 (5) CSX traffic through Chicago, yes.  
 (6) Q. Some of that, though, will not be -  
 (7) A. It's going to be through - by  
 (8) Chicago. Do you understand what I mean?  
 (9) Q. Yes, sir. But the traffic that will  
 (10) need to be interchanged in Chicago you anticipate  
 (11) will go down?  
 (12) A. If you mean by inter - change cars that  
 (13) are switched from one yard to another, handled,  
 (14) and then reswitched into each railroad's trains,  
 (15) that volume will decline, yes.  
 (16) Q. Are any of the new construction  
 (17) activities designed to facilitate movements  
 (18) between new CSX yards themselves?  
 (19) A. Would you restate your question. I'm  
 (20) sorry.  
 (21) Q. The new CSX will have a certain number  
 (22) of yards in the Chicago area. Could you identify  
 (23) those just so we're talking about something  
 (24) concrete?  
 (25) A. Well, I don't know if I can identify

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- (1) them all. Just a second.  
 (2) Q. I mean just what you can recall is  
 (3) fine.  
 (4) A. Example yards are the Barr Yard, I'm  
 (5) speaking of CSX yards now.  
 (6) Q. Yes, sir.  
 (7) A. CSX Barr Yard, CSX Bedford Park. Those  
 (8) are our principal yards in the Chicago area.  
 (9) Q. Are there movements between those two  
 (10) yards?  
 (11) A. Movements are quite limited between  
 (12) those two yards because Bedford Park Yard is an  
 (13) intermodal yard and Barr Yard is a merchandise  
 (14) yard.  
 (15) Q. I guess my question was whether or not  
 (16) any of the construction was directed to improving  
 (17) or facilitating movement between those yards?  
 (18) A. Between CSX-owned yards in Chicago,  
 (19) only to speak on the behalf of connections that  
 (20) are put into place for the movement of the trains  
 (21) over those connections or the improvement of the  
 (22) speed of the tracks, you would expect that the  
 (23) movement of the cars between these yards would be  
 (24) improved.  
 (25) Q. But in general, in the Chicago area,

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- (1) it's fairly important to have an effective way of  
 (2) moving between your yards, IHB's yards, and BRC's  
 (3) yards, the Western carriers' yards, whether it's  
 (4) your own yards moving traffic around or between  
 (5) carriers, would you agree with that?  
 (6) A. I agree.  
 (7) Q. With respect to the terminal carriers,  
 (8) the three that we have been talking about, what  
 (9) ownership interest in those does CSX have or will  
 (10) CSX have?  
 (11) A. I don't know exactly. I know that CSX  
 (12) has an ownership position in the BRC, that is an  
 (13) ownership position that it currently has.  
 (14) Research could be done that will tell you what  
 (15) the percentage of the stock owned is.  
 (16) And then it is my understanding from  
 (17) the agreements, after the acquisition of Conrail  
 (18) by Norfolk Southern/CSX, CRC owns 51 percent of  
 (19) IHB stock. Under the transaction agreement, the  
 (20) 51 percent interest held by Conrail will remain  
 (21) there and will not be allocated to either CSX or  
 (22) NS.  
 (23) Q. And BOCT is 100 percent owned by CSX?  
 (24) A. BOCT, I have an understanding that it  
 (25) is owned by CSX, yes.

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- (1) Q. If I were to state that CSX owns  
 (2) approximately 27 percent of the BRC, would that  
 (3) sound right to you?  
 (4) A. That sounds close, yes.  
 (5) Q. Is CSX the largest percentage owner of  
 (6) BRC?  
 (7) A. I don't have the information on the  
 (8) percentage owned by other companies.  
 (9) Q. What role do those terminal carriers  
 (10) play in terms of how effective Chicago will  
 (11) operate as a rail terminal operation?  
 (12) A. I believe they have several roles. The  
 (13) first role is for the movement of their cars,  
 (14) these terminal companies' railroad cars, to and  
 (15) from their own customers, switching for the  
 (16) traffic that originates or terminates, for  
 (17) example, on the IHB to their yards and to other  
 (18) yards in the area.  
 (19) The second is a role that they play on  
 (20) behalf of foreign railroad companies that  
 (21) negotiate with those terminal companies for the  
 (22) movement of their cars to and from their yards  
 (23) and to build blocks or assemble trains to  
 (24) traverse to points outside onto the foreign  
 (25) carriers' networks. And basically, you know, a

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- (1) way of interchanging traffic to and from multiple  
 (2) railroads at a common point is a role that a  
 (3) terminal company plays.  
 (4) Q. Without those three carriers in  
 (5) Chicago, as it's currently structured, it would  
 (6) not be possible to conduct effective operations;  
 (7) is that correct?  
 (8) A. I don't know if that's a true statement  
 (9) or not.  
 (10) Q. If none of them existed, how would you  
 (11) interchange cars?  
 (12) A. Railroads would have to figure out how  
 (13) to interchange cars to and from each other  
 (14) through their operating plans from yards and  
 (15) properties that they own and tracks and  
 (16) connections if hypothetically these terminal  
 (17) companies didn't exist.  
 (18) Q. Are you aware of any significant  
 (19) changes in operations that your plan anticipates  
 (20) for any of those three terminal carriers?  
 (21) A. I am aware that there are plans to have  
 (22) within our operating plan changes occurring at  
 (23) the terminal companies.  
 (24) Q. And what are those, sir?  
 (25) A. We've outlined those plans in the

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- (1) verified statement for the IHB, for example.  
 (2) We've also outlined the operations at Barr Yard  
 (3) of the BOCT. That's a second example. And then  
 (4) also in the operating plan we talk about the BRC.  
 (5) Q. Will any of those changes require  
 (6) capital expenditures?  
 (7) A. There is capital expenditure involved,  
 (8) yes.  
 (9) Q. To the extent there are other ownership  
 (10) interests in some of those carriers, what are  
 (11) your plans for securing contributions from them?  
 (12) A. We haven't asked for the other carriers  
 (13) to participate or contribute in the investments.  
 (14) Q. Does that mean that you haven't asked  
 (15) yet or does it mean that you're going to fund  
 (16) them all yourself?  
 (17) A. Our operating plan that was developed  
 (18) and filed to the STB budgeted the money to be  
 (19) paid for solely by CSX.  
 (20) Q. And that's actually how you anticipate  
 (21) proceeding as opposed to just that being the plan  
 (22) and then proceeding -  
 (23) A. Well, I have no other plans. There's a  
 (24) number of transition teams that will be, you  
 (25) know, working once the approval is in place and

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- (1) discussions and so forth that have to occur  
 (2) because it's all part of a negotiation with the  
 (3) foreign carrier or actually the terminal company  
 (4) in terms of investing in their property.  
 (5) Q. Thank you, sir.  
 (6) A. I haven't checked the record. One  
 (7) thing that I think I said, and I wanted to make  
 (8) sure it's correct, is BOCT is a wholly-owned  
 (9) subsidiary of CSX. I think I said CSX has the  
 (10) Barr Yard when, in fact, Barr Yard is a BOCT  
 (11) yard.  
 (12) Q. Thank you, sir.  
 (13) I'd like to hand you, if I could, some  
 (14) exhibits from your work papers.  
 (15) (Orrison Exhibit No. 5 was  
 (16) marked for identification.)  
 (17) BY MR. STEEL:  
 (18) Q. Just for the record, this is Orrison  
 (19) Exhibit No. 5 for identification, it is marked  
 (20) confidential, it's CSX 12 CO 000223 through 226.  
 (21) If you could, sir, I'd like for you to start with  
 (22) 226 and tell me, if you could, if you've seen  
 (23) that document before and, if so, what it is?  
 (24) A. I have seen the document before. It  
 (25) was prepared by an independent consultant that

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- (1) once worked with Union Pacific.  
 (2) Q. And it was prepared for what purpose?  
 (3) (Discussion off the record.)  
 (4) BY MR. STEEL:  
 (5) Q. Sir, focusing on 226, it looks like  
 (6) it's entitled Western Carrier Perspective. Could  
 (7) you indicate if you have seen that document  
 (8) before and, if so, identify it for us.  
 (9) A. I have seen this document before. I  
 (10) prepared this, this is my handwriting.  
 (11) Q. And could you explain to us what the  
 (12) purpose of the document was?  
 (13) A. The purpose of the document was to  
 (14) attain an operating perspective of the Western  
 (15) carriers, of what the Western carriers' plans are  
 (16) for the traffic flowing across the Conrail and  
 (17) CSX gateways.  
 (18) Q. And about when was this prepared, sir?  
 (19) MS. CLAYTON: If you know.  
 (20) THE WITNESS: Yeah, I just wanted to  
 (21) get the time period correct. But I would say it  
 (22) was probably in March of 1997.  
 (23) BY MR. STEEL:  
 (24) Q. And this looks like something of a work  
 (25) plan or a way of obtaining a Western carrier



- (1) St. Louis on the Conrail Cleveland line.  
 (2) A. Well, I think it's helpful to think of  
 (3) it first from the perspective of a customers'  
 (4) traffic is trying to move from origins to  
 (5) destinations. Customers have multiple  
 (6) opportunities to ship via different routes, ship  
 (7) freight cars via different routes. The customer  
 (8) decides on those routes and interchange points.  
 (9) We received when we developed the  
 (10) operating plan a traffic tape that gave us  
 (11) volumes of cars that are trying to go between  
 (12) routes and over gateways. And we then developed  
 (13) the blocks and the trains to move the traffic.  
 (14) So in essence the trains follow the traffic.  
 (15) And what we were trying to do was to  
 (16) develop efficient train operations for the  
 (17) movement of traffic to and from the Western  
 (18) carriers so as not to delay the customers'  
 (19) traffic but to move it as quickly as possible.  
 (20) Q. Does CSX have any kind of a strategic  
 (21) plan or operating plan or other plan to try and  
 (22) move traffic away from Chicago, St. Louis,  
 (23) further south to Memphis, New Orleans, or not?  
 (24) A. Not that I know of, no.  
 (25) Q. Are you aware that the Gibson Yard

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- (1) currently classifies automotive traffic for  
 (2) BN/Santa Fe and perhaps UP as well?  
 (3) A. Yes. I know not necessarily all the  
 (4) carriers, but I do know that Gibson Yard does  
 (5) blocking to move automobile traffic.  
 (6) Q. And do you understand that there will  
 (7) continue to be capacity and ability to do that  
 (8) after this transaction?  
 (9) A. Yes, I do.  
 (10) Q. How does the Chicago system currently  
 (11) work in terms of the dispatching and control of  
 (12) the various three terminal carriers, who is  
 (13) responsible for each of those?  
 (14) A. Each carrier is responsible for the  
 (15) dispatching of their tracks.  
 (16) Q. So each of the independent terminal  
 (17) carriers dispatch their own tracks?  
 (18) A. That is my understanding, yes.  
 (19) Q. What is CSX's view as to how that works  
 (20) now in terms of neutral dispatching and equal and  
 (21) nondiscriminatory treatment?  
 (22) A. I don't really understand your  
 (23) question.  
 (24) Q. Each of these carriers receives traffic  
 (25) from main line carriers and interchanges it and

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- (1) dispatches traffic on its lines as it's moving it  
 (2) around the city. If any of them so chose to do  
 (3) so, they could favor one carrier's traffic over  
 (4) another carrier's traffic, if they chose to do  
 (5) so.  
 (6) And I guess my question is whether or  
 (7) not you believe there is currently any  
 (8) difficulties or problems with nonneutral  
 (9) dispatching in the Chicago terminal area?  
 (10) MS CLAYTON: Are you asking if he has  
 (11) knowledge of it or what his opinion is?  
 (12) BY MR. STEEL:  
 (13) Q. Well, his knowledge or opinion, he's a  
 (14) principal operating officer for the railway as it  
 (15) exists. I'm just trying to find out what his  
 (16) view is of the current situation.  
 (17) A. Let me see if these comments will help  
 (18) answer your question.  
 (19) Q. Thank you.  
 (20) A. Each of the railroads have their own  
 (21) dispatchers. So the IHB has dispatchers, the BRC  
 (22) has dispatchers, the BOCT has dispatchers. Each  
 (23) railroad is responsible for the movement of not  
 (24) only their trains but all trains. I don't  
 (25) believe that any of the railroads have bias to

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- (1) only favor certain trains, they have to be  
 (2) responsible for moving all trains.  
 (3) The daily train operations in some  
 (4) areas is large enough that, if you were to try to  
 (5) think about giving bias to trains, you would  
 (6) actually create a large amount of congestion in  
 (7) terms of trying to hold trains at points and then  
 (8) move one train over the other, because there's  
 (9) only so many tracks to move trains.  
 (10) With respect to the operation in  
 (11) Chicago and having multiple dispatchers, and  
 (12) there are other dispatchers besides the ones I  
 (13) have mentioned, there are UP dispatchers, there  
 (14) are Metro North dispatchers, you know, you could  
 (15) go on and on in terms of the different rail  
 (16) lines. It is a daily task of having  
 (17) communications between the different dispatchers  
 (18) for the movement of trains in the Chicago area.  
 (19) So there are procedures in place that  
 (20) those dispatchers talk to each other, communicate  
 (21) the movements of trains that are coming to and  
 (22) from their rail lines to other rail lines,  
 (23) receiving permission through towers and  
 (24) interlockings, and to ensure that the train  
 (25) operations are handled as best as possible on a

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- (1) day-by-day basis.  
 (2) Q. Thank you, sir. You would agree,  
 (3) wouldn't you, that the switching railroads do  
 (4) play a critical part then in the effective  
 (5) operation of Chicago as a railroad terminal?  
 (6) A. These switching companies, yes, they  
 (7) do.  
 (8) Q. Do you know William M. Hart?  
 (9) A. I do know Mr. Hart.  
 (10) Q. And who is Mr. Hart, sir?  
 (11) A. He is a senior manager with our  
 (12) company.  
 (13) Q. And what are his responsibilities?  
 (14) A. He's responsible for planning within  
 (15) our company. If you have his verified statement,  
 (16) I'm sure it tells you.  
 (17) Q. You're aware he prepared a verified  
 (18) statement?  
 (19) A. Yes. So it should have his background  
 (20) and his current job.  
 (21) Q. And have you reviewed his verified  
 (22) statement?  
 (23) A. I have not, no.  
 (24) Q. At any point in time?  
 (25) A. No, I haven't.

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- (1) Q. Let me hand you a copy of his verified  
 (2) statement, we won't need to mark it as an  
 (3) exhibit, and I have a couple extra if people  
 (4) don't have them. But it's from volume 2.  
 (5) And the portion I'm interested in, sir,  
 (6) is on page 8, actually page 143 at the bottom and  
 (7) 144, where he talks about the Chicago area.  
 (8) A. I'm sorry. What page?  
 (9) Q. Page 143 and 144 of the page numbers at  
 (10) the bottom. At the top of 143, there are three  
 (11) bullet points.  
 (12) MS CLAYTON: Can you give him time to  
 (13) read it.  
 (14) BY MR. STEEL:  
 (15) Q. Sorry, yes. If you would just read  
 (16) both those pages. Sorry.  
 (17) A. Okay. I've read the three bullets.  
 (18) Q. The first one of those bullets  
 (19) indicates that CSX and NS have agreed not to use  
 (20) any future changes in ownership or control of any  
 (21) of the intermodal switching carriers in Chicago  
 (22) as an opportunity to undermine each other's  
 (23) ability to compete. On the next page, he refers  
 (24) to the Chicago area agreement on page 144.  
 (25) MS CLAYTON: He needs time to read

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- (1) that.  
 (2) BY MR. STEEL.  
 (3) Q. I thought I asked him to read both  
 (4) pages.  
 (5) Would you take time to read both  
 (6) pages.  
 (7) A. Is there a particular point in the  
 (8) page?  
 (9) Q. Yes, sir, in the middle paragraph, the  
 (10) one that starts with the balanced competition.  
 (11) A. Okay.  
 (12) MS. CLAYTON: I'm going to just object  
 (13) to the extent that he hasn't seen this before and  
 (14) that this is outside of his area. He's  
 (15) responsible for the operating plan. So, to the  
 (16) extent he knows, he can answer, but not  
 (17) speculate.  
 (18) BY MR. STEEL.  
 (19) Q. I understand. That's fine.  
 (20) Mr. Orrison, are you aware that an  
 (21) agreement captioned the Chicago area agreement  
 (22) was executed between CSX and NS?  
 (23) A. I am aware that an agreement has been  
 (24) executed, yes.  
 (25) Q. Does Mr. Hart's description of that

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- (1) agreement comport with your understanding of what  
 (2) the agreement provides?  
 (3) A. As a summary - I don't know the  
 (4) Chicago area agreement. I haven't read it. So  
 (5) for me to say it's -  
 (6) MS. CLAYTON: I believe the Chicago  
 (7) area agreement is in volume 8, isn't it?  
 (8) MR. STEEL: Yes, ma'am, it is.  
 (9) MS. CLAYTON: And I think the document  
 (10) speaks for itself. Mr. Orrison hasn't read the  
 (11) agreement and he hasn't read Mr. Hart's  
 (12) description of it. So I think the document  
 (13) speaks for itself.  
 (14) BY MR. STEEL.  
 (15) Q. Mr. Orrison, you stated you were aware  
 (16) such an agreement existed. Independent of not  
 (17) having read it and not having read Mr. Hart's  
 (18) summary of it, what did you understand that  
 (19) agreement to provide?  
 (20) A. My understanding, from an operating  
 (21) plan perspective, in developing the operating  
 (22) plan, was to design an operating plan that would  
 (23) accommodate CSX's current traffic plus the  
 (24) traffic that CSX would gain from the Conrail  
 (25) acquired lines, to develop a blocking strategy, a

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- (1) train plan strategy in conjunction with the yards  
 (2) in the Chicago area to provide for efficient  
 (3) movement of those trains.  
 (4) I was asked to make sure and ensure in  
 (5) our operating plan that we had multiple routes,  
 (6) connections, the ability to move trains through  
 (7) Chicago. I was also responsible for making sure  
 (8) that we did analysis with respect to capital  
 (9) investments in tracks, to upgrade tracks, to  
 (10) handle the movement of trains to and from yards,  
 (11) interchanges, movements to foreign carriers.  
 (12) So I was given that as an objective to  
 (13) achieve in the development of the operating  
 (14) plan. CSX has a vision that Chicago needs to run  
 (15) well, it needs to run well not for just the  
 (16) behalf of the railroads, it needs to run well for  
 (17) the shippers, for the movement of trains and cars  
 (18) through the Chicago area.  
 (19) And so we were tasked to develop plans  
 (20) that tried to eliminate problems that had  
 (21) happened or occurred in terms of interference of  
 (22) trains and try to reduce the amount of  
 (23) interchanges as much as possible in the Chicago  
 (24) area.  
 (25) Q. I understand that, sir. But the

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- (1) question simply was who did you understand this  
 (2) Chicago area agreement, to provide with respect to  
 (3) a safeguard for balanced competition between CSX  
 (4) and NS? If you don't have an understanding, then  
 (5) that's fine.  
 (6) A. I can't speak to that question.  
 (7) Q. That's fine. I'm going to hand you a  
 (8) copy of that agreement just so you can see it.  
 (9) For the purposes of everyone else here,  
 (10) it's from volume 8B. And I do have extras of  
 (11) those, if you all want them.  
 (12) A. Is this a document or are you just  
 (13) handing it to me?  
 (14) MR. STEEL: Let's mark it as an  
 (15) exhibit. We might as well  
 (16) (Orrison Exhibit No. 7 was  
 (17) marked for identification.)  
 (18) BY MR. STEEL:  
 (19) Q. Orrison No. 7 is composed of the table  
 (20) of contents from volume 8B and then schedule 3  
 (21) which is referenced in the table of contents, a  
 (22) document entitled Preservation of Fair Access to  
 (23) Chicago Gateway. Have you seen this document  
 (24) before, sir?  
 (25) A. No, I have not.

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- (1) Q. Do you agree with the proposition that  
 (2) it's important to CSX and NS to have fair access  
 (3) to the Chicago gateway?  
 (4) MS. CLAYTON: Would you like him to  
 (5) read this document?  
 (6) BY MR. STEEL.  
 (7) Q. No. As a concept, is fair access to  
 (8) the Chicago gateway important to CSX?  
 (9) MS. CLAYTON: I think CSX's position is  
 (10) probably stated in this document. And the  
 (11) document speaks for itself. Since he hasn't seen  
 (12) this document and since it isn't his position, he  
 (13) is to implement what they have agreed. I mean  
 (14) it's like saying do you believe in mother and  
 (15) apple pie.  
 (16) BY MR. STEEL:  
 (17) Q. Independent of the document agreement,  
 (18) from an operating point of view, is it important  
 (19) to you that CSX have fair access to Chicago and  
 (20) the switching functions that are taking place in  
 (21) Chicago?  
 (22) A. I don't know if this is a satisfactory  
 (23) answer to you. And these are my comments. So  
 (24) then, if you have any more questions on it, you  
 (25) can ask me.

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- (1) I develop operating plans. There are a  
 (2) number of different agreements that parties enter  
 (3) into between the carriers. The terms that they  
 (4) use on these different agreements are terms that  
 (5) they developed through their discussions and they  
 (6) give them labels.  
 (7) All I do in terms of my work is the  
 (8) developing of operating plans. And so, once  
 (9) agreements have been penned, signed, and agreed  
 (10) upon by carriers, I look at that as sort of the  
 (11) scope within which to build efficient operating  
 (12) plans. My role in talking with other carriers is  
 (13) to work with the planners of those carriers to  
 (14) develop agreements that yards can handle blocks,  
 (15) move trains, to/from points.  
 (16) With respect to Chicago, the  
 (17) interchange points that agreements outline are  
 (18) the scope, you know, that you would build your  
 (19) operating plans to.  
 (20) Q. Perhaps there's one more question. As  
 (21) an operating plan person, it's important that  
 (22) CSX's trains and operations receive  
 (23) nondiscriminatory dispatching treatment from  
 (24) terminal carriers at Chicago and everywhere else  
 (25) they're going to rely on terminal carriers, isn't



- (1) that correct?
- (2) A. It is correct to say that CSX doesn't
- (3) want to have their trains - you keep saying
- (4) discriminated against by dispatchers or other
- (5) carriers, that all carriers don't want their
- (6) trains to be discriminated against. There's no
- (7) railroad that says I'll be the first to be
- (8) discriminated against.
- (9) Q. So the efforts of CSX and NS to have
- (10) fair access to Chicago would be of interest to
- (11) everyone else using Chicago as well; is that
- (12) correct?
- (13) A. You're going back to the words fair
- (14) access. And maybe you're trying to talk about
- (15) this agreement?
- (16) Q. No. The agreement is labeled that way
- (17) by someone who drafted it.
- (18) A. I would want to say that, based off of
- (19) agreements that are in place that allow carriers
- (20) to move trains to and from which are trackage
- (21) rights agreements and other types of agreements,
- (22) interchange points and so forth, that the
- (23) carriers want their trains to be progressed
- (24) fairly in the sense of being able to be moved
- (25) without delay to and from points on schedules.

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- (1) The railroads sit down and set forth
- (2) time schedules that allow for the movements of a
- (3) train to show up at a particular time. It's the
- (4) requirements of the operating people of those
- (5) railroads, once the plans have been developed, to
- (6) operate these trains to schedule. And so there
- (7) is not a prioritization of trains, it's a
- (8) nonpriority in the sense of things run according
- (9) to schedules.
- (10) Q. That's fine, thank you, sir. I have
- (11) just a few additional questions.
- (12) The BOCT I understand applies or
- (13) charges a per car fee if blocking through Chicago
- (14) is not consistent with the parameters set by the
- (15) BOCT. Are you aware of that, sir?
- (16) A. Go ahead and ask the question again.
- (17) I'm sorry.
- (18) MR. STEEL. Could you just repeat it,
- (19) please.
- (20) THE REPORTER. Question: The BOCT I
- (21) understand applies or charges a per car fee if
- (22) blocking through Chicago is not consistent with
- (23) the parameters set by the BOCT. Are you aware of
- (24) that, sir?
- (25) THE WITNESS. No, I'm not aware of

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- (1) that.
- (2) BY MR. STEEL.
- (3) Q. Thank you. Are you aware that BN/Santa
- (4) Fe has an interchange at Effingham, that IC has
- (5) an interchange at Effingham that BN uses for
- (6) traffic from Memphis to bypass St. Louis?
- (7) A. I'm aware of an interchange point
- (8) called Effingham where the IC tracks cross and at
- (9) Effingham they cross at Conrail tracks.
- (10) Q. Correct. And I understand that line is
- (11) going to be a CSX line?
- (12) A. The line that is the Conrail line from
- (13) Indianapolis to St. Louis will become a CSX line.
- (14) Q. Was that factor taken into account in
- (15) the operating plan? Excuse me. Strike that.
- (16) The was the fact that BN/SF has entered
- (17) into a haulage agreement with Illinois Central
- (18) for traffic from Memphis to that Effingham
- (19) junction considered in the operating plan?
- (20) MS. CLAYTON. I'm going to object to
- (21) your assumption that he knows about the haulage
- (22) agreement.
- (23) THE WITNESS. Yeah, I don't see how I
- (24) would know about a haulage agreement that BN has
- (25) entered into with another railroad, two separate

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- (1) railroads.
- (2) BY MR. STEEL:
- (3) Q. All I'm trying to find out is if it was
- (4) taken into account in the operating plan. If it
- (5) wasn't, that's fine. If you didn't know about
- (6) it, the assumption was it wasn't taken into
- (7) account?
- (8) A. Yeah, I don't know about it. Do you
- (9) know if that haulage had been in effect -
- (10) MS. CLAYTON: You can't ask questions.
- (11) (Discussion off the record.)
- (12) MR. STEEL: I only have about five more
- (13) minutes, I promise.
- (14) BY MR. STEEL:
- (15) Q. On your verified statement, sir,
- (16) changing cities, moving south rather than west,
- (17) at page 204 to 205, there is a discussion of East
- (18) St. Louis and St. Louis. Could you please tell
- (19) me your understanding as to whether the operating
- (20) plan projects or what it projects for the
- (21) St. Louis area? I realize there are some routes
- (22) here, but could you just elaborate on what's
- (23) going on in St. Louis, particularly as respects
- (24) BN/SF and any changes?
- (25) A. Our operating plan once again takes

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- (1) into account the traffic flows, the origins and
- (2) destinations, the points where customer traffic
- (3) is interchanged. The traffic that was coming
- (4) through the St. Louis gateway, to speak about the
- (5) BN/SF traffic that would be moving through that
- (6) gateway, we looked at and developed a blocking
- (7) plan that would bring traffic from our eastern
- (8) yards such as Cumberland and Selkirk, Frontier,
- (9) other points, into Indianapolis.
- (10) And at Indianapolis there's a hump yard
- (11) called Avon Yard which would collect those
- (12) traffic to build blocks for the BN/SF. We would
- (13) then dispatch trains from Avon Yard in
- (14) Indianapolis for connections through St. Louis or
- (15) to the points that the BN/SF would desire to
- (16) receive them.
- (17) Q. Are there any actual interchange
- (18) modifications that are going to be required in
- (19) St. Louis that you're aware of as a result of the
- (20) transaction?
- (21) A. Not that I'm aware of, no.
- (22) Q. So CSX will essentially replicate what
- (23) Conrail does today?
- (24) A. In terms of how they interchange
- (25) to/from points at St. Louis.

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- (1) Q. And East St. Louis?
- (2) A. That would be a fair statement.
- (3) Q. There are two rail bridges across the
- (4) Mississippi River there, the Merchants Bridge and
- (5) MacArthur Street Bridge, one of which I think is
- (6) going to be dispatched and controlled by NS and
- (7) one which will be dispatched and controlled by
- (8) UP. Has any issue been brought to your attention
- (9) concerning any problems that would arise with
- (10) that aspect of St. Louis operations?
- (11) A. No.
- (12) Q. With respect to management information
- (13) systems, did the operating plan examine that
- (14) aspect of the integration?
- (15) A. Yes, it did.
- (16) Q. And what generally are your plans going
- (17) forward with the computer operating systems?
- (18) A. There are a number of different
- (19) computer operating systems. There are chapters
- (20) in this operating plan that talk about IT
- (21) systems. Just off the top of my head, we are
- (22) going to plan on implementing a transfer of those
- (23) type of technology systems, their mainframe
- (24) systems, to our CSX mainframe systems in
- (25) Jacksonville, Florida.

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- (1) think you said the BN/Santa Fe operating plan to  
 (2) determine whether there were instances where the  
 (3) blocking could be done to increase efficiency?  
 (4) think you said primarily through Chicago; is that  
 (5) correct, is that a fair summary?  
 (6) A. Well, not only in Chicago, but in our  
 (7) operating plan we talk about the gateways. So it  
 (8) would be through these different gateways which  
 (9) there are interchanges. So there's a blocking  
 (10) plan for the Western carriers through Chicago,  
 (11) there's one through St. Louis to points, through  
 (12) Memphis, through New Orleans. Those are the  
 (13) primary examples.  
 (14) Q. Okay. And, if I understand what you're  
 (15) telling me, you didn't review the UP/SP operating  
 (16) plan while putting together the CSX operating  
 (17) plan for this case; is that correct?  
 (18) A. I reviewed their application to the  
 (19) STB.  
 (20) Q. Okay.  
 (21) A. So I reviewed theirs, I read their  
 (22) operating plan to understand what their plan  
 (23) intentions were. And then, as we did analysis in  
 (24) developing blocks, we looked to see how that may  
 (25) couple to what their intentions and plans were.

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- (1) Q. Do you have any understanding of how  
 (2) successful UP has been in implementing their  
 (3) operating plans since startup?  
 (4) A. Yeah. I don't have firsthand  
 (5) knowledge, not being an employee inside their  
 (6) company.  
 (7) Q. Anecdotally do you have any  
 (8) understanding of whether UP has experienced  
 (9) problems in implementing their operating plan?  
 (10) A. I have heard anecdotally that they are  
 (11) having problems, yes.  
 (12) Q. If, in fact, they have problems meeting  
 (13) their operating plan, will that negatively impact  
 (14) CSX's operating plan?  
 (15) A. If those problems continue, yes. In  
 (16) terms of the reliability of a train coming across  
 (17) a gateway on a scheduled time, in terms of them  
 (18) being able to build a block that we expect them  
 (19) to build for us and they don't build that block,  
 (20) those would be instances of impact.  
 (21) Q. Has CSX taken any actions to determine  
 (22) why Union Pacific may be having problems  
 (23) implementing its operating plan?  
 (24) A. We have a number of people working  
 (25) currently at CSX with people at the Union Pacific

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- to try to determine those causes, yes.  
 (1) Q. And what departments are those people  
 (2) working in?  
 (3) A. There are people that are working in my  
 (4) department that are meeting with them.  
 (5) Q. Any other departments?  
 (6) A. For the most part, it's between the  
 (7) work that's within my department and the work  
 (8) that's between our field operations.  
 (9) Q. We've also discussed a little bit and  
 (10) it's been brought up a little yesterday and today  
 (11) the fact that shippers control the routing of  
 (12) traffic; is that correct?  
 (13) A. The shipper's decision, yes.  
 (14) Q. You would agree with me, though, that  
 (15) railroads do have the ability to influence the  
 (16) shipper's decision on that?  
 (17) A. Not knowing railroad marketing, because  
 (18) I work in operations, our railroad marketing  
 (19) groups work with other railroads to develop plans  
 (20) or products that they can sell to a customer and  
 (21) see if that meets their requirements in terms of  
 (22) service and other dimensions.  
 (23) Q. I guess what I was thinking of was  
 (24) instances, for example, if the railroad increased

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- (1) their service, that would be an operating issue  
 (2) that may, in fact, influence a customer's choice  
 (3) on you to route traffic; would you agree with  
 (4) that?  
 (5) A. If that's a factor the customer is  
 (6) interested in, yes.  
 (7) Q. Most customers are interested in  
 (8) transit times; would you agree with that?  
 (9) A. For the most part, yes.  
 (10) Q. And some traffic is more sensitive  
 (11) obviously to transit times than others; would you  
 (12) also agree with that?  
 (13) A. Yes.  
 (14) Q. Time for our maps. Once again I'm  
 (15) going to discuss the Conrail line from Youngstown  
 (16) up to Ashtabula. You mentioned in your testimony  
 (17) yesterday that CSX asked and received - asked  
 (18) for and received a written report from a Conrail  
 (19) general manager re the operations over the MGA  
 (20) lines; is that correct?  
 (21) A. My - yes. I actually requested that  
 (22) report.  
 (23) Q. Okay. And you did receive that report?  
 (24) A. Yes.  
 (25) Q. And it is in the document depository?

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- (1) A. Yes.  
 (2) Q. Did you also ask for a report on  
 (3) Conrail's operations over the line from  
 (4) Youngstown to Ashtabula?  
 (5) A. No.  
 (6) Q. Why didn't you ask for a report on that  
 (7) line?  
 (8) A. Because I received - in terms of a  
 (9) written report, none. I received verbal  
 (10) information from the general manager of the  
 (11) Pittsburgh division who was working as a  
 (12) representative of Conrail with us while we were  
 (13) developing the operating plan that he could talk  
 (14) generally about the operations over the line.  
 (15) Q. Do you recall that gentleman's name?  
 (16) A. Yes.  
 (17) Q. And what is his name?  
 (18) A. Dick Hoover.  
 (19) Q. How many conversations did you have  
 (20) with him?  
 (21) A. A number of conversations with him.  
 (22) Q. And these were conversations about  
 (23) operations over the Youngstown to Ashtabula line?  
 (24) A. He's the general manager for the  
 (25) Pittsburgh division which is this territory

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- (1) generally in the middle of Conrail.  
 (2) Q. Okay. And the witness is indicating  
 (3) generally trackage in Ohio and Pennsylvania;  
 (4) correct?  
 (5) A. Yeah. If you were to look at Conrail's  
 (6) division territories or field territories, it  
 (7) would be basically those territories within the  
 (8) Pittsburgh division.  
 (9) Q. It was Mr. Hoover did you say?  
 (10) A. Dick Hoover, yes.  
 (11) Q. Did Mr. Hoover relate to you any  
 (12) service problems that Conrail was experiencing on  
 (13) the Youngstown to Ashtabula line?  
 (14) A. No.  
 (15) Q. Did he relate to you any capacity  
 (16) constraints that he believed Conrail has on the  
 (17) Youngstown to Ashtabula line?  
 (18) A. No.  
 (19) Q. Can you tell me what coal origins CSX  
 (20) expects to move over the Youngstown to Ashtabula  
 (21) line?  
 (22) A. Predominantly those origins coming from  
 (23) the MGA.  
 (24) Q. Might they also move coal from C&O  
 (25) origins up that line?

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- (1) the Ashabula Dock?  
 (2) A. What I've been told is that this  
 (3) depends on the number of piles of coal. And  
 (4) piles are set up by the number of customers. So  
 (5) that's what I understand about it.  
 (6) Q. What do you know about the blending  
 (7) methods used at the Ashabula Dock?  
 (8) A. I don't know.  
 (9) Q. Have you ever heard anyone discussing  
 (10) capacity constraints at the Ashabula Dock?  
 (11) A. In terms of the dimensions of - I'm  
 (12) trying to - in terms of capacity of the total  
 (13) amount of coal that can be dumped over it or what  
 (14) is experienced?  
 (15) Q. That would be fair, yeah, the total  
 (16) amount of coal that can be dumped, the throughput  
 (17) capacity I think it's called?  
 (18) A. I have knowledge that Conrail has  
 (19) dumped somewhere in the range of 7 million or 8  
 (20) million tons over this.  
 (21) Q. Do you know whether Conrail is  
 (22) satisfied with the operating capacity of the  
 (23) Ashabula Dock?  
 (24) A. No, I don't.  
 (25) Q. Is that a subject you've ever discussed

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- (1) with anyone at Conrail?  
 (2) A. No.  
 (3) Q. Are you familiar with a dock in  
 (4) Conneaut, Ohio?  
 (5) A. I've heard of it.  
 (6) Q. Does that exhaust the extent of your  
 (7) knowledge about the dock in Conneaut?  
 (8) A. That's as far as you're going to get.  
 (9) Q. You wouldn't have any understanding of  
 (10) a comparison of the capacities between the  
 (11) Ashabula and Conneaut Docks?  
 (12) A. No, I do not.  
 (13) Q. We've tapped you out on Conneaut.  
 (14) Okay. Moving to the West, turning your attention  
 (15) to the Indiana Harbor Belt, are you aware of any  
 (16) capacity problems on the Indiana Harbor Belt main  
 (17) lines today?  
 (18) A. Yes.  
 (19) Q. Okay. What capacity problems on the  
 (20) IHB main lines are you aware of?  
 (21) A. As I've stated in the record earlier,  
 (22) that they have some slow speeds on their main  
 (23) line tracks. They have some congestion where  
 (24) trains enter and exit their tracks that cause  
 (25) trains to back up that relates to what was stated

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- (1) earlier as some main gridlock in the Chicago  
 (2) area.  
 (3) Q. And one of the designs of your  
 (4) operating plan is to try to minimize or hopefully  
 (5) eliminate those problems, is that correct?  
 (6) A. That is our aspirations.  
 (7) Q. And one of the ways you're going to be  
 (8) able to do that is through more efficient  
 (9) blocking of cars outside of the Chicago district.  
 (10) correct?  
 (11) A. That's one of the elements, yes.  
 (12) Q. And, in order to achieve some  
 (13) efficiency gains on the IHB CSX is making some  
 (14) substantial capital contributions into the  
 (15) physical plant?  
 (16) A. Yes.  
 (17) Q. What I'd like to ask you about is  
 (18) railroads that would be interchanging through the  
 (19) IHB in blocks less than these carload size blocks  
 (20) that you've been discussing in the operating  
 (21) plan. Do you have any beliefs about whether  
 (22) those connections will suffer as a result of this  
 (23) refocusing of the IHB?  
 (24) A. No.  
 (25) Q. You don't have any idea as to whether

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- (1) the transit times for smaller blocks of cars  
 (2) through the harbor will increase or decrease?  
 (3) A. Yeah. I think you're asking me to  
 (4) speculate on the operating plan that the IHB  
 (5) would implement on their own railroad. CSX  
 (6) doesn't own or control the IHB. You know, the  
 (7) movements of these interchanges from another  
 (8) foreign carrier to the IHB is something that I  
 (9) don't have knowledge of.  
 (10) Q. And that's all I needed to find out, is  
 (11) the extent of your knowledge.  
 (12) What actions is CSX taking to assure  
 (13) impartial dispatching on the IHB?  
 (14) A. An example would be that the IHB  
 (15) dispatchers remain under the direction of the  
 (16) IHB.  
 (17) Q. And what will CSX's ownership interest  
 (18) in the IHB become subsequent to the approval of  
 (19) the application?  
 (20) A. As stated in the operating plan, the 51  
 (21) percent ownership that Conrail currently owns  
 (22) will be kept by Conrail. And then there's a  
 (23) mechanism that that ownership is held by both  
 (24) Norfolk Southern and CSX.  
 (25) Q. Okay. Are you familiar with what

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- (1) remedies nonowners will have if they feel that  
 (2) the dispatching on the IHB is not impartial?  
 (3) A. Probably the types that are in place  
 (4) today.  
 (5) Q. But you don't anticipate any changes in  
 (6) the potential remedies for nonowners using the  
 (7) harbor?  
 (8) A. Well -  
 (9) MS. CLAYTON: Are you asking him for a  
 (10) legal opinion, legal remedies, or what?  
 (11) BY MR. HEALEY:  
 (12) Q. I'm asking him for his understanding.  
 (13) He's explained to us previously that he's dealt  
 (14) with other railroads in trying to remedy problems  
 (15) with dispatching.  
 (16) A. And I think it would be in this same  
 (17) line of questioning that you asked earlier, a  
 (18) foreign railroad carrier that has a problem with  
 (19) the movement of its train on its schedule over  
 (20) the IHB would contact their - you know, their  
 (21) counterpart on the IHB, have a conversation to  
 (22) find out what caused the delay, and look to see  
 (23) how they could remedy the delay, if it were  
 (24) something that were occurring more than once.  
 (25) Q. Are you aware of - I'm sorry. Are you

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- (1) done?  
 (2) A. I'm done.  
 (3) Q. Okay. Are you aware of any concerns  
 (4) expressed by any of the railroads that operate in  
 (5) Chicago and are nonowners of the IHB concerning  
 (6) the impartiality of dispatching subsequent to  
 (7) approval of the application?  
 (8) A. Yes.  
 (9) Q. Okay. And what are you aware of in  
 (10) that area?  
 (11) A. I'm aware of conversations, that  
 (12) foreign railroads have come and had conversations  
 (13) with CSX to ask us about how that dispatching  
 (14) would occur.  
 (15) Q. And did, in fact, they express concerns  
 (16) that the dispatching was not going to be  
 (17) impartial?  
 (18) A. They expressed concerns that they would  
 (19) want to have the dispatching to be impartial.  
 (20)  
 (21)  
 (22)  
 (23)  
 (24)  
 (25)



4. **Selected Documents Produced in Discovery (confidential)**



**Confidential Material**

**Redacted**

5.     **Answers to Selected Interrogatories**

CSX/NS-100

BEFORE THE  
SURFACE TRANSPORTATION BOARD

---

Finance Docket No. 33388

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

---

APPLICANTS' INITIAL OBJECTIONS TO ELGIN, JOLIET  
AND EASTERN RAILWAY COMPANY'S THIRD  
SET OF REQUESTS TO PRODUCE DISCOVERY

CSX, NS, and Conrail,<sup>1</sup> collectively "Applicants," hereby assert their objections to the third set of discovery requests to Applicants served by Elgin, Joliet and Eastern Railway Company ("EJE" or "requester") (EJE-8).

GENERAL OBJECTIONS

The following general objections are made with respect to all of the requests. Any additional specific objections are stated at the beginning of the response to each request.

1. Applicants object to production of, and are not producing, documents or information subject to the attorney-client privilege, the work product doctrine and/or the joint or common interest privilege.

---

<sup>1</sup>"CSX" refers collectively to CSX Corporation and CSX Transportation, Inc.; "NS" refers collectively to Norfolk Southern Corporation and Norfolk Southern Railway Company; and "Conrail" refers collectively to Conrail Inc. and Consolidated Rail Corporation.

2. Applicants object to production of, and are not producing, documents prepared in connection with, or information relating to, possible settlement of this or any other matter.

3. Applicants object to production of, and are not producing, public documents or information that is readily available, including but not limited to documents on public file at the Surface Transportation Board ("STB"), the Securities and Exchange Commission, or any other government agency or court, or that have appeared in newspapers or other public media.

4. Applicants object to the production of, and are not producing, draft verified statements and documents related thereto. In prior railroad consolidation proceedings, such documents have been treated by all parties as protected from production.

5. Applicants object to the production of, and are not producing, information or documents that are as readily obtainable by the requester from its own files.

6. Applicants object to the extent that the requests seek documents containing confidential or sensitive commercial information, including information subject to disclosure restrictions imposed in other proceedings or by contractual obligation to third parties, and that is of insufficient materiality to warrant production here even under a protective order.



7. Applicants object to Instructions 2-8 to the extent that they seek to impose requirements that exceed those specified in the applicable discovery rules and guidelines.

8. Applicants object to Definitions 1, 3-8 and Instructions 1-8 as unduly burdensome.

9. Applicants object to Instruction 3 of the requests to the extent it requests detailed information regarding otherwise responsive documents that fall within the scope of a privilege. Such detailed information is not necessary, and is unreasonably burdensome to provide. Such information was not required or provided in the most recent major control case, and no showing has been made here to warrant different treatment.

10. Applicants object to the requests to the extent they seek documents or information in a form not maintained by Applicants in the regular course of business or not readily available in the form requested, on the ground that such documents or information could only be developed, if at all, through unduly burdensome and oppressive special studies, which are not ordinarily required and which Applicants object to performing.

11. Applicants object to the requests as overbroad and unduly burdensome to the extent that they seek information or documents for periods prior to January 1, 1995.

12. CSX, NS and Conrail each object to any requests that seek information regarding current or future operations on, or any other plans or activities relating to, or employment on,

rail lines or properties other than those that each of them currently owns or operates, or with respect to future operations, Conrail line segments that CSX or NS, respectively, will operate at the relevant future time. The best source of information with respect to such matters is the rail carrier that owns or operates the line or property in question, or will do so at the relevant future time.

13. Applicants object to the requests insofar as they seek "all documents relating to" the matters specified, as overbroad and unduly burdensome.

14. Applicants object to the requests because they are duplicative of requests served by one or more other parties.

#### Requests for Production

##### Request No. 1:

Please produce 100% traffic tapes for IHB.

##### Response:

Request Nos. 1-8 are objectionable in toto. They call for Applicants to produce documents in far-reaching categories, concerning a wide range of information of Indiana Harbor Belt Railroad ("IHB"), most of which documents would likely be in the possession, custody and control of IHB itself, which is not an Applicant in this proceeding.

To the extent that the requests call upon Applicants to cause IHB to conduct a search for and to produce such documents they are further objectionable. The stock of IHB is owned 51% by Conrail and 49% by Soo Line Railroad, a subsidiary of Canadian

Pacific Railway Co. (collectively "CP/Soo"), competitors of Applicants who are actively participating in this proceeding. IHB's day-to-day operations are not controlled by Conrail, but by its independent management, with obligations to both stockholders, Conrail and CP/Soo. A corporation is ordinarily not required to exercise dominion over its corporate affiliates, by requiring production of documents in their possession, custody or control, or by requiring their employees to appear as witnesses, unless it is shown to exercise day-to-day control over their operations. This is especially so in a context where the corporation has a bare majority stock interest and an independent party with divergent interest owns the balance, as here. Nothing about this proceeding or the request warrants a different rule here.

Request No. 2:

Please produce density charts for all rail lines owned or operated by IHB. To the extent that such documents do not currently exist, please produce documents from which Applicants believe such information could be most easily determined.

Response:

See objection to Request No. 1.

Request No. 3:

Please produce IHB's current timetable.

Response:

See objection to Request No. 1.

Request No. 4:

Please produce all current slow orders for IHB.

**Response:**

See objection to Request No. 1.

**Request No. 5:**

Please produce documents sufficient to identify the track speeds for all rail line segments owned or operated by IHB.

**Response:**

See objection to Request No. 1.

**Request No. 6:**

Please produce documents sufficient to identify the current capacity and configuration of, and all rail connections to, each rail yard owned or operated by IHB.

**Response:**

See objection to Request No. 1.

**Request No. 7:**

Please produce all documents sufficient to identify the type of signal system utilized on each rail line segment owned or operated by IHB.

**Response:**

See objection to Request No. 1.

**Request No. 8:**

Please produce all contracts currently in effect between IHB and any rail shipper.

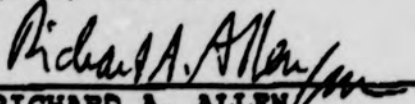
**Response:**

See objection to Request No. 1.



Respectfully submitted,

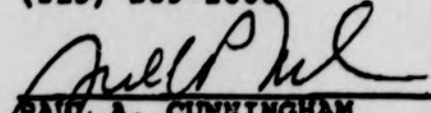
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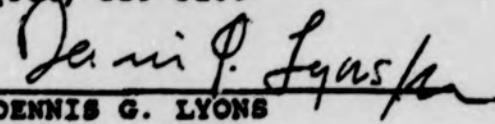
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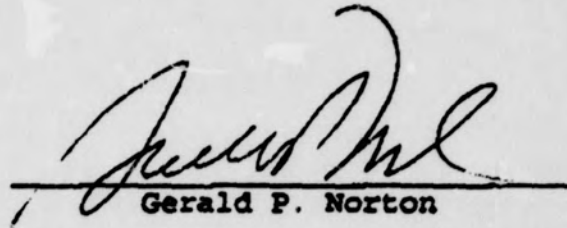
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Counsel for CSX Corporation  
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October 9, 1997

CERTIFICATE OF SERVICE

I, Gerald P. Norton, certify that, on this 9th day of October, 1997, I caused a copy of the foregoing document to be served by overnight mail and/or facsimile on William C. Sippel of Oppenheimer, Wolff & Donnelly at Two Prudential Plaza, 45th Floor, 180 North Stetson Avenue, Chicago, Illinois 60601, counsel for Elgin, Joliet and Eastern Railway Company, and by first class mail, postage prepaid, or by a more expeditious manner of delivery on all parties appearing on the restricted service list established pursuant to paragraph 3 of the Discovery Guidelines in Finance Docket No. 33388.



Gerald P. Norton



CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of October, 1997, a copy of the foregoing Responsive Application of Elgin, Joliet and Eastern Railway Company, Transtar, Inc. and I & M Rail Link, LLC (EJE-10) was served by first class mail, postage prepaid, upon the following parties designated in 49 C.F.R. § 1180.4(c)(5):

Honorable James Edgar  
Governor  
State of Illinois  
Capitol Building, Room 207  
Springfield, Illinois 62706

Honorable Arne H. Carlson  
Governor  
State of Minnesota  
State Capitol, Room 130  
Saint Paul, Minnesota 55155

Honorable Terry E. Branstad  
Governor  
State of Iowa  
State Capitol Building  
Des Moines, Iowa 50319

Honorable Mel Carnahan  
Governor  
State of Missouri  
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Jefferson City, Missouri 65102

Honorable Frank L. O'Bannon  
Governor  
State of Indiana  
State Capitol, Room 206  
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Mr. Dan Miller  
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Mr. Joel Jacobs  
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Mr. Karl Zobrist  
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Saint Paul, Minnesota 55155

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Mr. Thomas M. Boland  
Chairman  
Missouri Highway and Transportation Commission  
P.O. Box 270  
Jefferson City, Missouri 65102

Mr. Curtis A. Wiley  
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Indiana Department of Transportation  
100 North Senate Avenue  
Indianapolis, Indiana 46204-2217

Honorable Rodney E. Slater  
Secretary of Transportation  
c/o Docket Clerk, Office of Chief Counsel  
Federal Railroad Administration  
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Washington, DC 20590

Mr. Roger W. Fones  
Chief, Transportation, Energy and  
Agriculture Section  
Antitrust Division  
U.S. Department of Justice  
325 Seventh Street, N.W., Room 500  
Washington, DC 20530

Honorable Robert E. Lofsky  
Chairman  
Federal Trade Commission  
Sixth Street & Pennsylvania Avenue, N.W.  
Washington, DC 20580

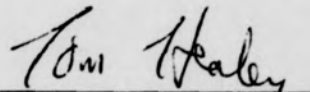
by hand delivery upon the Primary Applicants herein, as follows:

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and by first class mail, postage prepaid, upon all designated parties of record appearing on the Surface Transportation Board's official service list in this proceeding, served August 19, 1997 and revised on October 7, 1997.

  
\_\_\_\_\_  
Thomas J. Healey

STB

FD

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(Sub

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10-21-97

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**SURFACE  
TRANSPORTATION BOARD**

**VIA HAND DELIVERY**

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W., Room 715  
Washington, DC 20423-0001

**FILED**

OCT 21 1997

**SURFACE**

Re: **Finance Docket No. 33388 TRANSPORTATION BOARD**  
**CSX Corporation and CSX Transportation, Inc.,**  
**Norfolk Southern Corporation and Norfolk**  
**Southern Railway Company -- Control and**  
**Operating Leases/Agreements -- Conrail Inc.**  
**and Consolidated Rail Corporation**

**Finance Docket No. 33388 (Sub-No. 36)** ←  
**Elgin, Joliet and Eastern Railway Company,**  
**Transtar, Inc. and I & M Rail Link, LLC --**  
**Purchase -- Stock of Indiana Harbor Belt**  
**Railroad Company Controlled by Consolidated**  
**Rail Corporation**

Dear Secretary Williams:

Enclosed for filing with the Board in the above-captioned proceedings are an original and twenty-five copies of the **Responsive Application of Elgin, Joliet and Eastern Railway Company, Transtar, Inc. and I & M Rail Link, LLC (EJE-10)**, dated October 21, 1997. A computer diskette containing the text of EJE-10 and the accompanying verified statements in WordPerfect 5.1 format and a check in the amount of \$4700, representing the appropriate fee for this filing, also are enclosed.

Please note that EJE-10 has been designated as confidential and is being filed under seal. A redacted version of EJE-10 will be filed shortly.

I have also enclosed herewith an extra copy of EJE-10 and this transmittal letter. I would request that you date-stamp those copies to show receipt of this filing and return them to me in the provided envelope.

Copies of EJE-10 have been served on all designated parties of record and on the entities designated in 49 C.F.R. § 1180.4(c)(5), as shown on the certificate of service.

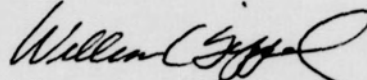
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Washington, D.C.



Mr. Vernon A. Williams  
October 21, 1997  
Page 2

Please feel free to contact me should any questions arise regarding this filing. Thank you for your assistance on this matter.

Respectfully submitted,



William C. Sippel  
Attorney for Elgin, Joliet and  
Eastern Railway Company, Transtar,  
Inc. and I & M Rail Link, LLC

WCS:tjl

Enclosures

cc: Parties on Certificates of Service

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FD

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(Sub 36)

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OPPENHEIMER WOLFF & DONNELLY

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45th Floor  
180 North Stetson Avenue  
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(312) 616-1800  
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Thomas J. Litwiler  
(312) 616-5861



Office of the Secretary

NOV 05 1997

3 Part of  
Public Record

October 31, 1997

Brussels  
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**VIA FEDERAL EXPRESS**

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W., Room 700  
Washington, DC 20423-0001

Re: **Finance Docket No. 33388**  
**CSX Corporation and CSX Transportation, Inc.,**  
**Norfolk Southern Corporation and Norfolk**  
**Southern Railway Company -- Control and**  
**Operating Leases/Agreements -- Conrail Inc.**  
**and Consolidated Rail Corporation**

**Finance Docket No. 33388 (Sub-No. 36)**  
**Elgin, Joliet and Eastern Railway Company,**  
**Transtar, Inc. and I & M Rail Link, LLC --**  
**Purchase -- Stock of Indiana Harbor Belt**  
**Railroad Company Controlled by Consolidated**  
**Rail Corporation**

Dear Secretary Williams:

On October 21, 1997, the Elgin, Joliet and Eastern Railway Company, Transtar, Inc. and I & M Rail Link, LLC ("IMRL") filed their Responsive Application (EJE-10) in the above-captioned proceedings. The signature pages for IMRL's officers which accompanied that Responsive Application, as well as the verification page for the Statement of William H. Brodsky (EJE-10 at 61), were filed in facsimile form.

I am now attaching for placement in the Board's records the original versions of those signature and verification pages. Twenty-five copies of this letter, with attachments, are enclosed for filing, and copies of this letter, with attachments, have been served on all designated parties of record in this proceeding by first class mail, postage prepaid.

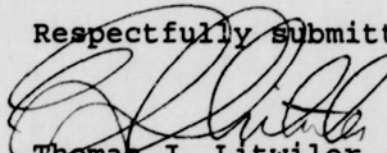
I also have enclosed herewith an extra copy of this letter, and would request that you date-stamp that copy to show receipt of this filing and return it to me in the provided envelope.



Mr. Vernon A. Williams  
October 31, 1997  
Page 2

Please feel free to contact me should any questions arise regarding this filing. Thank you for your assistance on this matter.

Respectfully submitted,



Thomas J. Litwiler  
Attorney for I & M Rail Link, LLC

TJL:tl

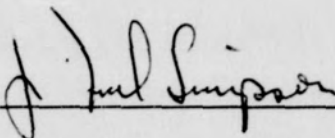
Attachments

cc: Parties of Record

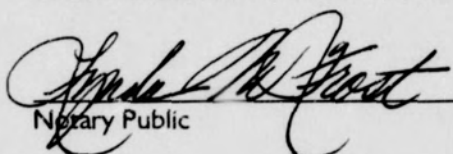
## CERTIFICATION

State of Montana     )  
                                  )  
County of Missoula    )

J. Fred Simpson, being duly sworn, deposes and says that he is Executive Vice President of I & M Rail Link, LLC, an applicant herein; that he has been duly authorized and designated by I & M Rail Link, LLC, to sign, verify and file the foregoing application with the Surface Transportation Board; that he has examined all of the statements contained in said Application; that he has knowledge of the matters set forth therein insofar as those matters relate to I & M Rail Link, LLC; and that all such statements made and matters set forth therein with respect to I & M Rail Link, LLC are true and correct to the best of his knowledge, information and belief.

  
\_\_\_\_\_

SUBSCRIBED AND SWORN to before me this twentieth day of October, 1997.

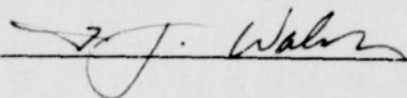
  
\_\_\_\_\_  
Notary Public

My commission expires: 8/24/00

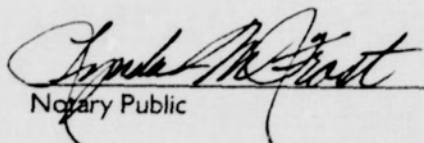
**CERTIFICATION**

State of Montana     )  
                                  )  
County of Missoula    )

I, Thomas J. Walsh, am Secretary of I & M Rail Link, LLC, and I hereby certify that J. Fred Simpson is Executive Vice President of I & M Rail Link, LLC, and is duly authorized and designated to sign, verify and file the foregoing Application on behalf of I & M Rail Link, LLC.

  
\_\_\_\_\_

SUBSCRIBED AND SWORN to before me this twentieth day of October, 1997.

  
\_\_\_\_\_  
Notary Public

My commission expires: 8/24/00

# CERTIFICATION

State of Montana     )  
                                  )  
County of Missoula    )

William H. Brodsky, being duly sworn, deposes and says t'at he is the President of I & M Rail Link, LLC, that he has read the foregoing statement and knows the facts asserted therein, and that the same are true as stated.

William H. Brodsky

SUBSCRIBED AND SWORN to before me this twentieth day of October, 1997.

Spencer A. Frost  
Notary Public

My commission expires: 8/24/00