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BEFORE THE
SURFACE TRANSPORTATION BOARD



Finance Docket No. 33388 *Sub 38*

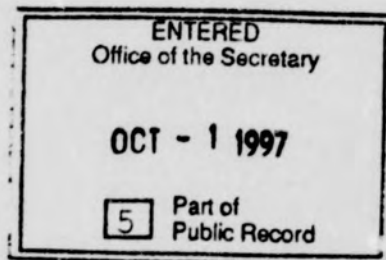
CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY
-- CONTROL AND OPERATING LEASES/AGREEMENTS --
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

Finance Docket No. 33388 (Sub-No. 38)

NEW JERSEY TRANSIT CORPORATION
-- OPERATING RIGHTS --
LINES OF CONSOLIDATED RAIL CORPORATION

I

NEW JERSEY TRANSIT CORPORATION
PETITION FOR CLARIFICATION OF DECISION NO. 33



Robert Shire
Deputy Attorney General
State of New Jersey
Department of Law and Public Safety
Division of Law
One Penn Plaza East
Newark, NJ 07105-2246
(201) 491-7037

Kevin M. Sheys
Thomas Lawrence III
Thomas J. Litwiler
Edward J. Fishman
Oppenheimer Wolff & Donnelly
1020 Nineteenth Street, N.W.
Suite 400
Washington, D.C. 20036
(202) 293-6300

Counsel for New Jersey Transit Corporation

Dated: October 1, 1997

**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 --
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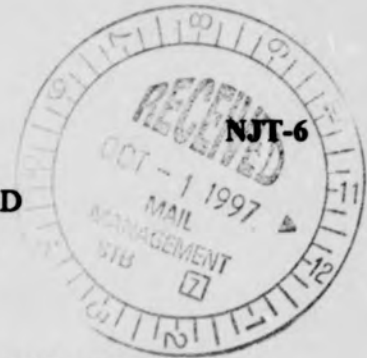
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**NEW JERSEY TRANSIT CORPORATION
-- OPERATING RIGHTS --
LINES OF CONSOLIDATED RAIL CORPORATION**

**NEW JERSEY TRANSIT CORPORATION
PETITION FOR CLARIFICATION OF DECISION NO. 33**

I. Introduction

On August 22, 1997, NJT filed a Petition for Waiver or Clarification seeking clarification that certain conditions to be sought by NJT in connection with any Board approval of the Primary Application herein would not require the filing of a responsive application under 49 C.F.R. § 1180.4(d)(4), and alternatively, seeking clarification or waiver of certain informational requirements contained in the Board's Railroad Consolidation Procedures, 49 C.F.R. § 1180. In Decision No. 33, served on September 17, 1997, the Board granted NJT's Petition for Waiver or Clarification, finding that NJT would not be required to submit a responsive application because the Board no longer has jurisdiction over mass transportation provided by local government authorities. However, to facilitate the environmental review process, the Board ordered NJT to file



either (1) a verified statement that the proposed operations will have no significant environmental impact or (2) an environmental report containing detailed environmental information regarding the proposed operating rights. NJT was directed to consult with the Board's SEA as early as possible regarding the appropriate environmental documentation. Decision No. 33, at 3.

NJT has consulted with SEA and discussed the required content of NJT's environmental submission. In follow-up to that consultation, NJT has prepared and submitted the Verified Statement of Steven M. Jurow, NJT-5.¹ The content of the Jurow Verified Statement does not fit squarely within the two options outlined by the Board in Decision No. 33. It does not purport to show that the conditions to be sought by NJT would have no reasonably foreseeable environmental impact and it does not "report" the reasonably foreseeable environmental impact. Instead, consistent with the general guidance received during the SEA consultation, the Jurow Verified Statement explains that each of the new start passenger rail projects underlying the conditions to be sought by NJT would require extensive environmental review under either federal or state law as a prerequisite to construction and operation. Jurow V.S. at 3-6.

II. Petition for Clarification

NJT hereby submits this petition for clarification seeking Board confirmation that the Verified Statement of Steven M. Jurow comports with the intent of Decision No. 33, by providing SEA with requisite information to "facilitate the environmental review process." Decision No. 33, at 3. NJT's Description of Anticipated Responsive

¹ The Verified Statement of Steven M. Jurow, NJT-5, is submitted simultaneously herewith.

Application indicated that it would seek operating rights over certain identified rail lines (referred to herein as the "NJT Conditions").² The Jurow Verified Statement explains the federal or state environmental review process that would apply to each of the new start rail projects underlying the NJT Conditions, and, by way of example, summarizes the environmental work being conducted in connection with one of the projects. Jurow V.S. at 3-8. NJT respectfully submits that the Jurow Verified Statement provides SEA with the information it needs to facilitate its environmental review of the NJT Conditions.

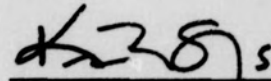
Apart from the foregoing, one of the underlying policies of the Council on Environmental Quality ("CEQ") guidelines is to "reduce paperwork and the accumulation of extraneous background data...", and "[to] integrate the requirements of NEPA with other planning and environmental procedures required by the law or agency practice...." 40 *CFR* § 1500.2(b)-(c). The CEQ guidelines evince an overall policy favoring non-duplication. Board analysis of the environmental impact of the projects related to the NJT Conditions would only duplicate future environmental review, in contravention of CEQ guidelines.

² See NJT-3, Description of Anticipated Response Application, August 22, 1997.

WHEREFORE, NJT respectfully requests that the Board clarify that the Verified Statement of Steven M. Jurow comports with the intent of Decision No. 33, by providing SEA with the requisite information to facilitate the environmental review process.

Respectfully submitted,

Robert Shire
Deputy Attorney General
State of New Jersey
Department of Law and Public Safety
Division of Law
One Penn Plaza East
Newark, NJ 07105-2246
(201) 491-7037



Kevin M. Sheys
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Counsel for New Jersey Transit Corporation

Dated: October 1, 1997

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October, 1997, a copy of the foregoing **Verified Statement of Steven M. Jurow (NJT-5) and Petition for Clarification of Decision No. 33 (NJT-6)** was served by first class mail, postage prepaid, upon **Administrative Law Judge Jacob Leventhal**, all **Parties of Record on the Service List** and all parties required to be served with environmental documentation pursuant to 49 C.F.R. § 1105.7(b).



Kevin M. Sheys