

STB

FD-33388 (SUB38)

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REPLY TO  
ATTENTION OF

Regulatory Branch  
Applicant Section I

# DEPARTMENT OF THE ARMY

PHILADELPHIA DISTRICT, CORPS OF ENGINEERS  
WANAMAKER BUILDING, 100 PENN SQUARE EAST  
PHILADELPHIA, PENNSYLVANIA 19107-3390

JAN 14 1998



SUBJECT: CENAP-OP-R-199700148-15, Norfolk Southern Corporation

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

Surface Transportation Board  
Section of Environmental Analysis  
1925 K Street, N.W., Room 504  
Washington, D.C. 20423-0001

ENVIRONMENTAL  
DOCUMENT

Gentlemen:

This is in reference to a proposal by New Jersey Transit (NJT) Corporation to upgrade and improve existing rail facilities along a Conrail line known as the Bordentown Secondary in order to operate a light rail transit (LRT) system between Trenton and Camden, New Jersey.

During 1997 representatives of this office have had several pre-application meetings with consultants for New Jersey Transit Corporation and have inspected the federally regulated waters and wetlands along the rail line. It has been determined that in addition to necessary state authorizations required by the New Jersey Department of Environmental Protection, the proposed work in federally regulated waters and wetlands will require federal permits from the U.S. Coast Guard and the Corps of Engineers.

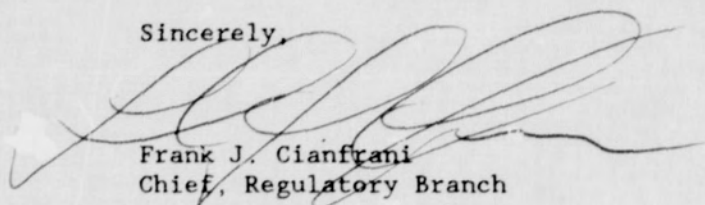
The Corps of Engineers regulates activities in waters of the United States under Section 404 of the Clean Water Act (404) and Section 10 of the River and Harbors Act (Section 10). The U.S. Coast Guard retains Section 10 authority over bridge crossings of navigable waters and is requiring bridge permits for the proposed crossings at the Rancocas Creek and Cooper River. At this time it appears that the necessary authorizations from the Corps of Engineers will take the form of Department of the Army Nationwide permits for bank stabilization work and for 404 activities associated with Coast Guard permitted Section 10 bridge crossings.

On December 9, 1997 consultants for New Jersey Transit formally submitted their delineation of federally regulated waters and wetlands along the rail line for review and approval by this office. We anticipate completion of our review by the end of the month and anticipate that additional pre-application meetings with New Jersey Transit consultants will follow prior to their submission of a formal application for the necessary authorizations from the Corps of Engineers.

SUBJECT: CENAP-OP-R-199700148-15, Norfolk Southern Corporation

Should you have any questions regarding this matter, please contact William Jenkins of my office at (215) 656-6734 between the hours of 1:00 and 3:30 p.m. or by writing to the above address.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Frank J. Cianfrani', is written over the typed name and title.

Frank J. Cianfrani  
Chief, Regulatory Branch

STB

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33388

(Sub 38)

11-3-97

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183684

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November 3, 1997



**VIA MESSENGER**

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 Corp. and CSX Transportation, Inc., Norfolk Southern Corp.**  
**and Norfolk Southern Railway Company -- Control and Operating**  
**Leases/Agreements -- Conrail Inc. and Consolidated Rail Corporation**

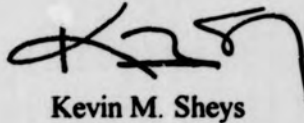
**Finance Docket No. 33388 (Sub-No. 38)**  
**New Jersey Transit Corporation -- Operating Rights --**  
**Lines of Consolidated Rail Corporation**

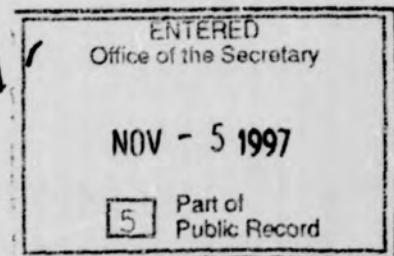
Dear Secretary Williams:

Enclosed for filing in the above-captioned proceedings pursuant to Decision No. 47, served October 23, 1997, are the original and 25 copies of the Responsive Environmental Report of New Jersey Transit Corporation (NJT-9). Also enclosed is a 3.5-inch diskette containing the filing in WordPerfect 5.1.

Please stamp the extra copy of the foregoing and return it with our messenger.

Respectfully submitted,

  
Kevin M. Sheys



KMS:tjl

Enclosures

cc: All Parties Referenced in Certificate of Service

183684

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Finance Docket No. 33388



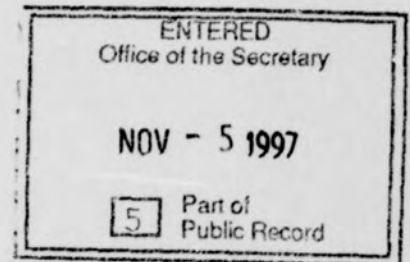
CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK SOUTHERN  
CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY  
-- CONTROL AND OPERATING LEASES/AGREEMENTS --  
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

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

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

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**RESPONSIVE ENVIRONMENTAL REPORT OF  
NEW JERSEY TRANSIT CORPORATION**



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Counsel for New Jersey Transit Corporation

Dated: November 3, 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 --  
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

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

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

**RESPONSIVE ENVIRONMENTAL REPORT OF  
NEW JERSEY TRANSIT CORPORATION**

Pursuant to Decision Nos. 6, 33 and 47 herein, served on May 30, 1997,  
September 17, 1997 and October 23, 1997, respectively, New Jersey Transit Corporation  
("NJT")<sup>1</sup> hereby files this Responsive Environmental Report ("RER")<sup>2</sup> addressing a proposed light  
rail transit ("LRT") system which is the subject of a condition which NJT seeks in response to the  
proposed control of Conrail, Inc. ("CRI") and Consolidated Rail Corporation ("Conrail") by CSX

<sup>1</sup> References herein to NJT include NJT's rail operating subsidiary New Jersey Transit Rail Operations, Inc. ("NJTRO"). Where appropriate, references herein to NJT also include the New Jersey Department of Transportation ("NJDOT").

<sup>2</sup> In Decision No. 33, the Board found that NJT was not required to submit a responsive application for the commuter rail operating rights which it anticipated seeking in this proceeding. While NJT accordingly filed "Comments and Request for Conditions," rather than a responsive application, on October 21, 1997, it has styled this filing a "Responsive Environmental Report" for convenience and consistency with other similar filings herein. This is consistent with Decision No. 47 (at 2), which provides that NJT should file an environmental submission "as if it were a responsive applicant."



Corporation ("CSXC"), CSX Transportation, Inc. ("CSXT"), Norfolk Southern Corporation ("NSC") and Norfolk Southern Railway Company ("NSR")<sup>3</sup> and the division of Conrail's assets between CSX and NS. Those decisions require NJT to file either an RER or a verified statement that its proposed LRT operations will fall within the exemption criteria of 49 C.F.R.

§ 1105.6(c)(2) and thus have no significant environmental impact. As is explained further below, it is the conclusion of this RER that NJT's proposed operations will not significantly affect either the quality of the human environment or the conservation of energy resources, and in fact should generate substantial benefits in both of those areas. However, because the proposed condition involves an LRT system rather than the operation of "trains" as that term is generally construed, it is unclear how or whether the "rail traffic" or "trains a day" standards of 49 C.F.R.

§§ 1105.6(c)(2) and 1105.7(e)(5) would apply in this circumstance. NJT has accordingly prepared this RER to assure that the Board has adequate environmental information about NJT's proposal.

In its Description of Anticipated Responsive Application (NJT-3), filed August 22, 1997, NJT identified ten Conrail line segments on which NJT anticipated seeking Board-ordered operating rights to allow new start commuter rail service. As explained in the Comments and Request for Conditions filed by NJT and NJDOT on October 21, 1997 (NJT-8), however, NJT has determined that Board-imposed conditions are not necessary with respect to nine of those line segments. With respect to the tenth line segment -- Conrail's line of railroad known as the Bordentown Secondary between Trenton and Camden, New Jersey -- NJT seeks only a condition that NS and CSX be required to meet and confer with NJT to examine and cooperate in the

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<sup>3</sup> CSXC and CSXT are collectively referred to as "CSX." NSC and NSR are collectively referred to as "NS." Where appropriate, references to Conrail include CRI.

development of the proposed LRT project, and that the Board be available to decide unresolved issues if the parties were unable to reach agreement on implementation of the project. NJT-8 at 17-18. As so structured, it is not clear that environmental documentation is required for NJT's proposed condition, or that a Verified Statement of No Significant Impact would not be sufficient to address the environmental impacts of that condition. Out of an abundance of caution, however, and again to ensure that the Board has adequate environmental information about NJT's new start condition regarding the Bordentown Secondary, NJT is submitting this RER on that condition.

#### **I. EXECUTIVE SUMMARY**

NJT proposes to construct and operate an LRT system, known as Southern New Jersey Light Rail Transit System (hereinafter referred to as the "South Jersey LRT Project"), that would link Trenton and Camden, New Jersey. The South Jersey LRT Project would be constructed and operated within the existing right-of-way of Conrail's Bordentown Secondary, and would share a significant amount of trackage with Conrail. The South Jersey LRT Project will provide mass transit service to an area expected to grow substantially in upcoming years, reduce traffic congestion on area roadways and diminish the need to construct new highways. The project in turn will result in substantial environmental benefits in the areas of transportation systems, land use, energy, air quality and safety. Any potential adverse environmental affects on biological or water resources will be minimized by construction of the South Jersey LRT Project within the existing right-of-way of the Bordentown Secondary. Suggested mitigation measures will further reduce any potential environmental impacts. Existing rail freight operations on the

Bordentown Secondary can be conducted without any adverse affect on the quality or efficiency of freight service to shippers on the Bordentown Secondary and contiguous branch lines.

Environmental permits will be required that contain mitigation measures which will ameliorate any potential environmental impacts of the South Jersey LRT Project. NJT is in the process of applying for both Federal and State permits for the project.

A. At the Federal Level:

1. U.S. Army Corps of Engineers, Philadelphia District
  - Section 10 (navigation) permit under the Rivers and Harbors Act of 1899
  - Section 404 (discharge of dredged or fill material) permit under the Clean Water Act(Nationwide and/or individual)
2. U.S. Coast Guard, 5<sup>th</sup> District
  - Section 9 bridge permit under the Rivers and Harbors Act of 1899 for each new bridge over water

B. At the State Level:

1. New Jersey Department of Environmental Protection ("NJDEP")
  - Section 401 Water Quality Certificate under the Clean Water Act
  - Freshwater wetlands permits
2. NJDEP Bureau of Land Use Regulation
  - Land Use Regulation Permits (LURPs)
  - Stream Encroachment Permit for impacts to flood hazard areas
  - Waterfront Development Permit for work in areas designated as coastal zone management areas.
3. NJDEP Bureau of Tidelands
  - Riparian conveyance permits under applicable state law

In addition to these permit applications a state-level Environmental Impact Statement ("EIS") is being undertaken with respect to the South Jersey LRT Project in accordance with New Jersey Executive Order 215.

The proposed operation of the South Jersey LRT Project on the Bordentown Secondary right-of-way is the preferred alternative.<sup>4</sup> Operation of FRA compliant diesel-powered commuter trains on the Bordentown Secondary would prohibit operational flexibility and feasibility by preventing street running in Camden and Trenton. Construction and operation of the South Jersey LRT Project on a new right-of-way would cause substantially greater disruption and adverse environmental impacts than the proposed shared use of the Bordentown Secondary right-of-way. The no-build alternative is the only alternative considered for this project and would not have any direct, short-term environmental impacts, but would not satisfy the project objectives of the South Jersey LRT Project and, over the long-term, would lead to increased levels of traffic congestion and air pollution.

With imposition of the recommended mitigation conditions, the preferred alternative -- operation of the South Jersey LRT Project on the Bordentown Secondary right-of-way -- should not significantly affect either the quality of the human environment or the conservation of energy resources.

## **II. PURPOSE AND NEED FOR AGENCY ACTION**

The condition sought by NJT herein will facilitate construction and operation of the South Jersey LRT Project and assure that the Project is not adversely affected by the

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<sup>4</sup> In November 1996 the NJT Board of Directors endorsed the South New Jersey LRT Project and selected Camden to Trenton as the initial operating corridor.

proposed break-up of Conrail between NS and CSX. The South Jersey LRT Project is critical to passenger transportation mobility in the State of New Jersey, and to resolving transportation congestion and air quality problems. Implementation of the South Jersey LRT Project also will offset additional traffic congestion impacts resulting from the transactions contemplated by the Primary Application. Service expansions such as that proposed for the Bordentown Secondary are vital for New Jersey to increase commuter light rail ridership and thereby reduce automobile trips and come into compliance with the Clean Air Act and other environmental laws. And the particular form of expanded service proposed here -- the integration of passenger transit service with freight operations on existing rights-of-way -- offers multi-faceted public benefits. Shared usage is a cost-effective means to reduce traffic on local roads and highways by attracting riders from single-passenger automobiles. Such shared-usage service expansions can be introduced without disrupting the involved communities or adversely altering existing land use patterns. Agency action is needed here to assure that the substantial public benefits anticipated to result from the South Jersey LRT Project are not thwarted by the proposed break-up of Conrail.

In Decision No. 47, served October 23, 1997, the Board found that agency action in the form of an "appropriate underlying environmental review of NJT's requested conditions" was required. This RER is submitted in accordance with that determination.

### **III. DESCRIPTION OF REQUESTED CONDITION AND OPERATIONS**

NJT seeks a condition to facilitate the operation of the South Jersey LRT Project over Conrail's Bordentown Secondary between Trenton and Camden, New Jersey. The South Jersey LRT Project consists of a 34-mile light rail transit system between Trenton and Camden; 20 new light rail transit stops, some with adjacent park-and-ride facilities; a yard and maintenance

shop with a central control facility governing operation of the planned 24-car system; and a supporting network of transit bus services, commuter rail transfers and ferry services.<sup>5</sup> The LRT system would operate along the existing Conrail Bordentown Secondary serving fourteen communities between Camden and Trenton (inclusive). At Trenton, the LRT system would terminate at a street-level, low level platform station adjacent to the Northeast Corridor Trenton Station. Passenger services on the Northeast Corridor are provided by the National Railroad Passenger Corporation ("Amtrak"), the Southeastern Pennsylvania Transit Authority ("SEPTA") and NJTRO. At Camden the line would serve the Walter Rand Transportation Center, which functions as a transit hub for southern New Jersey.

The South Jersey LRT Project would share a significant amount of trackage on the Bordentown Secondary with Conrail. Conrail provides freight service to customers on the Bordentown Secondary and on several short branch lines which diverge from the Bordentown Secondary. In the most recent 12-month period for which information is available, 5,800 carloads of traffic originated or terminated on the Bordentown Secondary and its contiguous branches. Conrail services this traffic with four daily switching assignments on the Bordentown Secondary. Following consummation of the transactions proposed in the Primary Application, the Bordentown Secondary will become part of the proposed South Jersey Shared Asset Area and will be operated by the Conrail Shared Assets Operator ("CSAO").

The South Jersey LRT Project will utilize LRT equipment which does not meet the requirements of the Federal Railroad Administration ("FRA") for operation in mixed or

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<sup>5</sup> Because the proposed station stops, park-and-ride facilities, yard/maintenance shop and connecting transportation services are not part of the operating rights to which NJT's requested condition relates, they are not directly addressed in this RER.

simultaneous service with conventional rail freight trains. As a result, freight and passenger/transit operations on the Bordentown Secondary main line will operate separately. NJT would provide service on the Bordentown Secondary between Trenton and Camden. The LRT system would operate from 6:00 AM to midnight, seven days a week. During weekdays from 6:00 AM to 7:00 PM, the service would run on 15 minute headways. The system would run on 30 minute headways from 7:00 PM to midnight on weekdays and all day on weekends. Freight service to customers will be substantially the same as it is today. Freight service on the "main line" would be during the overnight hours, after LRT operations are completed for the day and before they begin again the next morning. After start-up of the proposed LRT operations, the CSAO could continue to use four switching crews on the Bordentown Secondary and contiguous lines in an arrangement similar to that utilized by Conrail today. The only significant change is that the "main line" freight operations would be completed in a narrower time frame than today, and certain customer service and crew operating hours would rotate from daytime to nighttime.<sup>6</sup> While final operating patterns and interfaces for freight and transit service obviously have not been established, NJT is committed to capital improvements to the existing operation including a new freight yard north of Burlington and sidings.

As part of the South Jersey LRT Project, NJT proposes to:

- 1) Rehabilitate the entire existing rail freight mainline track. This will include replacing existing 130 lb. jointed rail that is from 50 to 80 years old and badly worn with 115 lb. continuous welded rail (CWR). The rehabilitation

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<sup>6</sup> A more detailed description of potential CSAO operations on the Bordentown Secondary after initiation of LRT service is contained in the Verified Statement of Frank M. Russo submitted with NJT's Comments and Request for Conditions (NJT-8) on October 21, 1997.

process would also include replacement of about 50% of the existing ties and stabilization of the existing trackbed and embankments. The rehabilitated track would be FRA compliant for Class 3 passenger rail service with upgraded project requirements for track safety.

- 2) Upgrade the 59 grade crossings present along the existing railroad corridor proposed for light rail. As part of the South Jersey LRT Project, no grade crossings are planned to be closed. All 59 grade crossings would be afforded adequate warning devices to make drivers aware of an approaching train. Currently, one public crossing has only a passive warning sign, and 6 private crossings have no signs or protection of any kind. All public crossings will have gates, flashers and bells. All private crossings will be protected by a combination of private gates, flashers and bells. All grade crossings are being evaluated by the NJDOT Diagnostic Team.
- 3) Install a FRA compatible signal system on the largely unsignalled Bordentown Secondary.
- 4) Replace the Rancocas Creek swing bridge at Riverside, New Jersey with a new fixed-span bridge, and replace the Crosswicks Bridge at Bordentown, New Jersey with a new structure. In addition, upgrades and improvements will be made to all the remaining bridges.
- 5) Realign existing sidings for American Float Glass and Ball Glass and install additional storage tracks in these locations.

- 6) Realign existing sidings for Rimtec and Colorite and install additional storage tracks in these locations.
- 7) Install a cross-over at approximately milepost 19.2 at Delanco, New Jersey to allow run-around movements and facilitate freight service to the Triangle Pacific facility at that location.
- 8) Extend the existing siding at Florence, New Jersey by 2.7 miles to allow freight service to Wood Treating and other customers up to U.S. Pipe to be provided on a freight running track rather than from the main track.
- 9) Construction of additional track on the Robbinsville Industrial Track. This would allow run-around movements and facilitate freight service without using the mainline track.

A map showing the location of the proposed South Jersey LRT Project is attached as Exhibit 1.

#### **IV. DESCRIPTION OF AFFECTED ENVIRONMENT**

The project area encompasses an area along the eastern bank of the Delaware River between Camden and Trenton, New Jersey. The project area consists of three counties, 11 townships, five cities, and three boroughs. The counties are Camden, Burlington and Mercer. The townships are Pennsauken, Cinnaminson, Delran, Riverside, Delanco, Edgewater Park, Burlington, Florence, Mansfield, Bordentown and Hamilton. The cities are Camden, Beverly, Burlington, Bordentown and Trenton. The boroughs are Palmyra, Riverton and Fieldsboro.

The project area is anchored on two ends by high-density urban areas -- Camden City in the south and the City of Trenton in the north. Between these urbanized areas there exists

a full range of land uses. There are small traditional town centers surrounded by relatively high-density and older residential neighborhoods. There are older commercial developments oriented to key arterial roadways, such as Route 73, US 130 and Route 206, which serve older suburban areas built in the 1950s, 1960s, and 1970s. There are newer suburban residential areas developed in the 1980s and 1990s with significant representations of heavy industrial and goods distribution properties. Finally, there are certain specified areas that are considered to be sensitive with respect to wildlife and natural vegetation.

The counties to be served by the South Jersey LRT Project (Burlington, Camden and Mercer) are among the fastest growing counties in the nine-county Philadelphia Metropolitan Region. By 2010, population in the three-county area is projected to increase 25 percent. Over the same period, the number of automobiles will increase by 50 percent and jobs will grow by 30 percent. Without sound transportation planning and development -- as exemplified by the South Jersey LRT Project -- these factors will drastically increase traffic congestion and stretch the existing highway network beyond capacity. Expansion of the existing highway network is largely constrained by current land use patterns. In addition, under the Clean Air Act the region is currently classified as a non-attainment area for ozone and carbon monoxide.

## **V. DESCRIPTION OF ALTERNATIVES**

NJT has formally identified one alternative -- the no-build alternative -- to operation of the proposed South Jersey LRT Project on a shared-usage basis on the Bordentown Secondary.

The no-build alternative would not satisfy NJT's project objectives of providing efficient and needed rail transit service to the residents of southwestern New Jersey. While the no-

build alternative would have no immediate environmental impact, in the medium- to long-run the no-build alternative would inhibit efforts to ameliorate traffic congestion, reduce emissions and comply with the requirements of the Clean Air Act. Thus, unlike many cases, the no-build alternative here would result in greater harm to the quality of the human environment than the preferred alternative.

While NJT has not specifically studied any other alternatives to operation of the South Jersey LRT Project on the Bordentown Secondary right-of-way, NJT notes that construction of the Project in a new, dedicated LRT corridor would substantially disrupt existing land use patterns, defeat the benefits and efficiencies inherent in shared-use corridors and cause significant increases in the environmental impacts associated with the Project. Operation of conventional commuter passenger trains pulled by diesel-powered locomotives on the Bordentown Secondary would preclude anticipated street-running to the terminals in Trenton and Camden and destroy much of the operational flexibility and feasibility of the Project.

## **VI. ANALYSIS OF POTENTIAL ENVIRONMENTAL IMPACTS**

### **A. Effect on Transportation System**

The South Jersey LRT Project will significantly improve local and regional transportation systems and patterns. The Project will substantially improve accessibility to various destinations in the Trenton-Camden corridor and reduce traffic congestion in the area. NJT estimates that by the year 2020 the South Jersey LRT Project will be utilized for nearly 16,000 daily trips -- trips that otherwise would be clogging the area's already constrained highway system. The direct transportation benefit of the project is estimated to be more than \$24 million annually by 2020.

There would be approximately 9,100 transit trips in 2001 on the South New Jersey LRT project. This number reflects the realistic units imposed by the availability of parking at passenger stops. Assuming no limitation on parking, an additional 1500 trips per day would be added. In the year 2020, ridership is projected to be 13,400 under the assumptions of constrained parking and 15,700 under assumptions of unconstrained parking

Diversion of commuters and other travelers from their automobiles to the LRT system will result in annual savings of approximately 265,000 hours of travel time in the first five years of service, and annual savings of 600,000 hours of travel time by 2020.

At the same time, rail freight service on the Bordentown Secondary and contiguous lines will be not adversely affected. The CSAO will continue to provide service to all existing and any new customers on those lines.

#### **B. Land Use**

The South Jersey LRT Project will be constructed and operated within an existing, active transportation right-of-way. Thus, the project is consistent with existing land usage in the immediate area. As pointed out above, a significant benefit of shared usage of rail corridors for both passenger and freight service is the ability to introduce passenger service into a region without disrupting or adversely affecting existing land use patterns. NJT believes that the South Jersey LRT Project is entirely consistent with existing local and regional land use plans. The Project will further the goals of the affected towns' master plans by encouraging economic redevelopment, strengthening existing town centers, battling suburban sprawl, maintaining green space and promoting transit oriented development. The relevant county planning agencies have been thoroughly involved in the development of this project.

Construction and operation of the South Jersey LRT Project entirely within the right-of-way of the Bordentown Secondary will not have adverse impact on prime agricultural land.

Portions of the South Jersey LRT Project area lie within the State's designated coastal zone area, particularly in the Camden waterfront area by the Sony Blockbuster Waterfront Entertainment Center and at all major navigable tributaries to the Delaware River. Major Delaware River tributaries in the project area that fall within the designated coastal zone include: Cooper River, Pennsauken Creek, Pompeston Creek, Swede's Run, Rancocas Creek, Assiscunk Creek, Black's Creek and Crosswicks Creek. In addition, there are other minor water resources that are regulated within the framework of the State's coastal zone program: Pochack Creek, Sturgeon Pond, Rowan Lake, Crystal Lake, and Duck Creek.

### **C. Energy**

Mass transit systems, such as the LRT system proposed here, are inherently fuel efficient when compared to travel by automobile. By 2020, the South Jersey LRT Project will handle up to 16,000 daily trips. By removing these passengers from their automobiles on area highways, the South Jersey LRT Project will result in an overall increase in energy efficiency. NJT believes that the project will provide a net energy savings of over 33,526 million British thermal units ("BTUs") per year by 2020.

The CSAO, as Conrail's successor, will continue to provide freight service to all existing and future customers on the Bordentown Secondary and adjacent lines, and thus the proposed action will not have any effect on the transportation of energy resources or recyclable commodities. The proposed action will not result in the diversion of any freight traffic from rail

to motor carrier, and indeed should instead result in the diversion of a significant amount of commuter/passenger traffic from automobile to rail.

**D. Air**

The area to be served by the South Jersey LRT Project is currently a non-attainment area under the Clean Air Act for ozone and carbon monoxide. The South Jersey LRT Project will aid the efforts of the State of New Jersey and local agencies in the region to comply with the mandates of the Clean Air Act. By reducing automobile travel in the Trenton-Camden corridor, it is estimated that the South Jersey LRT Project will reduce the amount of carbon monoxide emissions in the region by 23 tons per year. This reduction in emissions is consistent with and in furtherance of New Jersey's State Implementation Plan.

NJT does not know whether Conrail currently transports ozone depleting materials over the Bordentown Secondary and contiguous lines. The proposed South Jersey LRT Project will not affect or result in any changes in the delivery of such traffic to the freight customers, as CSAO will continue to provide freight service on the Bordentown Secondary and contiguous lines. Because NJT's LRT operations and CSAO's freight operations on the Bordentown Secondary "main line" will operate separately, there should be no increase in the likelihood of an accidental release of ozone depleting materials due to collision or incident.

**E. Noise**

The Bordentown Secondary currently is equipped with jointed rail, with its attendant noise and vibration impacts on the surrounding communities. Potential noise impacts would vary according to the specific type of operation along the proposed LRT alignment. Conrail freight train operations would dominate the noise exposure at receptors along the

proposed LRT alignment, where it coincides with the existing railroad corridor. The noise from rail freight train warning horns and light rail vehicle ("LRV") bells would be the dominant noise source almost everywhere along the alignment. Conrail currently operates four daily freight trains on the Bordentown Secondary -- two at night -- and the number of these trains, and the noise impacts associated with them, is not anticipated to increase as a result of the South Jersey LRT Project. With anticipated mitigation measures, LRV operations are not expected to adversely affect existing noise levels. The introduction of continuously welded rail will serve to make the passage of rail vehicles considerably quieter and with less vibration than if the existing jointed rail were left in place.

#### **F. Safety**

There are fifty-nine (59) grade crossings along the Bordentown Secondary between Trenton and Camden. Fifty-three (53) have some kind of existing warning devices or warning signs. Six private crossings have no protection of any kind. The South Jersey LRT Project will install and upgrade warning devices at all grade crossings.

Grade crossings will be typically closed for 25 seconds to allow a two-car LRT trainset to traverse a grade crossing. This length of closure will be used at all crossings and will accommodate varying speeds of the rail vehicle. This length of closure will have a minimal impact on traffic.

According to statistics of the U.S. Department of Transportation, LRT passengers are approximately six times less likely to be fatally injured than private automobile passengers.

Conrail currently transports hazardous materials over the Bordentown Secondary and contiguous lines. The proposed South Jersey LRT Project will not affect or result in any

changes in the handling of such traffic, as CSAO will continue to provide freight service on the Bordentown Secondary and contiguous lines. Because NJT's LRT operations and CSAO's freight operations on the Bordentown Secondary "main line" will operate separately, there should be no increase in the likelihood of an accidental release of hazardous materials due to collision or incident.

NJT has conducted a Preliminary Assessment (PA) and Remedial Investigation for hazardous waste or spill sites on the proposed South Jersey LRT Project alignment, particularly the railroad corridor, and adjacent properties. These efforts included the collection of background information available from official records and field data. Results from this effort indicate that the historical railroad corridor is an unlikely potential source of contamination. Only one recorded release of contaminated materials has been associated with the Bordentown Secondary right-of-way. Other potential sources of pollution were identified at sites off of and adjacent to the corridor. Petroleum hydrocarbons from accidental spills and leaking underground storage tanks (USTs) are the most likely sources of potential environmental contamination encountered in these areas.

#### **G. Biological Resources**

Particularly because the South Jersey LRT Project will be constructed and operated entirely within the existing right-of-way of Conrail's Bordentown Secondary, and indeed would share a significant amount of existing trackage with Conrail, the proposed action, with appropriate mitigation conditions, is not likely to adversely affect any endangered or threatened species or any national or state parks, forests or wildlife refuges.

## **1. Endangered and Threatened Wildlife**

NJT has identified the following endangered and threatened species along the Bordentown Secondary corridor. For each occurrence, the planned impact mitigation is described:

**Pied-billed Grebe and Great Blue Heron:** To alleviate the potential impacts of track rehabilitation and siding construction NJT will construct a sediment/erosion control structure between any project work areas and the base of Trenton Marsh.

**Peregrine Falcon:** The United States Fish and Wildlife Service and the New Jersey Division of Fish, Game and Wildlife, Endangered and Non-game Species Program, would be contacted prior to any construction near the two bridges to be replaced, where this species has been reported. These agencies have agreed to determine whether or not the bridges are occupied by nesting Peregrine Falcons and provide guidance with respect to construction activity.

**Bog Turtle:** Best management practices would be employed at project work areas in the vicinity of the site where the Bog Turtle was observed. Erosion and sediment control structures would be employed at project work areas to minimize potential impacts to habitats that might support the Bog Turtles.

**Short-nose Sturgeon:** Best management practices and erosion/sediment control structures would be used to the maximum extent possible around project work sites to protect the nearby wetlands and water resources of the Crosswicks Creek/Delaware & Raritan Canal/Duck Island tidal marsh complex (which includes Trenton Marsh) and the Delaware River. Additionally, all track rehabilitation and construction activities that potentially would affect this complex would be restricted to a five-month span of October through February. During this

period the Short-nose Sturgeon is at a lower risk of impact as they overwinter in the deeper waters of the Delaware River in a relatively sedentary state.

## **2. Endangered and Threatened Vegetation**

**Pochack Creek, Delair:** The magnitude of disturbances to this waterway would be minimized to the greatest extent possible. Also, sediment and erosion control structures would be installed around construction work areas.

## **3. National/State Parks**

A relatively small number of parklands and recreational facilities are located within the project area. With the exception of the Camden Waterfront, most facilities are small parks, serving local needs that contain a limited range of passive and active recreational opportunities, including seating, playgrounds, ballfields and courts.

The project parallels the Delaware and Raritan Canal from the Crosswicks Creek bridge north to Trenton. The project as proposed will have no negative impacts on national or state parks. The project will provide pedestrian access to the Delaware and Raritan Canal via a specially constructed pedestrian walkway across Crosswicks Creek on the reconstructed bridge.

## **H. Water**

Portions of the South Jersey LRT Project area lie within the State's designated coastal zone. Major Delaware River tributaries in the project area that fall within the designated coastal zone include Cooper River, Pennsauken Creek, Pompton Creek, Swede's Run, Rancocas Creek, Assiscunk Creek, Black's Creek and Crosswicks Creek. In addition, there are other minor water resources that are regulated within the framework of the State's coastal zone program: Pochack Creek, Sturgeon Pond, Rowan Lake, Crystal Lake and Duck Creek. The

project will be subject to permitting under Section 404 of the Clean Water Act for work in jurisdictional wetlands and waterways of the United States.

Large portions of the project area are located within the floodplains of the Delaware River and its tributaries. The location of the 100-year floodplain boundary was identified from Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency (FEMA) and State flood studies. According to FEMA maps, the 100-year flood level of the Delaware River is approximately 10 feet above mean sea level.

The Delaware River floods along most of its length. The existing railroad corridor, which is proposed for use as the South Jersey LRT Project alignment, generally lies within the 100-year floodplain, where it comes close to and parallels the river. At most river crossings, the railroad corridor intersects the floodplain boundaries of the Delaware River tributaries, although usually the tracks are above the floodplains on a man-made embankment.

Stormwater runoff from the railroad corridor (*i.e.*, trackwork, trackbed, and railroad embankments) potentially could affect the quality of surface water resources. Such runoff should not substantially differ in kind or volume from the runoff associated with the existing Bordentown Secondary right-of-way. Negligible pollutant discharges (*i.e.*, small amounts of fugitive oil, grease, fluids, and other such contaminants) associated with LRT vehicle operations would first pass through rail ballast then flow overland before reaching surface water resources. The amount and character of these fugitive pollutants would not significantly affect the environment.

Although not directly at issue here, a relatively small amount of new impervious surfaces would be added to the project area with construction of the proposed adjunct physical

operating facilities for the South Jersey LRT Project, specifically passenger platforms, park-and-ride lots and the yard-and-shop facility. Increases in the extent of impervious cover would be accompanied by increases in the potential pollutant loading of stormwater runoff. Runoff from park-and-ride lots would be collected and contained via stormwater collection systems designed to keep the potentially contaminated runoff from being directly discharged into surface waters. Grassed swales and detention basins would be provided around large paved areas at all park-and-ride facilities (as needed). Overland flow of runoff would wash, dilute, and filter the majority of the contaminants before reaching surface water resources.

LRT vehicles would be serviced at the yard-and-shop facility located between 29<sup>th</sup> and 36<sup>th</sup> Streets in Camden. This facility would generate effluent from vehicle washing activities, sanitary waste, oil, solvents, and other chemicals associated with the maintenance activities.

By reducing the number of vehicle miles traveled on area roadways, non-point source contaminant loading from these roadways will be reduced. Pollutants that will be reduced include total suspended solids, petroleum hydrocarbons, various automotive fluids and roadside debris.

#### **I. Historic and Cultural Resources**

A complete listing of eligible and potentially eligible historic resources has been prepared for the project area. A total of 55 historic resources were identified in the review of the proposed South Jersey LRT Project corridor. These resources include 16 properties listed on the National Register (one of which also is a National Historic Landmark), one property with a Determination of Eligibility for listing on the National Register, and three properties that have SHPO Opinions of Eligibility for listing on the National Register. The historic resources survey

also identified 34 resources that potentially are eligible for listing on the National Register.

Historic resources include many of the bridges along the corridor and especially the Rancocas and Crosswicks Creek bridges.

## **VII. PROPOSED MITIGATION**

NJT proposes the following measures to mitigate any potential environmental harms resulting from implementation of the South Jersey LRT Project on the right-of-way of the Bordentown Secondary:

- 1) NJT will submit permit applications to the New Jersey Department of Environmental Protection and Energy ("NJDEP") and the U.S. Army Corps of Engineers ("USACE") addressing impacts to freshwater and coastal wetlands, and will not proceed with the South Jersey LRT Project until such permit applications are granted.
- 2) NJT will obtain Section 404 (discharge of dredged or fill material) permits under the Federal Clean Water Act and Section 10 (navigation) permits under the Rivers and Harbors Act of 1899 from the Philadelphia District of the USACE. The project is being designed to minimize the impacts to wetlands and waterways of the United States. If impacts can be kept under certain regulatory thresholds, Nationwide Permits may be issued.
- 3) NJT will obtain a Section 401 Water Quality Certificate from the NJDEP in conjunction with the issuance of the Section 404 permit by the USACE under the federal Clean Water Act. The USACE must obtain certification from the State of New Jersey that any action permitted under Section 404

will not degrade water quality standards established for the affected waterway.

- 4) NJT will obtain a Coast Guard Section 9 (Rivers and Harbors Act of 1899) bridge permit. The Coast Guard will not issue Section 9 permits until the USACE has issued the Section 404 and Section 10 permits mentioned above. To facilitate this design-build project, NJT is requesting letters of advanced approval from the Coast Guard with regard to required vertical and horizontal bridge clearances over the affected waterways.
- 5) NJT will obtain a riparian conveyance from NJDEP's Bureau of Tidelands. The applicable statutes that control the conveyance of tidelands to private parties from the State is the Wharf Act of 1851, the General Riparian Act of 1869 and NJSA Riparian Land Statutes 12:3-1 et seq. and Waterfront & Harbors Statutes 12:5-1 et seq., especially Title 12, Chapter 3. These statutes regulate the conveyance of state-owned lands now or formerly flowed by the tides. From the early to mid-1800's and on when railroads were constructed in tidal areas of the State, they were required to obtain permission (conveyance) to fill in areas subject to the ebb and flow of the tide. Many times, the railroads ignored these laws and did not receive the required authorization to place fill or place structures in these areas.

To comply with these laws, NJT is determining the amount of tidelands filled, the value, and the ownership history of the land in question. In the process of obtaining NJDEP Land Use Regulation Permits, NJT will

apply to the Tidelands Bureau for a grant, purchase, lease or license to legalize occupancy of the area in the future. A detailed map has been submitted to the Tidelands Bureau. The property is usually valued for the highest and best use. In this case it is for railroad/transportation use. The Tidelands Bureau will sell it for railroad or transportation purposes only. The deed to the property will have a very specific covenant that this property may only be used for transportation purposes.

- 6) NJT will obtain from the NJDEP Bureau of Land Use Regulation a Stream Encroachment permit for impact to flood hazard areas and a Waterfront Development Permit for work in areas subject to the Coastal Area Facility Review Act (CAFRA).
- 7) NJT will also be subject to mitigation conditions as a result of the Executive Order 215 (State Environmental Impact Statement) process.

These mitigation conditions include:

- Erosion and sedimentation control during construction
- Stormwater management (also the subject of required Stormwater Permits)
- Noise control during construction and operation
- Visual and aesthetic mitigation
- Historic and archeological mitigation.

NJT is coordinating with many federal Agencies in obtaining permits and accommodating natural resource values in the area. These agencies include:

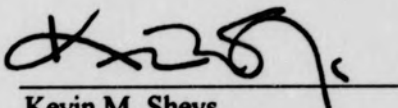
- U.S. Army Corps of Engineers

- U.S. Environmental Protection Agency
- U.S. Coast Guard
- U.S. Fish & Wildlife Service
- National Marine Fisheries Service

WHEREFORE, NJT respectfully requests that the Board accept this Responsive Environmental Report and determine that the condition sought by NJT herein relating to operation of the South Jersey LRT Project on Conrail's Bordentown Secondary between Trenton and Camden, New Jersey will not significant affect either the quality of the human environment or the conservation of energy resources, and in fact will result in significant improvements and benefits in each of those areas.

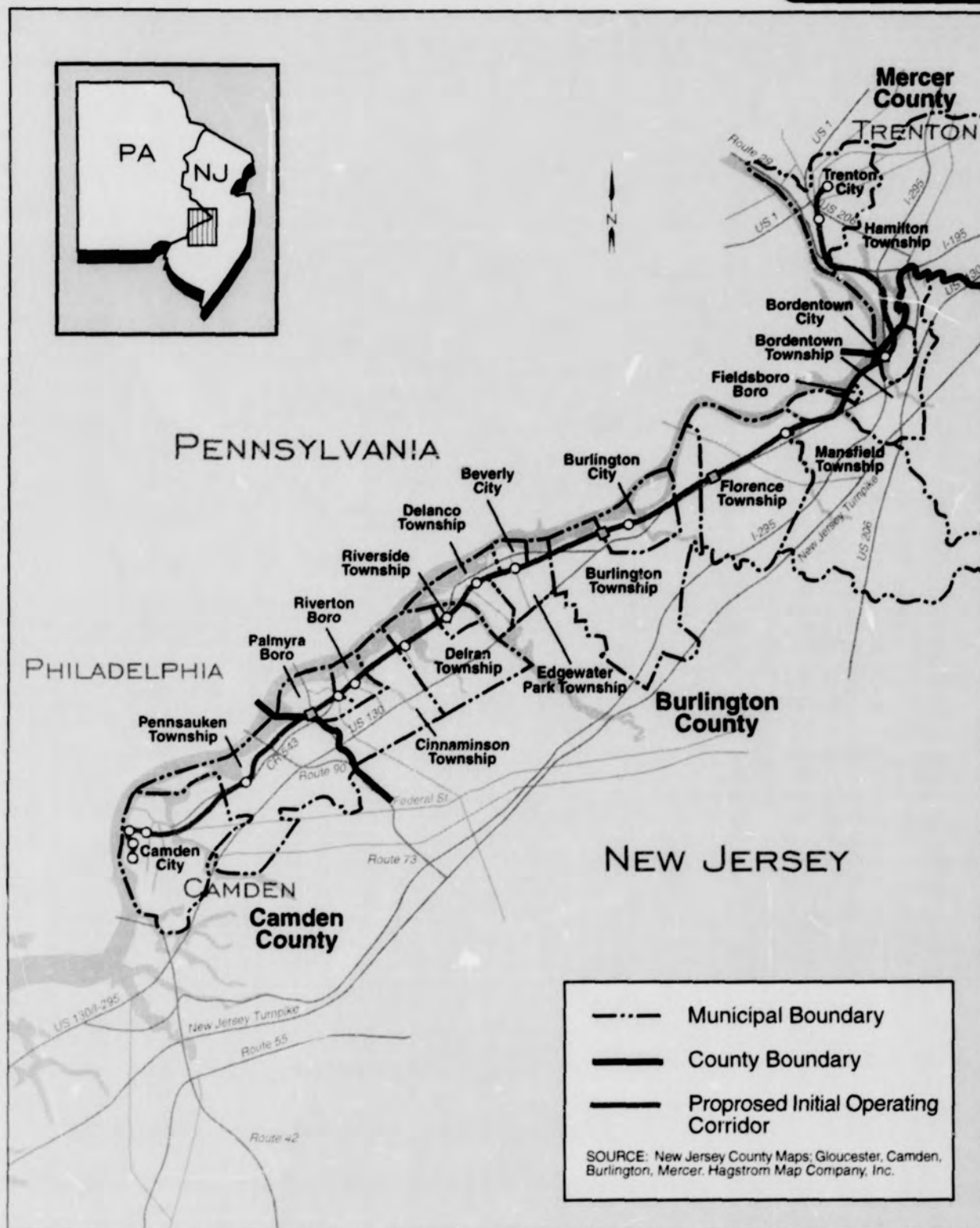
Respectfully submitted,

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

  
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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: November 3, 1997



**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of November, 1997, a copy of the foregoing **Responsive Environmental Report of New Jersey Transit Corporation (NJT-9)** was served by first class mail, postage prepaid, upon Administrative Law Judge Jacob Leventhal, all Parties of Record on the Service List herein and all parties required to be served with environmental documentation pursuant to 49 C.F.R. § 1105.7(b) as follows:

Mr. Robert C. Shinn, Jr.  
Commissioner  
New Jersey Department of Environmental Protection  
P.O. Box 402  
Trenton, NJ 08625-0402

State Conservationist  
USDA Soil Conservation Service  
1370 Hamilton Street  
Somerset, NJ 08873

Assistant Director  
Division of Coastal Resources  
New Jersey Department of Environmental Protection  
P.O. Box 401  
Trenton, NJ 08625-0401

Mr. Ken Koshak  
Office of Program Coordinations  
New Jersey Department of Environmental Protection  
P.O. Box 418  
Trenton, NJ 08625-0418

New Jersey Historic Preservation Office  
Division of Parks and Forestry  
New Jersey Department of Environmental Protection  
P.O. Box 404  
Trenton, NJ 08625-0404

Mr. Charles P. Newcomb  
Assistant Director, State Agency Coordination  
New Jersey Office of State Planning  
P.O. Box 204  
Trenton, NJ 08625-0204

Mr. Vincent R. Farias  
Director, Board of Chosen Freeholders  
Burlington County  
County Office Building  
49 Rancocas Road  
Mount Holly, NJ 08060

Mr. Jeffrey L. Nash  
Director, Board of Chosen Freeholders  
Camden County  
Court House Square  
520 Market Street  
Camden, NJ 08102-1375

Mr. Robert D. Prunetti  
Mercer County Executive  
P.O. Box 8068  
Trenton, NJ 08650

U.S. Environmental Protection Agency  
Region II Office  
Division of Environmental Planning and Protection  
290 Broadway, 25th Floor  
New York, New York 10007-1866

Mr. Robert E. Lambertson  
Director, Region V  
U.S. Fish and Wildlife Service  
300 Westgate Center Drive  
Hadley, MA 01035

U.S. Army Corps of Engineers  
Regulatory Branch  
Jacob K. Javits Federal Building  
New York, NY 10278

Mr. William D. Shaddox  
Chief, Land Resources Division  
National Park Service  
800 North Capitol Street, N.E., Room 540  
Washington, DC 20002

Mr. Edward J. McKay  
Chief, Spatial Reference System Division  
National Geodetic Survey  
National Oceanic and Atmospheric Administration  
1315 East West Highway, Room 8813  
Silver Spring, MD 20910-3282



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Kevin M. Sheys

STB

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OPPENHEIMER WOLFF & DONNELLY

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Direct Dial: 202-496-4906

October 1, 1997

**VIA HAND DELIVERY**

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

*SUB 38*  
**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 -- Transfer of Railroad Line by Norfolk Southern Railway  
Company to CSX Transportation, Inc.**

Dear Secretary Williams:

Enclosed you will find the original and 25 copies of the Verified Statement of Steven M. Jurow (NJT-5) and the Petition for Clarification of Decision No. 33 (NJT-6). Also enclosed is a 3.5 inch diskette containing the filings in WordPerfect 5.1.

Please stamp the extra copy of the foregoing and return it with our messenger.

Respectfully submitted,

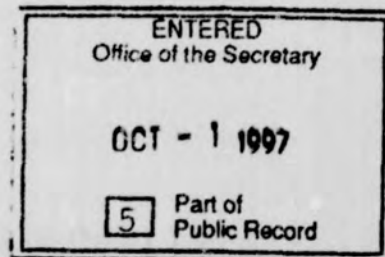
*K287s*  
Kevin M. Sheys

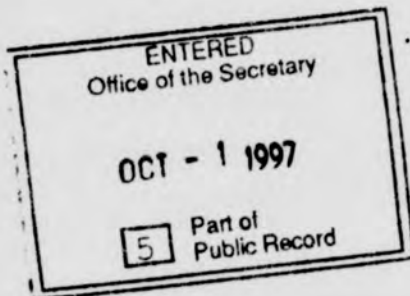
Enclosures

cc: All Parties Referenced in Certificate of Service

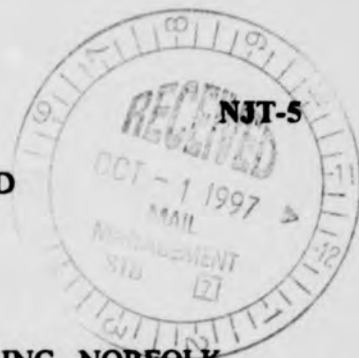


182262  
Brussels  
Chicago  
Detroit  
Geneva  
Irvine  
Los Angeles  
Minneapolis  
New York  
Paris  
Saint Paul  
San Jose  
Washington, D.C.





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 - 'C. AND CONSOLIDATED RAIL CORPORATION

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

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

VERIFIED STATEMENT OF  
STEVEN M. JUROW

**I. Introduction**

My name is Steven M. Jurow. I am the Manager of Environmental Services of New Jersey Transit Corporation ("NJT"). The purpose of this statement is to explain why the Surface Transportation Board ("Board") does not need to conduct an environmental review of NJT's acquisition of operating rights over certain rail line segments, as conditions to Board approval of the Primary Application, and consequently why an environmental report from NJT is not required.<sup>1</sup>

<sup>1</sup> In Decision No. 33, 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

## **II. NJT's Description of Anticipated Responsive Application**

NJT's Description of Anticipated Responsive Application indicated that it would seek the following conditions (referred to herein as the "NJT Conditions"):<sup>2</sup>

- NJT's acquisition of operating rights over Conrail's line of railroad known as the Bordentown Secondary, between Trenton and Camden, New Jersey;
- NJT's acquisition of operating rights over Conrail's line of railroad known as the Vineland Secondary, between Camden and Glassboro, New Jersey, including the Bulson Street Running Track;
- NJT's acquisition of operating rights over Conrail's line of railroad known as the main line of the former Central Railroad Company of New Jersey or the Elizabeth Industrial Track, between Elizabethport and Cranford, New Jersey;
- NJT's acquisition of operating rights over Conrail's line of railroad known as the Amboy Secondary Track between South Amboy and Monmouth Junction (via Jamesburg) and over Conrail's Freehold Secondary between Jamesburg and Freehold, all in New Jersey;
- NJT's acquisition of operating rights over Conrail's line of railroad known as the Trenton Line between Bound Brook and West Trenton (via Port Reading Junction), in New Jersey;
- NJT's acquisition of operating rights over Conrail's line of railroad known as the West Shore Line or the River Line between North Bergen, New Jersey and the New Jersey-New York state line;
- NJT's acquisition of operating rights over Conrail's line of railroad known as the Northern Branch between CP Croxton and the New Jersey-New York state line;

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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 general content of my verified statement with SEA staff. The content of my verified statement does not fit squarely within the two options outlined by the Board in Decision No. 33. Accordingly, simultaneously with the submission of this verified statement, NJT is submitting a Petition for Clarification of Decision No. 33, NJT-6.

<sup>2</sup> See NJT-3, Description of Anticipated Response Application, August 22, 1997.

- NJT's acquisition of operating rights over the line of the New York, Susquehanna & Western Railway Company between Secaucus Road, in North Bergen, New Jersey and Pelton Road, in Warwick, New York;
- NJT's acquisition of operating rights over Conrail's line of railroad known as the Washington Secondary between Netcong and Phillipsburg, New Jersey; and
- NJT's acquisition of operating rights over Conrail's line of railroad known as the Southern Secondary between South Lakewood and Woodmansie, New Jersey.

### **III. Board Consideration of the Environmental Impacts of the NJT Conditions is Not Necessary**

The NJT Conditions involve obtaining operating rights for several new start rail projects, each of which would require extensive environmental review under either federal or state law as a prerequisite to construction and operation.<sup>3</sup> What follows is an explanation of the applicable federal and state environmental review processes.

#### **A. Federal Environmental Review Process**

New start rail projects for which federal financial assistance is provided under the Federal Transit Act ("FT Act") must meet certain statutory requirements with regard to environmental matters. See Federal Transit Act §14, (recodified as amended in 49 U.S.C. §§ 5301(e) (1996); see also 49 CFR § 622.101 (1996) (cross-referencing 23 CFR § 771 (1996)). Such statutory requirements include a detailed environmental impact statement ("EIS"). 49 U.S.C. § 5324(b)(2). An environmental review of a proposed federal project is conducted by the Federal Transit Administration ("FTA") before an application for federal assistance is approved under the FT Act. 49 U.S.C. § 5324(b)(2)-(3).

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<sup>3</sup> This process involves consultation with the freight railroads on or adjacent to which the new start rail service will operate.

The environmental review process for new start rail projects typically begins with the preparation of a draft environmental impact statement ("DEIS"). The FTA then issues a Notice of Intent in the *Federal Register*, and applicants are usually advised to announce the preparation of a DEIS at the local level. The applicant then begins the scoping process, to identify the range of alternatives, impacts, and issues to be addressed by the EIS. Once the FTA approves the DEIS, it is circulated for comment by agencies and interested parties. After the DEIS is circulated, and all comments are considered, a final EIS is prepared. The final EIS will evaluate all alternatives and identify the preferred alternative. If the FTA approves the final EIS, the FTA will publish the final EIS in the *Federal Register*, and complete and sign a record of decision.

The environmental review process for new start rail projects may occur in either the system planning phase or the preliminary engineering/project development phase. If an environmental review is done during the planning phase, a DEIS is developed in conjunction with the planning process. However, if an environmental review is done further along in the process, during the project development phase, a supplemental DEIS could be prepared to reflect design refinement, and results obtained from the planning process are used in developing the final EIS.

**B. State Environmental Review Process**

As noted above, some of the new start rail projects underlying the NJT conditions could be governed by and reviewed under state environmental law and regulations. Pursuant to New Jersey Executive Order No. 215, a copy of which is attached hereto as Exhibit I, the state of New Jersey requires "[p]rojects directly initiated by departments,

agencies, or authorities, or authorities of the State, as well projects in which the State departments, agencies or authorities are granting at least 20 percent financial assistance" to prepare either an environmental assessment ("EA") or an EIS. New Jersey E.O. No. 215, at 1-2. Guidelines for both an EA and an EIS are established by the New Jersey Department of Environmental Protection ("NJDEP"). Either an EA or an EIS must be reviewed by the DJDEP prior to site preparation, construction activity, or where applicable, the awarding of financial assistance.

The scope of the EIS or EA may be jointly agreed upon by the proposing authority and the DJDEP, however in the absence of such an agreement, the proposing authority must comply with New Jersey E.O. No. 215. The EA is a less descriptive and less rigorous version of an EIS, however both must assess the existing environment and the level of impact of the proposed project. Both the EIS and the EA must provide a description of the proposed project, the environment prior to the implementation of the proposed project, and the environmental impact of the proposed project if implemented. The EIS and EA must also include methods of mitigating adverse environmental impacts, the feasibility and efficiency of avoiding adverse environmental impacts, and alternatives to the proposed project.

Within 20 days of receipt of the EA or EIS, the DJDEP must determine whether the EA or EIS is administratively complete. Within 60 days of such a decision, the DJDEP will conclude its review of the EA or EIS, and provide the proposing authority with a written response identifying adverse environmental impacts, any DJDEP permits or regulatory requirements, and directives or recommendations including approval,

conditional approval, project modification, major restructuring, or the requirement of an additional EA or EIS. Within 30 days of receiving the DJDEP's recommendations, the proposing authority must either indicate its acceptance of DJDEP's recommendations, or set forth issues remaining in dispute. See New Jersey E.O. No. 215, 2-3.

C. Environmental Review on Projects Related to NJT Conditions

As noted above, each of the NJT Conditions involves a new start project that would undergo extensive environmental review. For example, NJT will seek operating rights over Conrail's line of railroad known as the Bordentown Secondary, between Trenton and Camden, New Jersey, to enable NJT to move forward with the Southern New Jersey Light Rail Transit System. This project will be subject to the state environmental review process.

The Initial Operating Corridor ("IOC") of the Southern New Jersey Light Rail Transit System consists of the following elements: a 34-mile (54 km) light rail transit system; 19 new light rail transit stops, some with park-and-ride facilities having access to state highways; a yard and maintenance shop with a modern central control facility for operation of the 24 car system; and a supporting network of transit bus services, commuter rail transfers, and ferry services. The proposed light rail transit system will connect with the Northeast Corridor (Amtrak, SEPTA, and NJT Commuter Rail) facilities in Trenton and to the southern New Jersey transit hub at Walter Rand Transportation Center in Camden. The system is proposed to operate along the existing Bordentown Secondary, serving 14 communities between (and including) Camden and Trenton.

NJT has initiated preliminary engineering for the IOC and is in the process of completing a state-level EIS, as required by New Jersey Executive Order 215. This EIS will analyze the potential environmental impacts associated with the proposed project, covering such issues as: soils geology, wetlands, vegetation, wildlife, endangered and threatened species, land use (including parklands), visual/aesthetics, historical resources, archaeological resources, socioeconomics, transportation/traffic, air quality, noise/vibration, utilities, hazardous materials, equity, and energy. Other environmental tasks being undertaken to facilitate the Southern New Jersey Light Rail Transit System include environmental permitting and a soil characterization/soil remedial action program.

The Southern New Jersey Light Rail Transit System will require substantial environmental permitting. Presently, NJT is completing an application for (i) a Letter of Interpretation from the NJDEP and (ii) a jurisdictional determination from the U.S. Army Corps of Engineers ("USACE") for wetlands and open waters located along the project corridor. This information will be included in permit applications to the NJDEP and USACE addressing impacts to freshwater and coastal wetlands. Other permit applications in preparation, which will be submitted include: Section 404/10 approval (through the Nationwide Permit Program); a 401 water quality certification; a Coast Guard Section 9 bridge permit application and letters of advanced approval; a riparian conveyance (NJDEP Bureau of Tidelands); a state stream encroachment permit application for impacts to flood hazard areas; and a waterfront development permit application. NJT is also coordinating with federal, state, and local resource agencies regarding stormwater management plan

approval, state historic preservation office approval, Delaware and Raritan Canal Commission approval, and endangered and threatened species concerns.

The Southern New Jersey Light Rail Transit System project will include a soil characterization/soil remedial action program. NJT's consultant has conducted Level I due diligence assessments and a comprehensive site/remedial investigation program is currently underway for the IOC in order to complete a state approved remedial action work plan. This work will support the identification of sites contaminated with materials above New Jersey regulatory levels.

#### **IV. Conclusion**

For the foregoing reasons, the Board need not conduct an environmental review of NJT's acquisition of operating rights over certain rail line segments, as conditions to Board approval of the Primary Application, and consequently, an Environmental Report from NJT is not required.

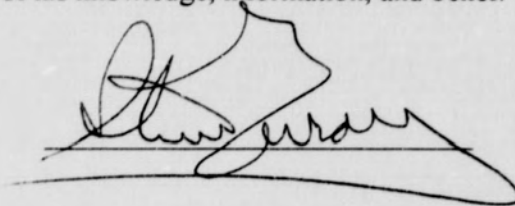
**VERIFICATION**

STATE OF NEW JERSEY )

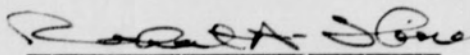
) ss.

COUNTY OF ESSEX )

**Steven M. Jurow**, being duly sworn, deposed and says that he has read the foregoing Verified Statement, that he knows the contents thereof, and that the factual statements contained therein are true and correct to the best of his knowledge, information, and belief.



Subscribed and sworn to  
before me by Steven M. Jurow  
this 19<sup>th</sup> day of September, 1997.



Notary Signature

Attorney-at-Law  
State of N.J.

My Commission expires:

\_\_\_\_\_

## EXHIBIT I

### STATE OF NEW JERSEY EXECUTIVE DEPARTMENT

#### EXECUTIVE ORDER NO. 215

WHEREAS, the protection of the environment, which is the subject of a public trust administered by government for the benefit of all citizens, is a primary responsibility of State government; and

WHEREAS, government must not only regulate but also must provide an example in the effort to protect the human environment and the natural resources of the State; and

WHEREAS, the design and location of projects initiated or funded by departments, agencies or authorities of State government may have significant primary and consequential effects on the environment; and

WHEREAS, the protection of the environment, the management of development, and the prudent use of the State's limited land and other resources will be fostered by the proper location and design of projects initiated or funded by departments, agencies or authorities of State government; and

WHEREAS, the potentially adverse environmental impact of projects initiated or funded by departments, agencies or authorities of State government can be substantially reduced or eliminated if that impact is assessed before the approval of such project and agreement reached on the ways and means to ensure environmental compatibility;

NOW, THEREFORE, I, THOMAS R. KEAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER AND DIRECT:

1. All departments, agencies and authorities of the State shall prepare and submit to the Department of Environmental Protection an environmental assessment or environmental impact statement, as specified below, in support of major construction projects. Projects directly initiated by departments, agencies, or authorities of the State, as well as projects in which the State departments, agencies or authorities are granting at least 20 percent financial assistance, shall comply with this Order.

For the purpose of determining an appropriate level of review, projects shall be categorized as follows:

a) Level 1 - projects with anticipated construction costs in excess of \$1 million shall be subject to the preparation of an environmental assessment. The assessment shall follow guidelines prepared by the Department of Environmental Protection, attached herewith to this Order. Alternatively,

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environmental assessments prepared to support a "Finding of No Significant Impact" under the National Environmental Policy Act may be substituted for an assessment otherwise required pursuant to the attached Department of Environmental Protection guidelines; or

b) Level 2 - projects with both construction costs in excess of \$5 million and land disturbances in excess of five acres shall be subject to the preparation of an environmental impact statement. The statement shall follow guidelines prepared by the Department of Environmental Protection, attached herewith to this Order.

2. The assessment or impact statement shall be submitted by the proposing or granting department, agency or authority and reviewed by the Department of Environmental Protection as early in the project planning and design process as possible, but in all cases such submission and the review process which follows must be completed prior to commencing site preparation and/or construction activity on the project. In the case of any project to be funded by a department, agency, or authority of the State, review of the assessment or impact statement must be completed by the Department of Environmental Protection prior to awarding any financial assistance for the commencement of site preparation and/or construction activity.

3. Upon receipt of an environmental assessment or impact statement the Department of Environmental Protection shall undertake a review to determine whether the documents submitted are administratively complete. Within 10 days of receipt, the Department of Environmental Protection shall either certify that the environmental assessment or impact statement is administratively complete and conforms to the guidelines attached herewith to this Order, or specify in writing to the proposing or granting department, agency, or authority that the environmental assessment or impact statement is administratively deficient. If deemed deficient, the proposing or granting department, agency or authority shall correct such deficiency or deficiencies as specified by the Department of Environmental Protection and may resubmit the environmental assessment or impact statement at any time thereafter for review by the Department. Within sixty (60) days of the Department of Environmental Protection's receipt of an environmental assessment or impact statement determined to be administratively complete, the Department shall conclude its review of such

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assessment or impact statement. If the Department of Environmental Protection has not concluded its review of the assessment or impact statement within this sixty-day period, the project shall be deemed approved.

4. Upon concluding its review, the Department of Environmental Protection shall provide a written response to the proposing or granting department, agency or authority. The response shall include the following:

- a) identification of any probable adverse environmental impacts that could be expected from project implementation;
- b) an identification of any Department of Environmental Protection permits or regulatory requirements which will be applicable to the proposed project; and
- c) recommendations including, but not limited to:
  - i) approval based on the representations made in the assessment or impact statement;
  - ii) conditional approval, including receipt of permits and/or measures to reduce and/or mitigate the anticipated impacts to an acceptable level;
  - iii) an additional impact assessment on one or more specific environmental consequences;
  - iv) project modification to avoid adverse environmental impacts; and
  - v) major restructuring of the project.

5. Within thirty (30) days of receiving the Department of Environmental Protection's recommendation(s), the proposing or granting department, agency or authority shall provide the Department of Environmental Protection with a written response either indicating acceptance of the Department of Environmental Protection's recommendation(s) or setting forth those issues remaining in dispute.

6. Any dispute regarding implementation of the Department of Environmental Protection's recommendation(s) shall be resolved in good faith through meetings between the Commissioner of Environmental Protection and the Commissioner, Chairman or agency head of the proposing or granting department, agency or authority.

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7. Notwithstanding the anticipated construction costs or land disturbances involved, the provisions of this Order shall not apply to the following types of projects:

- a) maintenance or repair projects;
- b) facilities or equipment replaced in kind at the same location;
- c) renovations or rehabilitation of existing buildings;
- d) expansions or additions of existing buildings provided that the expansion or addition does not increase the building's capacity by more than 25 percent;
- e) projects subject to review pursuant to the provisions of the Coastal Area Facility Review Act or the Municipal Wastewater Treatment Financing Program;
- f) projects which will require a full environmental impact statement pursuant to the National Environmental Policy Act;
- g) projects classified as categorical exclusions pursuant to regulations promulgated in accordance with the National Environmental Policy Act; or
- h) projects involving loans or tax exempt financing to private sector applicants by departments, agencies or authorities of the State of New Jersey.

8. This Order shall not apply to authorities or commissions created pursuant to interstate agreements.

9. This Order shall not apply to projects previously exempt from Governor Cahill's Executive Order No. 53 (1973) where final plans and specifications have been completed on such projects prior to this Order taking effect.

10. Governor Cahill's Executive Order No. 53 (1973) is hereby rescinded.

11. This Order shall take effect immediately.

GIVEN, under my hand and seal, this  
11th day of September  
in the Year of Our Lord, one  
thousand nine hundred and  
eighty-nine, and of the  
Independence of the United  
States, the two hundred and  
fourteenth.

/s/ Thomas H. Kean

GOVERNOR

(cont)

Attest:

ATTACHMENT TO  
EXECUTIVE ORDER NO. 215  
GUIDELINES FOR THE PREPARATION OF AN  
ENVIRONMENTAL IMPACT STATEMENT/ENVIRONMENTAL ASSESSMENT

An environmental impact statement/environmental assessment shall provide all information needed to evaluate the effects of the proposed project upon the environment. The scope of the environmental impact statement (EIS) or environmental assessment (EA) may be jointly agreed upon by the proposing or granting department, agency or authority and the Department of Environmental Protection. In the event mutual agreement is not reached, the form and content of the EIS or EA shall follow these guidelines. If any section is clearly inappropriate to the proposed undertaking, so state as "not applicable."

The EA is a less comprehensive and less rigorous version of the EIS. The level of project description and graphics (site locations, maps, site plans, etc.) should be similar to that which is required in the EIS. However, the description of the existing environment and the level of impact analysis in an EA should be comparatively brief as opposed to the comprehensive descriptions contained in an EIS. Further, all items referenced in a particular category may not be applicable; when such items are not applicable and hence not addressed, the EA should so indicate. The items to be covered in the EA are designated with an asterisk (\*) in the left-hand margin.

The environmental impact statement/environmental assessment shall be prepared by the project sponsor or consultant(s) through a systematic interdisciplinary approach that will insure the integrated use of the natural and social sciences and the environmental design arts. The information provided in the statement should clearly identify the authors and their qualifications.

**I. A DESCRIPTION OF THE PROPOSED PROJECT**

Included in this section will be a comprehensive (\*brief) description of the project as outlined in the following categories:

- \* A. Identity of the project sponsor.
- \* B. Explain the purpose of the proposed project, including a description of the constituency to be served by the project, the services being provided, and the extent of benefits realized by the department, agency or authority and the community within which the project is to be located.
- \* C. Describe the regional, municipal and/or neighborhood setting of the project.

\* D. Describe the project design and operational features including:

\*1. a site plan of the project.

2. a description of the construction phase that identifies:

- a. the development schedule and construction phasing;
- b. the work force required;
- c. construction traffic;
- d. site preparation, including clearing, excavating, filling and cutting, burning, and blasting; and
- e. precautions taken (noise control, dust control, erosion and sedimentation control, temporary sedimentation control, or temporary sanitation).

3. a description of the operation phase including:

- a. the capacity of the facility;
- b. the work force required;
- c. discharges and emissions (both point sources and non-point sources);
- d. traffic and access; and
- e. use of resources.

\*4. the availability of infrastructure for public sewerage, water, roads, and utilities.

\* E. whenever possible, a listing of licenses, permits and certifications necessary for approval of the project and a description of the status of each.

II. A DESCRIPTION OF THE ENVIRONMENT PRIOR TO THE IMPLEMENTATION OF THE PROJECT

Include a comprehensive (\*brief) description of existing environmental conditions in each of the following areas:

- \* A. Natural resources of the site and surrounding area - describe geological character, soil characteristics, land form (i.e. wetlands, mountains, etc.), hydrological features, and biological resources of the area including endangered species.
- \* B. Man-made resources - present site land use, adjacent land uses, access and transportation patterns, zoning, population density, and demographics.
- \* C. Human resources - cultural and social factors; park and recreational facilities; aesthetic features; historical, archeological, and architectural aspects of the environment.

### III. THE PROBABLE ENVIRONMENTAL IMPACT OF THE PROJECT IF IMPLEMENTED

Identify and describe both primary and secondary environmental impacts, beneficial and adverse, anticipated from the proposed project on all natural, man-made, human, and economic resources during all aspects of site preparation, construction, and operation.

Using the existing environment without the project as a basis for analyzing anticipated impacts, provide the following information:

#### \* A. Land:

- \*1. discuss the consistency of the proposed action with approved federal, State, regional and local land use plans. Identify instances where land use practices, even though accepted, would pose an environmental problem;
- \*2. discuss how the area is currently zoned and the relationship of such zoning to the proposed action;
- \*3. discuss how the proposal will encourage or discourage residential, commercial or industrial growth to the extent that it will change the character and economy of the area; and
- \*4. discuss whether the proposed action will result in the loss or alteration of any ecologically sensitive lands such as flood plains, steep slopes, and wetlands.

#### \* B. Water:

- \*1. identify and discuss any potential instance of non-compliance with approved State water quality standards arising from the proposed project, with particular attention to low flow periods;
- \*2. discuss whether or not the proposed project will result in increased pollution or turbidity levels within the receiving waterway and, if so, what the effects will be downstream and upstream;
- \*3. discuss the beneficial and adverse effects of the proposed action on aquatic biota and habitats;
- \*4. discuss the effects that the proposed action will have on ground water quality and quantity and the basis of the determination;
- \*5. discuss whether there will be any depletion of water as a result of the proposed action;
- \*6. discuss whether there will be any increased incidence of flooding caused by structural obstructions or increased flow due to the proposed project. Include the probable effects in terms of flood levels, channel erosion, velocity, and siltation of stream channels; and
- \*7. discuss any cumulative effects.

**C. Air:**

1. as appropriate, perform diffusion modeling of the effect of the proposed action on local and regional air quality. All aspects of the project (including mobile sources) should be given consideration in terms of possible receptor sites of air pollutants directly or indirectly generated from the proposed project. Include a discussion of the cumulative aspects. Discuss present and projected ambient air quality data so that direct comparisons may be made among present air quality, projected air quality, and governing air quality standards;
2. discuss whether the project will meet applicable emission standards and regulations contained in the State Air Pollution Control Code;
3. if appropriate, discuss precautions taken to prevent odor problems;
4. if applicable, discuss precautions taken to prevent the airborne transmission of pathogenic organisms;
5. discuss the possible influence of the proposed action on immediate area local receptors; and
6. base the evaluation of air quality on complete diffusion climatology, providing adequate references.

\* **D. Aquatic and Terrestrial Wildlife:**

- \* 1. discuss any loss (or gain) in habitat and its anticipated effect;
- \* 2. discuss the gain/loss of food chain on the aquatic and terrestrial wildlife;
- \* 3. discuss the effect of noise, dust, lighting, turbidity, and siltation upon aquatic and terrestrial wildlife from commencement of construction through and including post-construction; and
- \* 4. discuss any impacts on endangered plants or animal species.

\* **E. Social and Economic:**

- \* 1. discuss the socio-economic effects on the community due to any other development projects attributable to, but not part of, the proposed action. Will adequate public services be available to serve this development such as schools, parks, fire, and police protection?; and
- \* 2. discuss how the project could affect historic, archaeological, or cultural resources on or eligible for the State Register of Historic Places.

- F. Solid Waste - discuss methods for solid waste handling both during construction and subsequent operation.
- G. Aesthetics - discuss how the natural or present character of the area will be changed as a result of the proposed action.

#### IV. METHODS OF MITIGATING ADVERSE ENVIRONMENTAL IMPACTS

- \* A. Discuss the remedial, protective, and mitigative measures to be taken as part of the proposed project in response to adverse environmental impacts. Mitigating measures refer to those methods used to assure that the project is brought into compliance with all governing regulations including, but not limited to, air, water quality, noise control, solid waste, radiation, and land-use regulations. The discussion of mitigative measures may include, but not be limited to, the following considerations:
  1. site location;
  2. air quality through control apparatus and/or controlled combustion process;
  3. water quality through treatment of wastewater and/or eutrophication control;
  4. erosion and sedimentation control measures;
  5. storm water runoff control measures from paved areas;
  6. dust control measures;
  7. noise control measures;
  8. traffic control measures;
  9. recycling potential;
  10. establishment of buffer zones, selective clearing, and/or landscaping;
  11. protective measures for aquatic and terrestrial plants and animals;
  12. architectural techniques to blend structures with the surrounding area;
  13. monitoring programs for emissions and discharges;
  14. contingency plans and emergency procedures;
  15. employee education and on-going inspection program.

#### V. AVOIDANCE OF ADVERSE ENVIRONMENTAL IMPACTS

- \* A. Describe in detail those impacts which cannot be reduced to acceptable levels, their implications, and the reasons why the action is being proposed notwithstanding their effect.
- \* B. Where abatement measures can reduce adverse impacts to acceptable levels, discuss the effectiveness, costs of the abatement measures, and the basis for considering the adequacy of the determination.

#### VI. ALTERNATIVES TO THE PROPOSED PROJECT

The analysis of alternatives should be sufficiently detailed and rigorous to permit independent and comparative evaluation of the benefits, costs, and environmental risks of the proposed project and each reasonable alternative.

- A. Include the alternative of taking no action. Also include the alternative of other sites, designs, and operations considered and rejected.
- B. Include alternatives capable of substantially reducing or eliminating any adverse impacts, even at the expense of reducing project objectives.
- C. For each alternative discussed, include reasons why each was not as acceptable as the proposed action.