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FD-33388 (SUB3)

12-8-97

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ID-BUSINESS

ENVIRONMENTAL DOCUMENT

SURFACE TRANSPORTATION BOARD
Washington, DC 20423-0001

OFFICE OF ECONOMICS, ENVIRONMENTAL ANALYSIS, AND ADMINISTRATION

December 8, 1997

Mr. Carl Gerhardstein
CSX Transportation
1331 Pennsylvania Ave., NW, Suite 560
Washington, DC 20004

Re: Finance Docket No. 33388 (Sub. Nos. 1-7) - CSX and
Norfolk Southern - Control and Acquisition of
Conrail - Proposed Construction at Willow Creek,
Indiana

Dear Mr. Gerhardstein:

We have received the enclosed material from the U.S. Army Corps of Engineers concerning the proposed CSX construction at Willow Creek, Indiana. As you will note, the Corps requires the completion of a permit application if construction work within identified wetlands in the Willow Creek area is anticipated.

In the Board's final decision for the proposed construction at Willow Creek, served November 25, 1997, the Board imposed a condition requiring CSX to obtain all necessary federal, state and local permits if construction activities require the alteration of wetlands, ponds, lakes, streams, or rivers, or if these activities would cause soil or other materials to wash into these water resources.

Accordingly, we are forwarding the enclosed material from the Corps to you for appropriate action. Thank you for your prompt attention. If you have any questions, please do not hesitate to contact me at (202) 565-1552.

Sincerely yours,

Dana G. White

Dana G. White
Section of Environmental Analysis

Enclosure

cc: Robert Tucker, Corps of Engineers, Detroit, MI



DEPARTMENT OF THE ARMY

DETROIT DISTRICT, CORPS OF ENGINEERS

BOX 1027

DETROIT, MICHIGAN 48231-1027

November 28, 1997

IN REPLY REFER TO

Construction-Operations Division
Regulatory Branch
File No. 97-200-014-0E / 97-164-015-0E



Surface Transportation Board
Vernon A. Williams, Secretary
1925 K Street, NW, Suite 700
Washington, District of Columbia 20423

Attention: Dana White
Environmental Comments
Finance Docket No. 33388 (Sub Nos. 1-7)

Dear Ms. White:

This is in response to Elaine K. Kaiser's letter dated October 2, 1997 and received in this office October 15, 1997. Within this letter comments regarding proposed rail line constructions located in Madison County, Alexandria, Indiana and Porter County (T36N, R7W, Sections 11 and 12), Portage, Indiana, adjacent to Willow Creek, were requested.

In all waters of the United States including wetlands, any discharge of dredged spoil and/or fill material must be authorized by the Department of the Army. The authority of the Corps of Engineers to regulate the discharge of dredged and/or fill material is contained in Section 404 of the Clean Water Act and regulations promulgated pursuant to that Act. Please be advised that filling and grading work, mechanized landclearing, ditching or other excavation activity, and piling installation constitute or otherwise involve discharges of dredged and/or fill material under the Corps' regulatory authority.

Please be advised that the site located in Alexandria is outside of the Detroit Districts jurisdiction. It is suggested that you contact the Louisville District Corps of Engineers, Ms. Brenda Carter at P.O. Box 59, Louisville, Kentucky 40201-0059 or telephone her at (502) 582-5607. Correspondence in regards to the Alexandria site should reference ID Number 199701220-bkc.

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Office of the Secretary

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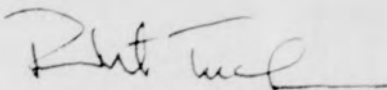
Public Record

This office previously responded to the proposed construction at Willow Creek in a letter dated June 16, 1997. This letter advised Mr. Gary S. Cipriano of Dames and Moore that any development within wetlands would require a Federal permit prior to the initiation of any work. A copy of this letter can be found in Appendix B of the Environmental Assessment, Decision No. 28330. The National Wetland Inventory (NWI) Map for this area identifies wetlands to be located within the immediate vicinity of the proposed rail connector. Consequently, this office requires that you or your designee complete and return the enclosed permit application if work within these wetlands is anticipated. Plan view and cross-sectional view drawings, in 8 1/2" x 11" format, should accompany the application. Drawings and the application should include a description of all quantities, dimensions, and nature of material to be placed and soil to be moved within wetland areas.

Furthermore, it is suggested that you contact both the Indiana Department of Environmental Management (IDEM) as well as the Indiana Department of Natural Resources (IDNR) for possible State authorizations. IDEM can be reached at P.O. Box 6015, Indianapolis, Indiana 46206-6015 and the IDNR can be reached at 402 West Washington Street, Room W-273, Indianapolis, Indiana 46204.

Should you have any questions, please contact Mary C. Miller at the above address or telephone (313) 226-2220. All correspondence should reference File Numbers: 97-200-014-0E and/or 97-164-015-0E.

Sincerely,



Robert Tucker
Chief, Enforcement Section
Regulatory Branch

Enclosures

CF: South Bend Field Office
IDNR / Jose
IDEM / Maupin
COE Louisville District / Carter

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FD-33388 (SUB3)

12-4-97

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DEPARTMENT OF THE ARMY

DETROIT DISTRICT, CORPS OF ENGINEERS

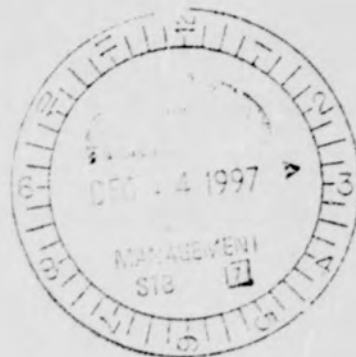
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DETROIT, MICHIGAN 48231-1027

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Surface Transportation Board
Vernon A. Williams, Secretary
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Washington, District of Columbia 20423

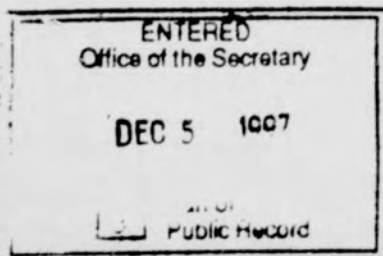
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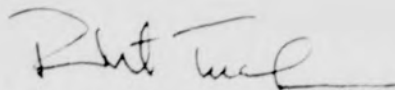


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Furthermore, it is suggested that you contact both the Indiana Department of Environmental Management (IDEM) as well as the Indiana Department of Natural Resources (IDNR) for possible State authorizations. IDEM can be reached at P.O. Box 6015, Indianapolis, Indiana 46206-6015 and the IDNR can be reached at 402 West Washington Street, Room W-273, Indianapolis, Indiana 46204.

Should you have any questions, please contact Mary C. Miller at the above address or telephone (313) 226-2220. All correspondence should reference File Numbers: 97-200-014-0E and/or 97-164-015-0E.

Sincerely,



Robert Tucker
Chief, Enforcement Section
Regulatory Branch

Enclosures

CF: South Bend Field Office
IDNR / Jose
IDEM / Maupin
COE Louisville District / Carter

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33388

(Sub 3)

12-4-97

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DEPARTMENT OF THE ARMY

DETROIT DISTRICT, CORPS OF ENGINEERS

BOX 1027

DETROIT, MICHIGAN 48231-1027

November 28, 1997

IN REPLY REFER TO:

Construction-Operations Division
Regulatory Branch
File No. 97-200-014-0E / 97-164-015-0E

Surface Transportation Board
Vernon A. Williams, Secretary
1925 K Street, NW, Suite 700
Washington, District of Columbia 20423

Attention: Dana White
Environmental Comments
Finance Docket No. 33388 (Sub Nos. 1-7)

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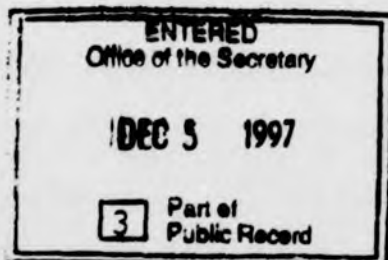
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Sub 3

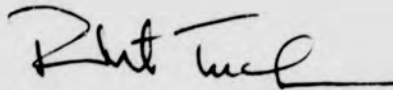


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Sincerely,



Robert Tucker
Chief, Enforcement Section
Regulatory Branch

Enclosures

CF: South Bend Field Office
IDNR / Jose
IDEM / Maupin
COE Louisville District / Carter

STB

FD-33388 (SUB3)

11-12-97

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ID-STBSEA

MEMORANDUM

November 12, 1997

TO: Ann Newman, Environmental Coordinator
Office of Proceedings

CC: Paul Nishimoto
Paul Markoff

FROM: Elaine K. Kaiser, Chief
Section of Environmental Analysis

SUBJECT: **Post Environmental Assessment:**
Finance Docket No. 33388 (Sub. No. 3) — CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company, and Conrail Inc., and Consolidated Rail Corporation — Greenwich CSX/Conrail Rail Line Connections – Village of Greenwich, Huron County, Ohio

CSX Corporation and CSX Transportation Inc. (collectively CSX), Norfolk Southern Corporation and Norfolk Southern Railway Corporation (collectively NS), and Conrail Inc. and Consolidated Rail Corporation (collectively Conrail) have filed a joint Application with the Surface Transportation Board (the Board) seeking authorization for the acquisition of Conrail by CSX and NS. The fundamental objective of the proposed acquisition is to divide existing Conrail assets and operations between CSX and NS. As a result, certain Conrail facilities and operations would be assigned individually to either CSX or NS through operating agreements or other mechanisms, and certain other existing Conrail facilities would be shared or operated by both CSX and NS.

In Decision No. 9, served June 12, 1997, the Board granted CSX's and NS's petitions seeking a waiver of the Board's regulations at 49 CFR 1180.4(c)(2)(vi) that provide that all "directly related applications, e.g., those seeking authority to construct or abandon rail lines,..." be filed at the same time. The waiver would allow CSX and NS to seek the Board's authority to construct and operate seven rail line connections (four for CSX and three for NS) prior to the Board's decision on the acquisition and division of Conrail. Without early authorization to construct these connections, CSX and NS contended, each railroad would be severely limited in its ability to serve important customers.

In granting the waiver, the Board noted that the railroads were proceeding at their own risk. If the Board were to deny the primary application, any resources expended by CSX and NS in building the connections would be of little benefit to them. Both the railroads and the Board recognized that no construction could occur until the Board completed its environmental review of each of the construction projects.

The proposed connections are located in the Village of Greenwich in Huron County, Ohio. Greenwich is located in north-central Ohio, approximately 50 miles southwest of Cleveland and 75 miles north of Columbus. The new connections would be built in the northwest and southeast quadrants of the intersecting CSX and Conrail lines, which together would form the proposed Northeastern Gateway Service Route, a major route for time-sensitive traffic moving between the northeastern United States and Chicago. At this location, an existing Conrail line runs southwest to northeast between Indianapolis and Cleveland and the existing CSX line runs west to east from Chicago to Akron, Ohio. A map of the proposed connection locations and the surrounding area is attached (see Figure 1).

The proposed connection in the northwest quadrant would provide a 4,600-foot, 45-mph connection, which would enable eastbound CSX trains from Chicago to utilize the Conrail line to proceed northeast toward Cleveland. The proposed connection in the southeast quadrant would provide a 1,044-foot, 30-mph per hour connection between the existing CSX and Conrail rail lines. The connection would enable northeast bound trains from Indianapolis to access the eastbound CSX line toward Akron and would allow freight transportation from Indianapolis to Greenwich along the Conrail line, and from Greenwich to Baltimore, Maryland along the CSX line. CSX estimates that an average of 31.7 trains per day (primarily automotive, merchandise, intermodal, and unit trains with an average length of 6,200 feet) would operate over the new connection in the northwest quadrant, with an average of 9.4 trains per day using the new connection in the southeast quadrant.

On October 7, 1997, the Section of Environmental Analysis (SEA) issued an Environmental Assessment (EA) which concluded that, subject to the recommended mitigation, construction and operation of the proposed connection would not significantly affect the quality of the human environment. The EA recommended a number of mitigation measures and requested comments on all aspects of the EA.

SEA received comments on the EA from the U.S. Department of Agriculture, Natural Resources Conservation Service, the U.S. Fish & Wildlife Service, and the Ohio Department of Natural Resources. These comments are discussed below and copies of their letters are attached to this memorandum. Also attached is a reply from the National Park Service which acknowledges receipt of the EA, but has no specific comments on the proposed rail line connection. After reviewing the comments, SEA concludes that the comments do not change the basic analyses or conclusions of the EA. SEA reaffirms that the scope of EA is appropriate, that the EA adequately identifies and assesses potential environmental impacts, that there are no significant environmental impacts, and that the proposed connection location, subject to the recommended mitigation, is the environmentally preferable route. The mitigation measures included in the EA remain unchanged.

but have been augmented as appropriate pursuant to the comments submitted. SEA recommends that any Board decision approving the proposed construction and operation of this connection be subject to the mitigation measures attached to this document.

Attachments

**COMMENTS RECEIVED ON THE
GREENWICH, OHIO
CSX/CONRAIL RAIL LINE CONNECTIONS
ENVIRONMENTAL ASSESSMENT**

U.S. Department of Agriculture, Natural Resources Conservation Service

Comment: A Farmland Protection Policy Act *Form AD-1006* must be completed for the proposed rail line connection in Crestline, Ohio.

SEA Response: SEA agrees that Natural Resources Conservation Service (NRCS) regulatory requirements associated with the Farmland Protection Policy Act should be met prior to initiating construction of the proposed connection. SEA has added a mitigation condition which requires CSX to consult with the NRCS and complete any actions necessary to ensure compliance with the Farmland Protection Policy Act before beginning construction activities.

U.S. Fish & Wildlife Service

Comment 1: Identification of wetlands in the area of proposed construction relied only on National Wetland Inventory mapping. An onsite inspection should be conducted at Greenwich, Ohio to verify that no wetlands would be affected by the connection.

SEA Response: Additional wetland investigations were completed for the Greenwich construction sites in August 1997 as reported in Section 3.4.1 (Water Resources) of the EA. Several small wetland areas, totaling 0.099 acres, would be affected by the construction of the connection in the northwest quadrant of the intersecting CSX/Conrail lines (see Section 4.1.4 of the EA). On August 29, 1997, the U.S. Army Corps of Engineers authorized the excavation and/or filling of these wetlands under Nationwide Permits Nos. 3, 14, and 26. A copy of the letter granting this authorization was included in the EA. Under SEA's recommended mitigation conditions, CSX is also required to obtain any necessary state or local permits necessary for construction in these wetland areas prior to initiating construction activities.

Comment 2: The proposed connection is located within the range of the Indiana bat (*Myotis sodalis*), a Federally-listed endangered species. Summer habitats for this species could be present within the proposed construction area. If present, the trees which provide potential habitat should be preserved where possible and surveys to determine the presence of the bat should be conducted.

SEA Response: SEA concurs that appropriate mitigation measures should be implemented to ensure that potential habitat for the Indiana bat (*Myotis sodalis*) within the area of construction is not disturbed or destroyed. SEA endorses the mitigation measures recommended by the U.S. Fish and

Wildlife Service and has included them in its final mitigation conditions for the Greenwich, Ohio rail line connection.

Ohio Department of Natural Resources

Comment: Ohio now has a federally recognized coastal zone management program. The Ohio Coastal Management Program was approved by the National Oceanic and Atmospheric Administration and became effective on May 16, 1997. Section 3.1 (Land Use) of the EA should be corrected to reflect the change in the status of the Ohio Coastal Management Program.

SEA Response: SEA acknowledges that Ohio now has a federally recognized coastal zone management program. This correction will be incorporated into the environmental record by reference in this Post EA.

SEA RECOMMENDED FINAL MITIGATION

CSX/CONRAIL RAIL LINE CONNECTIONS GREENWICH, OHIO

SEA recommends that the Board impose the following mitigation measures in any decision approving the construction of the proposed rail line connections in Greenwich, Ohio.

Land Use

- CSX shall restore any adjacent properties that are disturbed during construction activities to their pre-construction conditions.
- CSX shall consult with the U.S. Department of Agriculture, Natural Resources Conservation Service and complete any actions necessary to ensure compliance with the Farmland Protection Policy Act before beginning construction activities.

Transportation and Safety

- CSX shall use appropriate signs and barricades to control traffic disruptions during construction.
- CSX shall restore roads disturbed during construction to conditions as required by state or local jurisdictions.
- To minimize disruption to the flow of north-south traffic in the Village of Greenwich, CSX shall not have construction activities occurring at the Kniffen and Townsend Street at-grade crossings simultaneously.
- CSX shall observe all applicable federal, state, and local regulations regarding handling and disposal of any waste materials, including hazardous waste, encountered or generated during construction of the proposed rail line connections.
- CSX shall dispose of all materials that cannot be reused in accordance with state and local solid waste management regulations.
- CSX shall consult with the appropriate federal, state and local agencies if hazardous waste and/or materials are discovered at the sites.

- CSX shall transport all hazardous materials in compliance with U.S. Department of Transportation Hazardous Materials Regulations (49 CFR Parts 171 to 180). CSX shall provide, upon request, local emergency management organizations with copies of all applicable Emergency Response Plans and participate in the training of local emergency staff (upon request) for coordinated responses to incidents. In the case of a hazardous material incident, CSX shall follow appropriate emergency response procedures contained in their Emergency Response Plans.

Water Resources

- CSX shall obtain all necessary federal, state, and local permits if construction activities require the alteration of wetlands, ponds, lakes, streams, or rivers, or if these activities would cause soil or other materials to wash into these water resources. CSX shall use appropriate techniques to minimize effects to water bodies and wetlands.

Biological Resources

- CSX shall preserve trees which provide habitat for the Indiana bat (*Myotis sodalis*), including trees with cavities and exfoliating bark, to the maximum extent possible. If such trees cannot be avoided, they shall not be cut between April 15th and September 15th. If such trees are to be removed and the time of year restriction is prohibitive, CSX shall consult with the U.S. Fish and Wildlife Service and conduct a survey to determine if the Indiana bat is present in the proposed construction area.
- CSX shall use Best Management Practices to control erosion, runoff, and surface instability during construction, including seeding, fiber mats, straw mulch, plastic liners, slope drains, and other erosion control devices. Once the tracks are constructed, CSX shall establish vegetation on the embankment slopes to provide permanent cover and prevent potential erosion. If erosion develops, CSX shall take steps to develop other appropriate erosion control procedures.
- CSX shall use only EPA-approved herbicides and qualified contractors for application of right-of-way maintenance herbicides, and shall limit such application to the extent necessary for rail operations.

Air Quality

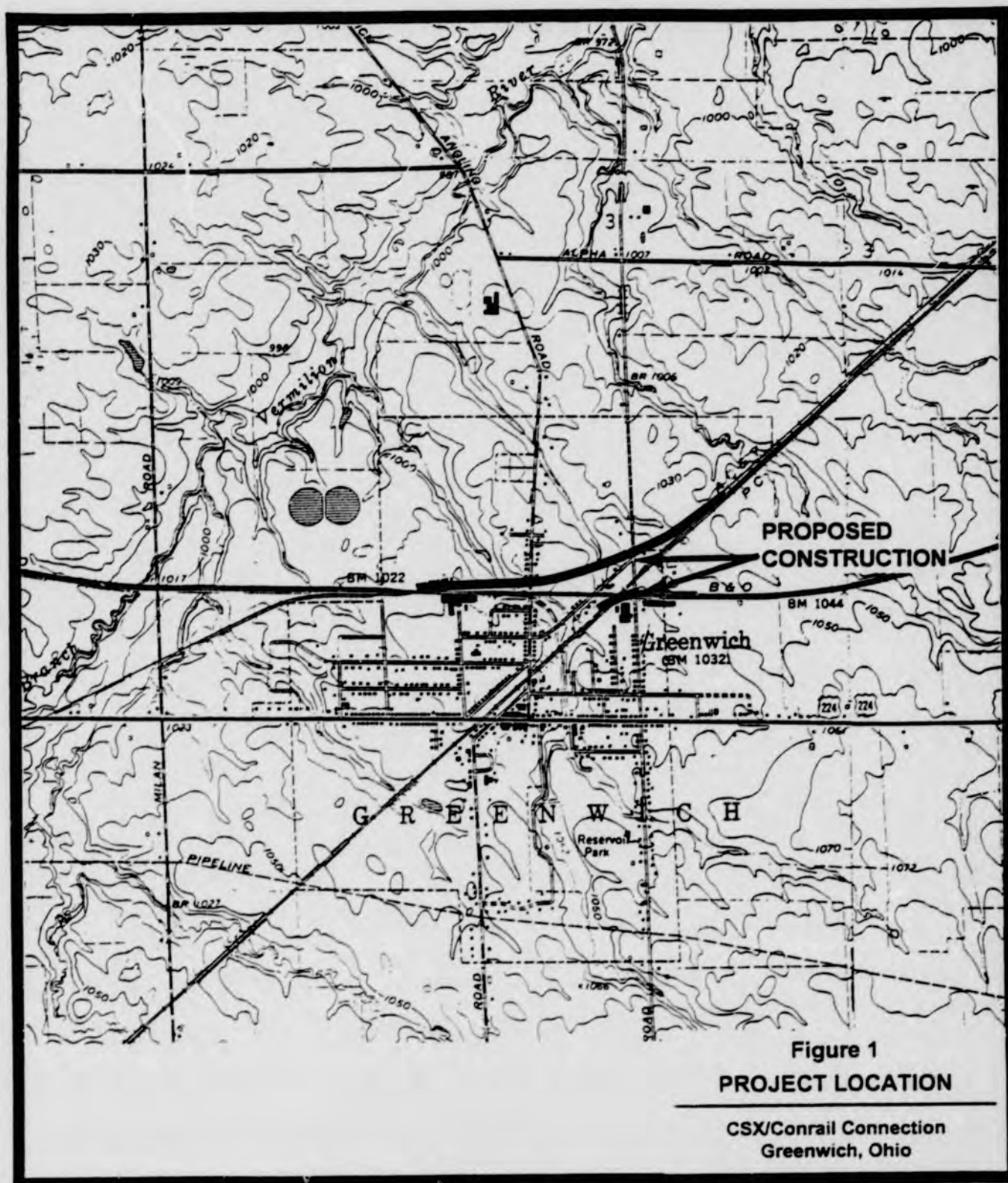
- CSX shall comply with all applicable federal, state, and local regulations regarding the control of fugitive dust. Fugitive dust emissions created during construction shall be minimized by using such control methods as water spraying, installation of wind barriers, and chemical treatment.

Noise

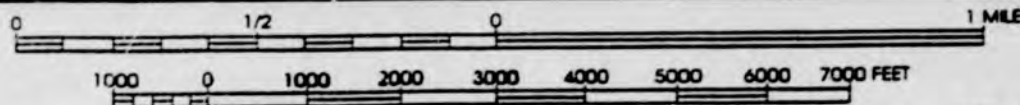
- CSX shall control temporary noise from construction equipment through the use of work hour controls and maintenance of muffler systems on machinery.
- If wheel squeal occurs during operation of the connection, CSX shall use rail lubrication to minimize noise levels.

Cultural Resources

- If previously undiscovered archeological remains are found during construction, CSX shall cease work and immediately contact the Ohio State Historic Preservation Officer to initiate the appropriate Section 106 process required by the National Historic Preservation Act (16 U.S.C. 470f, as amended).



SCALE 1:24,000



Base Map: USGS 7.5' Topographic Quadrangle: Greenwich, Ohio 1960 (Photorevised 1972, Photoinspected 1977); New London, Ohio (Photorevised 1972, Photoinspected 1977)



United States
Department of
Agriculture

Natural
Resources
Conservation
Service

200 North High Street
Room 522
Columbus, Ohio 43215



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

Re: Finance Docket No. 33388 -- CSX and Norfolk Southern -- Acquisition and Control -
Conrail: Environmental Assessment; Finance Docket No. 333888
(Sub Nos. 1,3,4, and 7).

The Natural Resources Conservation Service (NRCS) has reviewed your Environmental Assessment(s) for prime agricultural land issues. Information covered in these assessments address our concerns. These proposed rail line construction(s) site(s) will be required to have completed Farmland Protection Policy Act (FPPA), form(s) AD 1006. The local NRCS office, for each site, will be able to assist with the prime agricultural sections of this form.

Thank you for including the Natural Resources Conservation Service in your review of these proposed projects.

Sincerely,

PAUL DeARMAN
Assistant State Conservationist for Technology



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
6950 Americana Parkway, Suite H
Reynoldsburg, Ohio 43068-4132
(614) 469-6923/FAX (614) 469-6919
October 17, 1997

CENTRAL ADMINISTRATIVE UNIT

REC'D:

DOCUMENT #



Ms. Elaine K. Kaiser
Environmental Project Director
Surface Transportation Board
Washington DC 20423

RE: Finance Docket No. 33388--CSX and Norfolk Southern--Acquisition and Control-- Conrail: Environmental Assessment; Finance Docket No.33388 (Sub Nos.1, 3, 4, and 7)

Dear Ms. Kaiser:

This responds to your October 2, 1997 letter requesting our comments on the project referenced above. The four construction (connection) projects in Ohio are located as follows:

- No. 1 Crestline, Crawford County, Ohio
- No. 3 Greenwich, Huron County, Ohio
- No. 4 Sidney, Shelby County, Ohio
- No. 7 Bucyrus, Crawford County, Ohio

We note, that National Wetland Inventory Maps were used to identify potential wetlands in the project areas. While these maps are very good, they are not 100 per cent accurate. Thus, we recommend that onsite inspections be conducted at Crestline, Sidney and Bucyrus to verify the absence of wetlands and potential impacts.

ENDANGERED SPECIES COMMENTS: The proposed projects lie within the range of the Indiana bat, a Federally listed endangered species. Summer habitat requirements for the species are not well defined but the following are thought to be of importance:

1. Dead trees and snags along riparian corridors especially those with exfoliating bark or cavities in the trunk or branches which may be used as maternity roost areas.
2. Live trees (such as shagbark hickory) which have exfoliating bark.
3. Stream corridors, riparian areas, and nearby woodlots which provide forage sites.

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Considering the above items, we recommend that if trees with cavities or exfoliating bark (which could be potential roost trees) are encountered in the project areas, they and surrounding trees should be saved wherever possible. If they must be cut, they should not be cut between April 15 and September 15.

If desirable trees are present, and if the above time restriction is unacceptable, mist net or other surveys should be conducted to determine if bats are present. The survey should be designed and conducted in coordination with the endangered species coordinator for this office, Mr. Buddy Fazio. The survey should be conducted in June or July since the bats would only be expected in the project area from approximately April 15 to September 15.

Sincerely,

Kent E. Kroonemeyer
for Kent E. Kroonemeyer
Supervisor

cc: DOW, Wildlife Environmental Section, Columbus, OH
ODNR, Division of Real Estate and Land Management, Columbus, OH
Ohio EPA, Water Quality Monitoring, Attn: C. Crook, Columbus, OH
US EPA, Office of Environmental Review, Chicago, IL



October 14, 1997

George V. Voinovich • Governor
Donald C. Anderson • Director

Vernon A. Williams, Secretary
Surface Transportation Board
1925 K St., N.W., Suite 700
Washington, D.C. 20423
ATTN: Attn: Dana White

RE: Railroad Control Application: Env. Assessment: Finance Docket No. 33388 (Sub Nos. 1-7)

To Whom It May Concern:

The Ohio Coastal Management Program (OCMP) was approved by the U.S. Department of Commerce, National Oceanic and Atmospheric Administration and became effective on May 16, 1997. The approval can be reviewed in the Federal Register (pp. 28448-9, May 23, 1997). One of the mandates of the OCMP is the requirement for federal consistency. The OCMP document indicates that federal actions reasonably likely to affect any land or water use or natural resource of the coastal zone, regardless of location, be consistent with approved state coastal management programs. Federal actions include:

- Federal agency activities and development projects;
- Private applicant activities that require federal licenses, permits or other forms of approval; and
- State and local government activities conducted with federal assistance.

This letter serves to make you aware of this program. As such, the Environmental Assessments (Chapter 3, Section 3.1 – Land Use) should be corrected to reflect the change in status of the OCMP. If you have any questions or need additional information, please contact me at 614/265-6411 (kim.baker@dnr.state.oh.us).

Sincerely,

Kimberly A. Baker

Kimberly A. Baker, Env. Program Administrator
Division of Real Estate and Land Management



United States Department of the Interior

NATIONAL PARK SERVICE

Midwest Field Area
1709 Jackson Street
Omaha, Nebraska 68102-2571

IN REPLY REFER TO:
L7619 (MSO)

OCT 27 1997



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

Dear Mr. Williams:

In accordance with the letter of October 2 from the Board, we have reviewed information provided concerning Finance Docket No. 33388--CSX and Norfolk Southern, Acquisition and Control, Conrail Environmental Assessment. Involved are the following construction projects: Sub Number 1 (Crestline, OH), No. 2 (Willow Creek, IN), No. 3 (Greenwich, OH), No. 4 (Sidney, OH), No. 5 (Sidney, IL), No. 6 (Alexandria, IN), and No. 7 (Bucyrus, OH). While we have no comments on the rail-line construction, we appreciate the opportunity to review the work.

Sincerely,

William W. Schenk
Regional Director

STB

FD-33388 (SUB3)

10-27-97

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United States
Department of
Agriculture

Natural
Resources
Conservation
Service

200 North High Street
Room 522
Columbus, Ohio 43215

ENVIRONMENTAL DOCUMENT

October 22, 1997

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

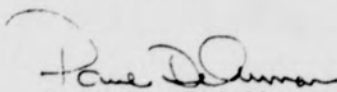


Re: Finance Docket No. 33388 -- CSX and Norfolk Southern -- Acquisition and Control -
Conrail: Environmental Assessment; Finance Docket No. 333888
(Sub Nos. 1,3,4, and 7).

The Natural Resources Conservation Service (NRCS) has reviewed your Environmental Assessment(s) for prime agricultural land issues. Information covered in these assessments address our concerns. These proposed rail line construction(s) site(s) will be required to have completed Farmland Protection Policy Act (FPPA), form(s) AD 1006. The local NRCS office, for each site, will be able to assist with the prime agricultural sections of this form.

Thank you for including the Natural Resources Conservation Service in your review of these proposed projects.

Sincerely,


PAUL DeARMAN

Assistant State Conservationist for Technology

STB

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(Sub 3)

10-9-97

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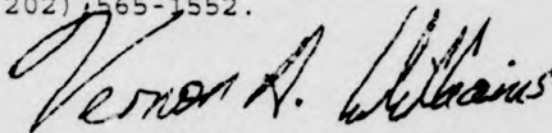
SURFACE TRANSPORTATION BOARD
Washington, DC 20423-0001

STB Finance Docket No. 33388 (Sub No. 1)¹

CSX Transportation, Inc. and Consolidated Rail Corporation -
Construction - Crestline, OH

NOTICE TO THE PARTIES

Due to an administrative oversight, this environmental assessment was not served on all the parties on the service list in this proceeding. The original service date for the environmental assessment was October 7, 1997, with a comment due date of October 27, 1997. Persons receiving this late-served environmental assessment may request to file their comments at an appropriately later date by contacting Dana White, Section of Environmental Analysis, (202) 565-1552.



Vernon A. Williams
Secretary

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This notice also embraces the following proceedings: STB Finance Docket 33388 (Sub-No. 2), CSX Transportation, Inc., and Consolidated Rail Corporation - Construction - Willow Creek, IN; STB Finance Docket 33388 (Sub-No. 3), CSX Transportation Inc., and Consolidated Rail Corporation - Construction - Greenwich, OH; STB Finance Docket 33388 (Sub-No. 4), CSX Transportation, Inc., and Consolidated Rail Corporation - Construction - Sidney Junction, OH; STB Finance Docket 33388 (Sub-No. 5), Norfolk Southern Railway Company and Consolidated Rail Corporation - Construction - Sidney, IL; STB Finance Docket 33388 (Sub-No. 6) - Norfolk Southern Railway Company and Consolidated Rail Corporation - Construction - Alexandria, IN; STB Finance Docket 33388 (Sub-No. 7) - Norfolk Southern Railway Company and Consolidated Rail Corporation - Construction - Bucyrus, Ohio.

SERVICE LIST FOR: 10-oct-1997 STB FD 33388 1st CSX TRANSPORTATION, INC.--CONSTRUCTI

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CONSOLIDATED RAIL CORP.
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OHIO RAIL DEVELOPMENT COMMISSION
50 W BROAD STREET 15TH FLOOR
COLUMBUS OH 43215 US

Records: 15

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(Sub 3)

10-7-97

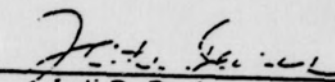
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CERTIFICATE OF SERVICE

I, Jodi B. Danis, certify that on May 2, 1997, I have caused to be served a true and correct copy of the foregoing CSX-1, Petition for Waiver of 49 C.F.R. § 1180.4(c)(vi), on all parties that have appeared in Finance Docket No. 33388, by first-class mail, postage prepaid, or by more expeditious means, as listed on the attached Service list.



Jodi B. Danis



**Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001**

NEWS

FOR RELEASE:
Wednesday, July 23, 1997
No. 97-58

Contact: Dennis Watson
(202) 565-1596
TDD (202) 565-1695

PUBLIC & MEDIA ADVISORY:

SURFACE TRANSPORTATION BOARD SEEKS COMMENT IN 6 CONSTRUCTION PROJECTS RELATED TO PROPOSED "CSX-NS-CONRAIL" RAILROAD CONTROL TRANSACTION

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued notices inviting public comment on non-environmental matters in six construction projects¹ related to the proposed "CSX-NS-Conrail" primary

¹Notice of the following exemption proceedings was published on July 23, 1997: CSX Transportation, Inc.--Construction and Operation Exemption--Connection Track at Willow Creek, IN, STB Finance Docket No. 33388 (Sub-No. 2); CSX Transportation, Inc.--Construction and Operation Exemption--Connection Tracks at Greenwich, OH, STB Finance Docket No. 33388 (Sub-No. 3); CSX Transportation, Inc.--Construction and Operation Exemption--Connection Track at Sidney Junction, OH, STB Finance Docket No. 33388 (Sub-No. 4); Norfolk and Western Railway Company--Construction and Operation Exemption--Connecting Track with Union Pacific Railroad Company at Sidney, IL, STB Finance Docket No. 33388 (Sub-No. 5); Norfolk and Western Railway Company--Construction and Operation Exemption--Connecting Track with Consolidated Rail Corporation at Alexandria, IN, STB Finance Docket No. 33388 (Sub-No. 6); and Norfolk and Western Railway Company--Construction and Operation Exemption--Connecting Track

--MORE--

railroad control transaction submitted to the Board in the case entitled *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*, STB Finance Docket No. 33388 (CSX-NS-Conrail) on June 23, 1997, by the CSX Corporation and CSX Transportation, Inc. (CSXT);² the Norfolk Southern Corporation and the Norfolk Southern Railway Company;³ and Conrail Inc. and the Consolidated Rail Corporation⁴ (collectively referred to as "applicants"). The railroad control application seeks Board approval for the acquisition by CSX and NS of control of Conrail and the division of Conrail's assets by and between CSX and NS.

In Decision No. 9 in *CSX-NS-Conrail*, the Board granted requests, with respect to four CSX construction projects and three NS construction projects, for waivers of the Board's otherwise applicable railroad merger rules. The waivers would allow consideration of CSX and NS's requests to permit them to begin physical construction, with the attendant risk that the Board may deny the primary control transaction, may approve but apply conditions to it, or may approve but deny authority for operations over such connection tracks. Such construction would follow completion of the Board's environmental review of the projects, and a Board decision authorizing the specific projects, prior to the time the Board issues its decision on the primary application.

In accordance with Section 10502 of Title 49, United States Code (49 U.S.C. 10502), CSX and NS have filed a total of six petitions (CSX and NS each filed three) for exemption from the

with *Consolidated Rail Corporation at Bucyrus, OH*, STB Finance Docket No. 33388 (Sub-No. 7).

²Collectively referred to as "CSX".

³Collectively referred to as "NS".

⁴Collectively referred to as "Conrail".

Board's prior-approval provisions of 49 U.S.C. 10901 to construct and operate connection tracks at Willow Creek and Alexandria, Indiana; Greenwich, Sidney Junction, and Bucyrus, Ohio; and Sidney, Illinois.⁵ CSX and NS contend that exemptions of the proposed construction projects, and the railroads' respective operations over the proposed connection tracks, would be consistent with the national rail transportation policy. The applicants stated that the exemptions would promote effective competition among rail carriers and with other transportation modes, and meet the needs of the shipping public.⁶

The railroads' environmental reports covering the proposed connection tracks are contained in the Environmental Reports filed with the Board in STB Finance Docket No. 33388. The applicants also must submit, no later than **September 5, 1997**, preliminary draft environmental assessments (PDEAs) for each proposed construction project. Each PDEA must comply with all of the requirements for environmental reports contained in the Board's environmental rules at Section 1105.7 of Title 49, Code of Federal Regulations (49 CFR 1105.7). Additionally, the PDEAs must be based on consultations with the Board's Section of Environmental Analysis (SEA) and the federal, state, and local agencies set forth in 49 CFR 1105.7(b), as well as other appropriate parties. If a PDEA is found to be insufficient, the Board may require additional environmental information or it may reject the PDEA.

As part of the Board's environmental review process, SEA will independently verify the information contained in each PDEA; conduct further independent analysis, as necessary; and develop appropriate environmental mitigation measures. For each project, SEA plans to prepare an Environmental Assessment (EA), which will

⁵CSX also filed a notice of exemption in *CSX Transportation, Inc.--Construction and Operation Exemption--Connection Track at Crestline, OH*, STB Finance Docket No. 33388 (Sub-No. 1), which was issued to the public and published in the *Federal Register* on July 11, 1997 (62 FR 37331). Petitions for the Board's reconsideration with respect to physical construction of the Crestline connection track, as proposed in STB Finance Docket No. 33388 (Sub-No. 1) embraced docket, and/or operation over the track by CSXT, are due by **July 31, 1997**.

⁶As indicated in the *Federal Register* notices published on July 23, 1997, non-environmental comments relative to the physical construction of connection tracks at Willow Creek and Alexandria, IN; Greenwich, Sidney Junction, and Bucyrus, OH; and at Sidney, IL, as proposed in STB Finance Docket No. 33388 (Sub-Nos. 2, 3, 4, 5, 6 and 7) embraced dockets, respectively, and/or operation over such track by the applicants, are due by **August 22, 1997**.

be issued to the public for its review and comment. The public will have 20 days to comment on the EA, including any proposed environmental mitigation measures. After the close of the public comment period, SEA will prepare Post Environmental Assessments (Post EAs) containing SEA's final recommendations, including appropriate environmental mitigation. Thus, in deciding whether to grant CSX and NS's exemption requests, the Board will consider the entire environmental record, including all public comments; the EA; and the Post EA. Should the Board determine that a construction project could potentially cause, or contribute to, significant environmental impacts, then that project would be incorporated into the Environmental Impact Statement for the proposed control transaction in STB Finance Docket No. 33388.

As in two prior decisions in *CSX-NS-Conrail*,⁷ the Board again emphasized that its consideration of these construction projects does not, and will not in any way, constitute approval of, or even indicate any consideration on the part of the Board relative to approval of, the primary control application in STB Finance Docket No. 33388. Rather, the applicants have willingly assumed the risk that the Board may deny the primary control application, or approve it subject to conditions unacceptable to the applicants, or approve the primary control application but deny an applicant's request to operate over any or all of the seven connections.

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⁷Decision No. 5, issued to the public on May 13, 1997, at page 3; and Decision No. 9, issued to the public on June 12, 1997, at page 6.

SURFACE TRANSPORTATION BOARD

DECISION

STB 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

Decision No. 9¹

Decided: June 11, 1997

On April 10, 1997, CSX Corporation (CSXC), CSX Transportation, Inc. (CSXT), Norfolk Southern Corporation (NSC), Norfolk Southern Railway Company (NSR), Conrail Inc. (CRI), and Consolidated Rail Corporation (CRC)² filed their notice of intent to file an application seeking our authorization for: (a) the acquisition by CSX and NS of control of Conrail, and (b) the division of Conrail's assets by and between CSX and NS. In Decision No. 5, served and published in the *Federal Register* on May 13, 1997, at 62 FR 26352, we invited comments from interested persons respecting the CSX-1 and NS-1 petitions filed May 2, 1997, by applicants CSX

¹ This decision also embraces the following proceedings: STB Finance Docket No. 33388 (Sub-No. 1), *CSX Transportation, Inc., and Consolidated Rail Corporation--Construction--Cresline, OH*; STB Finance Docket No. 33388 (Sub-No. 2), *CSX Transportation, Inc., and Consolidated Rail Corporation--Construction--Willow Creek, IN*; STB Finance Docket No. 33388 (Sub-No. 3), *CSX Transportation, Inc., and Consolidated Rail Corporation--Construction--Greenwich, OH*; STB Finance Docket No. 33388 (Sub-No. 4), *CSX Transportation, Inc., and Consolidated Rail Corporation--Construction--Sidney Junction, OH*; STB Finance Docket No. 33388 (Sub-No. 5), *Norfolk Southern Railway Company and Consolidated Rail Corporation--Construction--Colson/Bucyrus, OH*; STB Finance Docket No. 33388 (Sub-No. 6), *Norfolk Southern Railway Company and Consolidated Rail Corporation--Construction--Alexandria, IN*; and STB Finance Docket No. 33388 (Sub-No. 7), *Norfolk Southern Railway Company--Construction--Sidney, IL*.

² CSXC and CSXT are referred to collectively as CSX. NSC and NSR are referred to collectively as NS. CRI and CRC are referred to collectively as Conrail. CSX, NS, and Conrail are referred to collectively as applicants.

and NS, wherein applicants seek, for seven construction projects, waivers of our otherwise applicable "everything goes together" rule.³ The requested waivers, if granted, would allow CSX and NS to begin construction on the seven projects following the completion of our environmental review of the constructions, and our issuance of further decisions exempting or approving construction, but in advance of a final ruling on the primary application.

Seven construction projects, more fully detailed below, are the focus of the two petitions. Applicants contend that it is important that these projects (all of which involve relatively short connections between two rail carriers and which have a total length of fewer than 4 miles) be constructed prior to a decision on the primary application. Applicants claim that these connections must be in place prior to a decision on the primary application so that, if and when we approve the primary application, CSXT (with respect to four of the connections) and NSR (with respect to the other three) will be immediately able to provide efficient service in competition with each other. Applicants contend that, without early authorization to construct these connections, both CSXT and NSR would be severely limited in their ability to serve important (though different) customers. At the same time, applicants recognize that there can be no construction until we complete our environmental review of each of these construction projects and we issue a decision approving the construction, or an exemption from our otherwise applicable construction approval criteria, and impose whatever environmental conditions that we find appropriate.

The CSX Connections. If we grant its waiver request, CSXT will file, in four separate dockets,⁴ a notice of exemption pursuant to 49 CFR 1150.36 for construction of a connection at Crestline, OH, and petitions for exemption pursuant to 49 U.S.C. 10502 and 49 CFR 1121.1 and 1150.1(a) for the construction of connections at Greenwich and Sidney, OH, and Willow Creek, IN. CSXT indicates that it would consult with appropriate federal, state, and local agencies with respect to any potential environmental effects from the construction of these connections and would file environmental reports with our Section of Environmental Analysis (SEA) at the time that the notice and petitions are filed. The connections at issue are as follows:

- (1) Two main line CRC tracks cross at Crestline, and CSXT proposes to construct in the northwest quadrant a connection track between those two CRC main lines.

³ Our regulations provide that applicants shall file, concurrently with their 49 U.S.C. 11323-25 primary application, all "directly related applications, e.g., those seeking authority to construct or abandon rail lines, * * * ." 49 CFR 1180.4(c)(2)(vi). Our regulations also provide, however, that, for good cause shown, we can waive a portion, but not all, of the requirements otherwise imposed by our regulations. 49 CFR 1180.4(f)(1).

⁴ These dockets will be sub-dockets 1, 2, 3, and 4 under STB Finance Docket No. 33388.

The connection would extend approximately 1,507 feet⁵ between approximately MP 75.4 on CRC's North-South main line between Greenwich, OH, and Indianapolis, IN, and approximately MP 188.8 on CRC's East-West main line between Pittsburgh, PA, and Ft. Wayne, IN.

- (2) CSXT and CRC cross each other at Willow Creek, and CSXT proposes to construct a connection track in the southeast quadrant between the CSXT main line and the CRC main line. The connection would extend approximately 2,800 feet between approximately MP BI-236.5 on the CSXT main line between Garrett, IN, and Chicago, IL, and approximately MP 248.8 on the CRC main line between Porter, IN, and Gibson Yard, IN (outside Chicago).
- (3) The lines of CSXT and CRC cross each other at Greenwich, and CSXT proposes to construct connection tracks in the northwest and southeast quadrants between the CSXT main line and the CRC main line. The connection in the northwest quadrant would extend approximately 4,600 feet between approximately MP BG-193.1 on the CSXT main line between Chicago and Pittsburgh, and approximately MP 54.1 on the CRC main line between Cleveland and Cincinnati. A portion of this connection in the northwest quadrant would be constructed utilizing existing trackage and/or right-of-way of the Wheeling & Lake Erie Railway Company. The connection in the southeast quadrant would extend approximately 1,044 feet between approximately MP BG-192.5 on the CSXT main line and approximately MP 54.6 on the CRC main line.
- (4) CSXT and CRC lines cross each other at Sidney Junction, and CSXT proposes to construct a connection track in the southeast quadrant between the CSXT main line and the CRC main line. The connection would extend approximately 3,263 feet between approximately MP BE-96.5 on the CSXT main line between Cincinnati, OH, and Toledo, OH, and approximately MP 163.5 on the CRC main line between Cleveland, OH, and Indianapolis, IN.

CSXT argues that, if it cannot begin the early construction of these four connections, its ability to compete with NSR will be severely compromised. CSXT claims that, if it could not offer competitive rail service from New York to Chicago and New York to Cincinnati using lines that it proposes to acquire from CRC, the achievement of effective competition between CSXT and NSR would be delayed significantly. CSXT adds that, if it cannot compete effectively with NSR "out of the starting blocks," this initial competitive imbalance could have a deleterious and

⁵ CSXT's correction, filed May 21, 1997, modified the length of this connection from 1,142 feet at MP 75.5 to 1,507 feet at MP 75.4.

long-term effect on CSXT's future operations and its ability to compete effectively with NSR, even when the connections are ultimately built. CSXT claims that, if its waiver was not granted, the time needed for construction and signal work could delay competitive operations for as long as 6 months after we take final action on the primary application.

The NS Connections. If we grant its waiver request, NSR will file, in three separate dockets,⁶ petitions for exemption pursuant to 49 U.S.C. 10502 and 49 CFR 1121.1 and 1150.1(a) for the construction of connections at Alexandria, IN, Colson/Bucyrus, OH,⁷ and Sidney, IL. NSR indicates that it would consult with appropriate federal, state, and local agencies with respect to any potential environmental effects from the construction of these connections and would file environmental reports with SEA at the time that the petitions are filed. The connections at issue are as follows:

- (1) The Alexandria connection would be in the northeast quadrant between former CRC Marion district lines to be operated by NSR and NSR's existing Frankfort district line. The new connection would allow traffic flowing over the Cincinnati gateway to be routed via a CRC line to be acquired by NSR to CRC's Elkhart Yard, a major CRC classification yard for carload traffic. This handling would permit such traffic to bypass the congested Chicago gateway. NSR estimates that the Alexandria connection would take approximately 9.5 months to construct.
- (2) The Colson/Bucyrus connection would be in the southeast quadrant between NSR's existing Sandusky district line and the former CRC Ft. Wayne line. This new connection would permit NSR to preserve efficient traffic flows, which otherwise would be broken, between the Cincinnati gateway and former CRC northeastern points to be served by NSR. NSR estimates that the Colson/Bucyrus connection would take approximately 10.5 months to construct.
- (3) The Sidney connection would be between NSR and Union Pacific Railroad Company (UPRR) lines. NSR believes that a connection would be required in the southwest quadrant of the existing NSR/UPRR crossing to permit efficient handling of traffic flows between UPRR points in the Gulf Coast/Southwest and NSR points in the Midwest and Northeast, particularly customers on CRC properties to be served by NSR. NSR estimates that the Sidney connection would take approximately 10 months to construct.

⁶ These dockets would be sub-dockets 5, 6, and 7 under STB Finance Docket No. 33388.

⁷ Although NSR in its petition describes this connection as Colson/Bucyrus, the correct designation is Colson/Bucyrus. See diagram attached to NS-1.

Comments. Four comments opposing applicants' waiver requests were filed. Steel Dynamics, Inc. (SDI) filed comments (SDI-3) on May 6, 1997; The Allied Rail Unions (ARU)⁸ filed comments (ARU-3) on May 15, 1997; American Trucking Associations, Inc. (ATA) filed comments on May 16, 1997; and The Council on Environmental Quality, Executive Office of the President (CEQ) late-filed comments on June 4, 1997.⁹ On June 4, 1997, CSX filed a reply (CSX-3) to the comments of ARU and ATA; and NS filed a reply (NS-3) to the comments of SDI, ARU, and ATA. On June 6, 1997, CSX and NS filed a joint reply (CSX/NS-16) to the comments of CEQ.

Steel Dynamics, Inc. SDI asks us to deny NSR's waiver petition and to require NSR to file any construction application or exemption with its primary application.¹⁰ SDI believes that NSR's three proposed construction connections are intertwined with the issues involved in the primary application. Creating separate dockets for these connections, according to SDI, will not be an efficient use of the Board's resources nor permit an adequate review of the issues involved in the Midwest region. SDI contends that the proposed transfer of NSR's Fort Wayne line to CRC, followed by CRC's transfer of the line, under a long-term operating agreement, to CSXT, *see* Decision No. 4, slip op. at 6-7, is intended to disguise the asserted fact that the acquisition of Conrail will create duplicate Chicago-bound lines only about 25 miles apart, running through Waterloo and Fort Wayne, IN. SDI maintains that our consideration of issues as complex as NSR's proposed connections and the possible divestiture of duplicate lines should not precede our review of the primary application.¹¹

⁸ ARU's membership includes American Train Dispatchers Department/BLE; Brotherhood of Locomotive Engineers; Brotherhood of Maintenance of Way Employees; Brotherhood of Railroad Signalmen; Hotel Employees and Restaurant Employees International Union; International Brotherhood of Boilermakers; Iron Ship Builders, Blacksmiths, Forgers and Helpers; International Brotherhood of Electrical Workers; The National Conference of Firemen & Oilers/SEIU; and Sheet Metal Workers' International Association.

⁹ As indicated in Decision No. 5, the comments filed by CEQ were due no later than June 2, 1997. We have accepted and considered CEQ's comments, and have permitted applicants to reply to the comments by June 6, 1997.

¹⁰ SDI did not address the merits of CSXT's waiver petition.

¹¹ SDI also asserts that NS has not sought waiver of our requirement that waiver petitions be filed at least 45 days prior to the filing of the primary application. *See* 49 CFR 1180.4(f)(2). SDI therefore asks us to clarify that NS may not file its application before June 16, 1997, regardless of whether NS-1 is granted. We note that, in accordance with the procedural schedule
(continued...)

The Allied Rail Unions. ARU opposes the CSX-1 and NS-1 waiver petitions as inconsistent with our review of the primary application. ARU argues that, by requesting the waivers, CSXT and NSR seek leverage for our ultimate approval of the application, while allegedly evading public scrutiny and comment on the transaction as a whole. ARU maintains that the construction projects are directly related to, and are dependent on, our approval of the primary transaction, and that the construction projects should be authorized only if the transaction itself is authorized. ARU argues that our merger regulations already confer a significant advantage on the applicants because they may immediately file for related abandonments and line transfers, even though they do not currently own the affected lines. ARU avers that, as a consequence, CSXT and NSR have no basis to seek additional advantage through their waiver requests. ARU contends that applicants offered no evidence to support their "competitive disadvantage" or "delay of public benefits" arguments. According to the unions, the applicants' arguments on competitive disadvantage are inherently inconsistent because both carriers assert that they will be disadvantaged unless their respective petitions are granted. Accordingly, ARU believes that a reasonable competitive balance can be maintained by denying both waiver petitions.

American Trucking Associations, Inc. ATA asks us to reserve judgment on the seven construction projects until the primary application is filed and reviewed by the parties. ATA contends that our approval of the waivers, despite any disclaimer to the contrary, could be interpreted by the public as tacit support for the primary application and inadvertently stifle full debate on the relevant issues. According to ATA, early consideration of the construction projects will unreasonably burden the parties and the Board's staff by requiring incremental participation in the transaction approval process. ATA also maintains that the competitive impact of the seven construction projects could not be adequately determined in the absence of consideration of the primary application.

The Council on Environmental Quality, Executive Office of the President. CEQ believes that the construction and operation aspects of applicants' track connection projects should be assessed at the same time so that the environmental impacts of operating these rail lines can be properly evaluated. CEQ cites its regulations at 40 CFR 1508.25(a)(1) that, when actions are "closely related," they "should be discussed in the same impact statement." CEQ also maintains that bifurcation of the related decisions appear to conflict with 40 CFR 1506.1(c)(3), which prohibits agencies from taking actions that will prejudice the ultimate decision in a programmatic

¹¹(...continued)

adopted in Decision No. 6 (served and published on May 30, 1997) applicants may not file their primary application until 30 days after the filing of applicants' Preliminary Environmental Report, which was filed on May 16, 1997. The primary application, therefore, may be filed only on or after June 16, 1997. SDI's request in this regard is moot.

environmental impact statement (EIS). In this regard, CEQ contends that, even though the proposed merger does not involve a programmatic EIS, if we grant the proposed waivers, the likelihood that we will subsequently deny the merger tends to decrease.

According to CEQ, courts have recognized the need to prepare a comprehensive EIS when actions are functionally or economically related in order to prevent projects from being improperly segmented. CEQ argues that the fact that applicants are willing to risk our eventual disapproval of the merger does not remove the interdependence of these individual decisions.

DISCUSSION AND CONCLUSIONS

Applicants' waiver petitions will be granted. It is understandable that applicants want to be prepared to engage in effective, vigorous competition immediately following consummation of the control authorization that they intend to seek in the primary application.¹² We are not inclined to prevent applicants from beginning the construction process simply to protect them from the attendant risks. We emphasize what applicants acknowledge--that any resources they expend in the construction of these connections may prove to be of little benefit to them if we deny the primary application, or approve it subject to conditions unacceptable to applicants, or approve the primary application but deny applicants' request to operate over any or all of the seven

¹² In this regard, we note that ARU is simply wrong in its assertion that a reasonable competitive balance can be maintained by denying both waiver petitions, so that neither carrier would face unanswered competition from the other. In their original petitions requesting waiver, both CSX and NS separately explained that these connections would permit each carrier to be able, as soon as possible following any Board approval of the primary application, to link its expanded system and compete with the other carrier in areas in which the other carrier's infrastructure would already be in place. As CSX has further explained (CSX-3 at 8):

CSX and NS have requested permission to construct connections that largely address different markets. Three of CSX's connections are intended to allow it to provide competitive services on routes linking Chicago and New York and the fourth on Northeast-Southeast routes served via Cincinnati. These are routes that NS will be able to serve immediately upon any Board approval of the Acquisition. NS's proposed connections, on the other hand, are focused on allowing it to compete with CSX in serving southwestern markets and to make use of an important Chicago-area yard used for interchanging traffic with western carriers. Denying the waiver petitions will only assure that inequality in competition, and the potential long term problems created by such inequality, will occur.

connections. Nonetheless, given applicants' willingness to assume those risks, we will grant the waivers they seek in CSX-1 and NS-1.

ARU maintains in its comments that applicants have no basis for seeking the waivers. Our rules, however, specifically provide for such requests, and we have entertained numerous waiver and clarification petitions in previous rail merger cases, as well as this one. *See, e.g.* Decision No. 7 (STB served May 30, 1997). ATA and SDI argue that the competitive effect of the involved connections should be considered as part of the primary application. We agree. Applicants' operations over these connections are interdependent with the primary application, and we will consider the competitive impact of the projects and the environmental effects of those operations along with our consideration of the primary application. Without authority to operate over the seven track connections for which the waivers are sought, applicants' construction projects alone will have no effect on competition. We emphasize that the waiver petitions that we are granting here are restricted to the construction of, and not the operation over, the seven connection projects described above.

The commenters complain that granting the waivers constitutes a prejudicial "rush to judgment" with respect to the primary application. However, as we emphasized in our May 13, 1997 request for comments, our grant of these waivers will not, in any way, constitute approval of, or even indicate any consideration on our part respecting approval of, the primary application. We also found it appropriate to note that, if we granted the waivers sought in the CSX-1 and NS-1 petitions, applicants would not be allowed to argue that, because we had granted the waivers, we should approve the primary application. We affirm those statements here.

Environmental considerations. CEQ has advised us not to consider the proposed construction projects separately from the operations that will be conducted over them. CEQ's recommendation is based upon its regulations at 40 CFR 1508.25(a)(1)(i)-(iii), and upon various court decisions, indicating that "when a given project effectively commits decisionmakers to a future course of action [] this form of linkage argue[s] strongly for joint environmental evaluation." *Coalition of Sensible Transp. v. Dole*, 826 F.2d 60, 69 (D.C. Cir. 1987). We believe, however, that we have the authority to consider the proposed construction projects separately, and agree with the applicants that permitting the construction proceedings to go forward now would be in the public interest and would not foreclose our ability to take the requisite hard look at all potential environmental concerns.

After reviewing the matter, we do concur with CEQ that regulatory and environmental issues concerning both the construction and operating aspects of these seven small construction

projects should be viewed together.¹³ Thus, in reviewing these projects separately, we will consider the regulatory and environmental aspects of these proposed constructions and applicants' proposed operations over these lines together in the context of whether to approve each individual physical construction project.¹⁴ The operational implications of the merger as a whole, including operations over the 4 or so miles embraced in the seven construction projects, will be examined in the context of the EIS that we are preparing for the overall merger. That EIS may result in further environmental mitigating conditions. No rail operations can begin over these seven segments until completion of the EIS process and issuance of a further decision.

We believe that CEQ may have misconstrued the merger project as consisting of just two roughly equivalent elements: construction and operation. In fact, these seven construction projects, including the operations over them, are but a tiny facet of an over \$10 billion merger project. To put matters in perspective, the construction projects together amount to fewer than 4 miles of connecting track for a 44,000-mile rail system covering the eastern half of the United States.¹⁵ Our approval of the construction exemptions will in no way predetermine the outcome of our merger decision. As was the case in *North Carolina v. City of Virginia Beach*, 951 F.2d 596, 602 (4th Cir. 1991) (*North Carolina*), segmentation of one phase of a larger project prior to completion of environmental review will not have "direct and substantial probability of influencing [the agency's] decision" on the overall project. *Accord, South Carolina ex. rel. Campbell v. O'Leary*, 64 F.3d 892, 898-99 (4th Cir. 1995). Approval of the constructions will not make approval of the merger any more likely, and we have made that clear to the railroads in advance

¹³ The applicable statute for both construction and operation of new rail lines is 49 U.S.C. 10901, which requires us to permit such actions unless they are shown to be inconsistent with the public convenience and necessity.

¹⁴ We will have the information we need to do this because applicants' environmental report that will accompany the application will address the environmental impacts of both the construction and proposed operation of these projects. In addition, as discussed below, applicants will be required to file a detailed preliminary draft environmental assessment (PDEA) for each of the seven projects.

¹⁵ Applicants point out that much of the construction on these short segments will take place within existing rights-of-way, suggesting that they will be unlikely to have significant environmental impacts. *Compare Thomas v. Peterson*, 753 F.2d 754 (9th Cir. 1985) (*Thomas*) (where the Forest Service proposed to construct a road through a pristine wilderness). Applicants also suggest that there are no alternative routings for these projects. That issue, however, has not yet been determined; it will be examined in the environmental assessments (EAs) or other environmental documents that will be prepared for each of these construction projects.

Compare Thomas (where the Forest Service committed substantial *public* funds to a road project that could not be recovered absent its approval of related logging projects) *with North Carolina*, 951 F.2d at 602 (where, as here, the facts reflect that the city proposing the project accepted the risk that funds expended or constructed could be lost if the overall project were not approved).

Nor will separate consideration and approval of these small construction projects in any way undermine our ability to give meaningful and thorough consideration to all environmental issues surrounding the larger merger proposal. We have not, by segmenting these construction projects, broken down the environmental impacts of the merger into insignificant pieces escaping environmental review. See *Swain v. Brinegar*, 542 F.2d 364 (7th Cir. 1976). Indeed, we are preparing an EIS for the overall merger, and we will undertake appropriate environmental documentation for each of the seven individual construction projects. Our approach is appropriate because the environmental impacts of these constructions tend to be localized, whereas the impacts of the merger will affect a much larger area (quite likely the Eastern United States).

In sum, separate consideration of the seven construction projects and their environmental impacts should not be precluded by 40 CFR 1508.25 because: (1) approval of the construction projects will not automatically trigger approval of the merger; moreover, we have already determined to do an EIS for the merger and separate approval of these construction projects will in no way affect that decision; and (2) these appear to be "garden-variety connection projects" that will proceed at the railroads' financial risk, independent of the much larger merger proposal.

Having decided to grant the petitions for waiver, we will now set out some details of how we plan to proceed. In order to fulfill our responsibilities under the National Environmental Policy Act (NEPA) and related environmental laws, we will require applicants to submit certain information on the environmental effects of the construction and operation of the seven proposed connections. As noted, the applicants will file an environmental report with the primary application that will address all of the construction projects associated with the proposed merger, including the seven connections discussed in this decision.

In addition, we will require that applicants provide a specific PDEA for each individual construction project covered by this decision. Each PDEA must comply with all of the requirements for environmental reports contained in our environmental rules at 49 CFR 1105.7. Also, the PDEA must be based on consultations with our Section of Environmental Analysis (SEA) and the federal, state, and local agencies set forth in 49 CFR 1105.7(b), as well as other appropriate parties. The information in the PDEA should be organized as follows: Executive Summary; Description of Each Construction Project Including Proposed Operations; Purpose and Need for Agency Action; Description of the Affected Environment; Description of Alternatives; Analysis of the Potential Environmental Impacts; Proposed Mitigation; and Appropriate Appendices that include correspondence and consultation responses. If a PDEA is insufficient,

we may require additional environmental information or reject the document. We advise the applicants to consult with SEA as soon as possible concerning the preparation and content of each PDEA.

As part of the environmental review process, SEA will independently verify the information contained in each PDEA, conduct further independent analysis, as necessary, and develop appropriate environmental mitigation measures. For each project, SEA plans to prepare an EA, which will be served on the public for its review and comment. The public will have 20 days to comment on the EA, including the proposed environmental mitigation measures. After the close of the public comment period, SEA will prepare Post Environmental Assessments (Post EAs) containing SEA's final recommendations, including appropriate mitigation. In making our decision, we will consider the entire environmental record, including all public comments, the EAs, and the Post EAs.

Should we determine that any of the construction projects could potentially cause, or contribute to, significant environmental impacts, then the project will be incorporated into the EIS for the proposed merger and will not be separately considered. In order to provide SEA with adequate time to incorporate the proposed connections into the draft EIS, if warranted, applicants must file the PDEAs no later than Day F+75 under the procedural schedule established in Decision No. 6.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The CSX-1 and NS-1 petitions for waiver are granted.
2. NSR and CSXT must serve copies of this decision on the Council on Environmental Quality, the Environmental Protection Agency's Office of Federal Activities, and the Federal Railway Administration, and certify that they have done so within 5 days from the date of service of this decision.
3. This decision is effective on the date of service.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary

APPENDIX B

APPENDIX B
AGENCIES AND OTHER PARTIES CONSULTED
AGENCY CORRESPONDENCE

Federal Agencies Consulted:

Bureau of Indian Affairs—Eastern Area Office, Fairfax, Virginia
Council on Environmental Quality, Washington, D.C.
Federal Highway Administration, Washington, D.C.
Federal Railroad Administration, Washington, D.C.
National Forest Service—Eastern Region, Milwaukee, Wisconsin
National Geodetic Survey, Silver Spring, Maryland
National Park Service, Washington, D.C.
National Park Service—Great Plains Office, Omaha, Nebraska
U.S. Army Corps of Engineers—Buffalo District, Buffalo, New York
U.S. Department of Agriculture, Natural Resources Conservation Service—Ohio State
Conservationist, Columbus, Ohio
U.S. Department of the Interior, Washington, D.C.
U.S. Environmental Protection Agency—Office of Federal Activities, Washington, D.C.
U.S. Environmental Protection Agency—Region 5, Chicago, Illinois
U.S. Fish and Wildlife Service—Region 3, Fort Snelling, Minnesota
U.S. Fish and Wildlife Service—Ecological Services Field Office, Reynoldsburg, Ohio

State Agencies Consulted:

Mid-Ohio Regional Planning Commission, Columbus, Ohio
Ohio Department of Natural Resources, Columbus, Ohio
Ohio Department of Transportation, Columbus, Ohio
Ohio Environmental Protection Agency, Columbus, Ohio
Ohio Historical Society (State Historic Preservation Officer), Columbus, Ohio
Ohio Office of Budget and Management—Ohio State Clearinghouse, Columbus, Ohio
Ohio Rail Development Commission, Columbus, Ohio

Local Agencies Consulted:

Huron County Commissioners, Norwalk, Ohio
Huron County Planning Commission, Norwalk, Ohio
Village of Greenwich, Greenwich, Ohio



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO
ATTENTION OF:

August 29, 1997

SEP 08 1997

Regulatory Branch

SUBJECT: Application No. 97-353-0011(0), Nationwide Permit Nos. (03), (14), and (26) as Published in the Federal Register, Volume 61, No. 241, on Friday December 13, 1996

Ms. Pam Savage, Senior Counsel
CSX Transportation Company
500 Water Street
Jacksonville, Florida 32202

Dear Ms. Savage:

This pertains to your application for a Department of the Army permit to restore, rehabilitate, and construct double track to a stretch of the railroad line between Greenwich, Ohio and Defiance, Ohio. The restoration and reconditioning work will include construction of additional tracks and connections to other existing rail lines in multiple Section 404 waterways, located between Greenwich Angling Road, in the City of Greenwich, Huron County and Fruit Ridge Drive, near the City of Defiance, Defiance County, Ohio.

I have evaluated the impacts associated with your proposal, and have concluded that they are authorized by the enclosed Nationwide Permits provided that the attached conditions are satisfied.

Verification of the applicability of these Nationwide Permits is valid for two years from the date of affirmation unless the Nationwide Permits are modified, suspended or revoked. This verification will remain valid for two years if during this two year period the Nationwide Permits are reissued without modification or your activity complies with any subsequent permit modification. Please note that if you commence or are under contract to commence this activity in reliance of your Permits prior to the date these Nationwide Permits are suspended or revoked, or is modified such that your activity no longer complies with the terms and conditions, you have twelve months from the date of permit modification, expiration, or revocation to complete the activity under the present terms and conditions of these Nationwide Permits, unless these Nationwide Permits have

Regulatory Branch

SUBJECT: Application No. 97-353-0011(0), Nationwide Permit Nos. (03), (14), and (26) as Published in the Federal Register, Volume 61, No. 241, on Friday December 13, 1996

been subject to the provisions of discretionary authority.

It is your responsibility to remain informed of changes to the Nationwide Permit program. A public notice announcing any changes will be issued when they occur. Finally, note that if your activity is not undertaken within the defined period or the project specifications have changed, you must immediately notify this office to determine the need for further approval or reverification.

In addition to the general conditions attached to the Nationwide Permit, your attention is directed to the following Special Conditions which are also appended at the end of the Nationwide Permit General Conditions:

1. That you are responsible for ensuring that the contractor and/or workers executing the activity(s) authorized by this permit have knowledge of the terms and conditions of the authorization and that a copy of the permit document is at the project site throughout the period the work is underway.
2. That efforts shall be made to keep construction debris from entering the waterway or wetland, and shall be removed immediately should any such debris be present in the waterway or wetland.
3. That the mechanical equipment used to execute the work authorized herein shall be operated in such a way as to minimize turbidity that could degrade water quality and adversely affect aquatic plant and animal life.
4. Siltation barriers shall be installed between the wetlands and the adjoining development, to prevent siltation into the wetlands.
5. All erosion and sediment control practices shall be in place prior to any grading or filling operations and installation of proposed structures or utilities. They shall remain in place until construction is completed and the area is stabilized.

Your initiation of work as authorized by the enclosed Nationwide Permits acknowledges your acceptance of the general and special conditions contained therein.

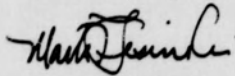
Regulatory Branch

SUBJECT: Application No. 97-353-0011(0), Nationwide Permit Nos. (03), (14), and (26) as Published in the Federal Register, Volume 61, No. 241, on Friday December 13, 1996

A copy of this letter has been forwarded to Mr. Dan Slone of McGuire, Woods, Battle & Booth LLP.

Questions pertaining to this matter should be directed to me at (716) 879-4337, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207-3199, or by e-mail at: Mark.Lesinski@usace.army.mil

Sincerely,



Mark T. Lesinski
Biologist

Enclosures



George V. Voinovich • Governor
Donald C. Anderson • Director

July 31, 1997

Linda Stapleton
Dames & Moore
1701 Golf Rd.
Suite 1000
Rolling Meadows, IL 60008

Dear Ms. Stapleton:

After reviewing our Natural Heritage maps and files, I find the Division of Natural Areas and Preserves has no records of rare or endangered species in either CSX proposed construction project area on the Greenwich Quad, Huron County, or Sidney Quad, Shelby County (#34818-002-0108).

There are no existing or proposed state nature preserves or scenic rivers at either project site. We are also unaware of any unique ecological sites, geologic features, breeding or non-breeding animal concentrations, champion trees, or state parks, forests or wildlife areas at either project location.

Our inventory program has not completely surveyed Ohio and relies on information supplied by many individuals and organizations. Therefore, a lack of records for any particular area is not a statement that rare species or unique features are absent from that area. Please note that although we inventory all types of plant communities, we only maintain records on the highest quality areas. Also, we do not have data for all Ohio wetlands. For additional information on wetlands and National Wetlands Inventory maps, please contact Jim Given in the Division of Real Estate and Land Management at 614-265-6770.

Please contact me at 614-265-6818 if I can be of further assistance.

Sincerely,

Debbie Woischke, Ecological Analyst
Division of Natural Areas & Preserves

Ohio Historic Preservation Office

567 East Hudson Street
Columbus, Ohio 43211-1030
614/297-2470
Fax: 297-2496



January 21, 1997

**OHIO
HISTORICAL
SOCIETY**
SINCE 1885

Carole W. Peter
Environmental Scientist
Dames & Moore
One Continental Towers
1701 Golf Road, Suite 1000
Rolling Meadows, Illinois 60008

Dear Ms. Peter:

RE: Consolidation of CSX and Conrail Railroads -- Potential New Connections, Ohio Sites
Dames & Moore Job Number 34818-001-007

This is in response to your correspondence received January 7, 1997 concerning the above referenced project (see enclosed list). Our comments are submitted in accordance with the provisions of Section 106 of the National Historic Preservation Act, as amended (36 CFR 800).

My staff has reviewed this project. It is our opinion that the undertakings will have no effect on any historic properties listed or eligible for the National Register of Historic Places. No further coordination is required for these projects unless the scope of the work changes or archaeological remains are discovered during the course of the undertaking. In such a situation, this office must be contacted as per 36 CFR 800.11.

Provisions of the National Historic Preservation Act, as amended, and its implementing regulations specify that consultation with Native American groups is required under certain circumstances. Principle among these is when a project is located on federal land or located on land of a federally-recognized tribal authority. It is the position of the Ohio Historic Preservation Office that at this time there is no federally-recognized tribal authority land in Ohio, and, to the best of our knowledge, there are no properties specifically designated as Native American sacred sites designated within the inventories maintained by this office. We encourage project development which enables inclusion of views from interested parties, including Native American concerns groups, but, in accordance with the provisions of the National Historic Preservation Act, as amended, and its implementing regulations, consultation on treatment of human remains with federally-recognized tribal authorities is generally not required in Ohio as part of Section 106 coordination and efforts to identify any property which may be eligible for inclusion in the National Register of Historic Places.

If you have any questions concerning this project, please contact Todd Tucky at (614) 297-2470, between the hours of 8 am. to 5 pm. E-mail queries can be sent to mttucky@freenet.columbus.oh.us Thank you for your cooperation.

Sincerely,

Martha J. Raymond, Department Head
Technical and Review Services

MJR/TMT:n

Enclosure : Referenced Projects

OHIO

Site

Bellaire, OH
Dayton, OH
Elyria, OH
Frankfort Street-Columbus, OH
Grafton, OH
Greenwich, OH
HV-Columbus, OH
Marion, OH
Parma, OH
Ravenna, OH
Toledo, OH
Vickers, OH

Youngstown, OH

County

Belmont County
Montgomery County
Lorain County
Franklin County
Lorain County
Huron County
Franklin County
Marion County
Cuyahoga County
Portage County
Lucas County
Lucas County
Wood County
Mahoning County

APPENDIX C

APPENDIX C REFERENCES

General:

- CSX Transportation Inc. *Preliminary Draft Environmental Assessment. Greenwich, Ohio—New Connection.* September 1997.
- CSX Transportation Inc. and Norfolk Southern Railway Company. *Railroad Control Application: Finance Docket No. 33388. Volume 3—Operating Plan.* June 1997.
- CSX Transportation Inc. and Norfolk Southern Railway Company. *Railroad Control Application: Finance Docket No. 33388. Volume 6—Environmental Report.* June 1997.
- DeLeuw, Cather and Company. *Conrail Acquisition Site Assessment Summary Report—Greenwich, Ohio.* July 24, 1997.

Project Description and Construction Requirements:

- CSX Transportation Inc., Engineering Department. Personal communications with Gray Chandler. July 25 and 28, 1997.
- Sverdrup, Inc. Personal communication with Sheila Hockel. July 30, 1997.

Land Use:

- Huron County Commissioners. Personal communication with Ann Winters. July 2 and 25, 1997.
- Huron County Planning Commission. Personal communication with John Conglose. May 22, 1997.
- Ohio Department of Natural Resources, Coastal Management Program. Personal communication with Don Povolny. March 3, 1997.
- Ohio Environmental Protection Agency. Personal communication with Judy Bore. May 21, 1997.
- U.S. Department of Agriculture. Natural Resources Conservation Service, Ohio Field Office. Personal communication with Barb Clayton, May 21, 1997.
- U.S. Department of Agriculture. Natural Resources Conservation Service. Soil Survey of Huron County, Ohio. June 1994.
- U.S. Department of the Interior, Bureau of Indian Affairs—Great Lakes Area Office. Personal communication with Diane Rosen. May 27, 1997.
- U.S. Department of the Interior, U.S. Geological Survey. Topographical Map—Greenwich, Ohio. 1960 (Photorevised 1972; Photoinspected 1977).
- U.S. Environmental Protection Agency. Personal communication with Mike MacMullen. May 22, 1997.
- Village of Greenwich, Utilities Department. Personal communication with Mike King, May 21, 1997.

Socioeconomics and Environmental Justice:

- Executive Order 12898. *Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations*. Washington, D.C., 1994.
- Northwestern Indiana Regional Planning Commission. Personal communications with Lauren Rhein. July 3, 1997.
- U.S. Department of Commerce, Bureau of the Census. *1990 Census of Population and Housing, Summary Tape Files 1A and 3A*. Washington, D.C., May 1992.
- U.S. Department of Commerce, Bureau of the Census, *City & Data Book—Statistical Abstract Supplement*. 12th Edition. Washington, D.C., 1994.
- U.S. Department of Commerce, Bureau of the Census. *Statistical Abstract of United States*. Washington, D.C., 1995.

Transportation and Safety:

- E Data Resources, Inc. *EDR-Radius Map with GeoCheck—Greenwich, Ohio*. May 20, 1997.
- Ohio Public Utilities Commission. Personal communication with Joe Reinhardt. July 24
- Sverdrup, Inc. Personal communications with Shelia Hockel. July 30, 1997.
- U.S. Department of Transportation, Federal Railroad Administration and Federal Highway Administration. *Guidebook for Planning to Alleviate Urban Railroad Problems, Volume 3, Appendix C*. Report RP-31. Washington, D.C., August 1974.
- U.S. Department of Transportation, Federal Railroad Administration and Federal Highway Administration. *Summary of the DOT Rail-Highway Crossing Resource Allocation Procedure*. Revised Edition. Washington, D.C., June 1987.
- U.S. Department of Transportation, Federal Railroad Administration. Personal communication with Rob Martin. July 21, 1997.

Water Resources:

- Arnold and Porter. Correspondence from Mary Gay Sprague. September 26, 1997.
- Federal Emergency Management Agency, National Flood Insurance Program. Flood Insurance Rate Map. Village of Greenwich, Ohio. Community Panel Nos. 390282 0001A, 390282 0002A, and 390770 0009A. July 1978.
- Miami Valley Regional Planning Commission (Ohio State Clearinghouse). Correspondence from Vora Lake. January 31, 1997.
- Ohio Department of Natural Resources, Coastal Management Program. Personal communication with Don Povolny. March 3, 1997.
- Planning Resources Inc. Personal communications with Juli Crane. May 27 and August 11, 1997.
- Planning Resources Inc. *Wetland Report for CSX Railroad Activities at Greenwich, Ohio*. September 1997.
- U.S. Army Corps of Engineers, Buffalo District. Personal communication with Steve Metivier. May 23, 1997.
- U.S. Army Corps of Engineers, Buffalo District. Correspondence from Mark Lesinski. August 29, 1997.

U.S. Department of the Interior. National Wetlands Inventory Map, Greenwich, Ohio. March 1977.

Biological Resources:

Ohio Department of Natural Resources, Division of Nature Areas and Preserves. Correspondence from Debbie Woischke, July 31, 1997.

Ohio Department of Natural Resources, Division of Wildlife. Personal communication with David Swanson. August 5, 1997.

Planning Resources Inc. Personal communication with Juli Crane. May 27 and August 11, 1997.

U.S. Department of the Interior, National Park Service. Personal communication with James Grasso. May 21, 1997.

U.S. Department of the Interior, U.S. Fish and Wildlife Service. Personal communication with Lyn MacLean. May 22, 1997.

U.S. Department of the Interior, U.S. Fish and Wildlife Service—Reynoldsburg, Ohio Field Office. Personal communication with Ken Multerer. August 7 and September 3, 1997.

U.S. Department of the Interior, U.S. Fish and Wildlife Service. *Endangered and Threatened Species in the State of Ohio*. March 1995.

Air Quality:

U.S. Code of Federal Regulations. Volume 40, Part 81. *Designation of Areas for Air Quality Planning Purposes*. Subpart C, Section 107—Attainment Status Designations, Huron County, Ohio.

U.S. Code of Federal Regulations. Volume 40, Part 1105.7. *Surface Transportation Board, Procedures for Implementation of Environmental Laws*.

U.S. Department of Transportation, Federal Railroad Administration and Federal Highway Administration. *Guidebook for Planning to Alleviate Urban Railroad Problems, Volume 3, Appendix C*. Report RP-31. Washington, D.C., August 1974.

Ohio Administrative Code, Rule 3745-15-07 (Air Pollution Control Nuisance Regulations).

Ohio Administrative Code, Rule 3745-17-02 (Ambient Air Quality Standards).

Ohio Administrative Code, Rule 3745-17-08 (Fugitive Dust Rule).

U.S. Environmental Protection Agency. MOBILE 5b Emission Factor Model. 1997.

Noise:

U.S. Code of Federal Regulations. Volume 40, Part 1105.7. *Surface Transportation Board, Procedures for Implementation of Environmental Laws*.

Harris Miller Miller & Hanson Inc. Correspondence and personal communications with Hugh Saurenman. May through August 1997.

Cultural Resources:

Ohio Historical Society. Correspondence from Julie Quinlan. January 21, 1997.

Ohio Historical Society. Personal communication with Julie Quinlan. May 23, 1997.

Ohio Historical Society. Personal communication with Martha Raymond. May 23, 1997.

U.S. Department of Agriculture. Natural Resources Conservation Service. *Soil Survey of Huron County, Ohio*. June 1994.

U.S. Department of the Interior, U.S. Geological Survey. Topographical Map—Greenwich, Ohio. 1960 (Photorevised 1972; Photoinspected 1977).

Environmental Organization

The Honorable Kathleen A. McGinty
Director
Council on Environmental Quality
722 Jackson Place, N.W.
Washington, DC 20503

Environmental Organization

Mr. Ray Clark
Associate Director for NEPA Oversight
Council on Environmental Quality
722 Jackson Place, N.W.
Washington, DC 20503

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Mr. Kevin E. Heanue
Director
Federal Highway Administration
Office of Environment and Planning
400 7th Street, SW
Washington, DC 20590

Federal Agencies

Ms. Jolene M. Molitoris
Administrator
Federal Railroad Administration
400 Seventh Street, S.W.; STOP 5
Room 7089
Washington, DC 20590

Federal Agencies

Mr. Richard E. Sanderson
Director
U.S. Environmental Protection Agency
Office of Federal Activities, NEPA Compliance Div.
EIS Filing Section, Ariel Rios Bldg. (S.Oval Lby)MC 2252-A
1200 Pennsylvania Avenue, NW; Rm. 7241
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Federal Agencies

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U.S. Environmental Protection Agency
Region 5
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Chicago, IL 60604-3511

Federal Agencies

Mr. Edward J. McKay
Chief, SRS Division
U.S. Department of Commerce
National Oceanic and Atmospheric Administration
National Ocean Service, National Geodetic Survey
1315 East-West Highway
Silver Spring, MD 20910-3282

Federal Agencies

Mr. William F. Hartwig
Regional Director
U.S. Department of Interior
U.S. Fish and Wildlife Service
Region 3
One Federal Drive, BHW Federal Building
Fort Snelling, MN 55111-4056

Federal Agencies

Mr. William W. Shenk
Field Director
U.S. Department of Interior
National Park Service
Midwest Area Field Office
1709 Jackson Street
Omaha, NE 68102

Federal Agencies

Mr. Paul Leuchner
CRB
U.S. Army Corps of Engineers
Buffalo District
1776 Niagara Street
Buffalo, NY 14207-3199

Federal Agencies

Mr. Patrick K. Wolf
State Conservationist
USDA Natural Resources Conservation Service
200 N. High Street, Room 522
Columbus, OH 43215-2478

Federal Agencies

Mr. Franklin Keel
Area Director
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Bureau of Indian Affairs
Eastern Area Office
3701 N. Fairfax Drive, Mail Stop 260-VASQ
Arlington, VA 22203

Law Firm

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Washington, DC 20036

Local Elected

Mr. Terry Boose
Huron County
Board of County Commissioners
180 Milan Avenue
Norwalk, OH 44857-1168

Rail Union

Ms. L. Pat Wynns
Allied Rail Unions
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Federal Agencies

Mr. Kent Kroonemeyer
Supervisor Fish & Wildlife Biologist
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Ecological Services
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Reynoldsburg, OH 43068

Federal Agencies

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Regional Forester
U.S. Department of Agriculture
National Forest Service
Region 9 - Eastern Region
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Milwaukee, WI 53203

Local Elected

The Honorable Maurice Fishbaugh
Mayor
Village of Greenwich, Ohio
21 Townsend Street
Greenwich, OH 44837

Local Government

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County Administrator
Huron County
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Norwalk, OH 44857-1168

Railroad

Mr. Arvid E. Roach II
c/o Covington & Burling
Union Pacific Corporation and Union Pacific Railroad Company
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P.O. Box 7566
Washington, DC 20044-7566

Shipper

Mr. Christopher C. O'Hara
Steel Dynamics, Inc.
c/o Brickfield, Burchette & Ritts, P.C.
1025 Thomas Jefferson St., N.W., 8th fl., W. Tower
Washington, DC 20007

Special Interests Group

Mr. Kenneth E. Siegel
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State Agencies

Mr. Wayne R. Warren
Chief, Division of Real Estate and Land Management
Coastal Management Program
Ohio Department of Natural Resources
1952 Belcher Drive, Building C-4
Columbus, OH 43224-1387

State Agencies

Mr. Jaime Best
Department of Natural Resources
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Columbus, OH 43224

State Agencies

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Director
Environmental Protection Agency
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State Agencies

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Director
Ohio Department of Public Safety
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State Agencies

Mr. Jerry Wray
Director
Ohio Department of Transportation
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Columbus, OH 43216-0899

State Agencies

Mr. Craig A. Glazer
Chairman
Ohio Public Utilities Commission
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STB FD 33388 (Sub 3) 10-7-97 K 28331 1/2

Decision No. 28331

Service Date: **October 7, 1997**
Comment Due Date: **October 27, 1997**

Environmental Assessment

Finance Docket No. 33388 (Sub No. 3)

**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

Greenwich

**CSX/Conrail Rail Line Connections --
Village of Greenwich, Huron County, Ohio**

Information Contact:

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EXECUTIVE SUMMARY

CSX Corporation and CSX Transportation Inc. (CSX), Norfolk Southern Corporation and Norfolk Southern Railway Corporation (NS), and Conrail Inc. and Consolidated Rail Corporation (Conrail) have filed a joint Application with the Surface Transportation Board (the Board) seeking authorization for the acquisition of Conrail by CSX and NS.

As a part of their joint Application, CSX proposes to construct two rail line connections in Greenwich, Huron County, Ohio to permit traffic movements between the CSX and Conrail systems. The Board's Section of Environmental Analysis (SEA) has prepared this Environmental Assessment (EA) to determine whether construction of these connections would have any significant effects on the environment.

The proposed connections are located in the Village of Greenwich in Huron County, Ohio. Greenwich is located in north-central Ohio, approximately 50 miles southwest of Cleveland and 75 miles north of Columbus. The new connections would be built in the northwest and southeast quadrants of the intersecting CSX and Conrail lines, which together would form the proposed Northeastern Gateway Service Route, a major route for time-sensitive traffic moving between the northeastern United States and Chicago. At this location, an existing Conrail line runs southwest to northeast between Indianapolis and Cleveland and the existing CSX line runs west to east from Chicago to Akron, Ohio.

The proposed connection in the northwest quadrant would provide a 4,600-foot, 45-mph connection, which would enable eastbound CSX trains from Chicago to utilize the Conrail line to proceed northeast toward Cleveland. The proposed connection in the southeast quadrant would provide a 1,044-foot, 30-mph per hour connection between the existing CSX and Conrail rail lines. The connection would enable northeast bound trains from Indianapolis to access the eastbound CSX line toward Akron and would allow freight transportation from Indianapolis to Greenwich along the Conrail line, and from Greenwich to Baltimore, Maryland along the CSX line.

CSX estimates that an average of 31.7 trains per day (primarily automotive, merchandise, intermodal, and unit trains with an average length of 6,200 feet) would operate over the new connection in the northwest quadrant, with an average of 9.4 trains per day using the new connection in the southeast quadrant. The potential environmental effects of constructing the proposed connections are summarized in the table on the following page.

Based on its independent analysis of all the information available at this time, SEA concludes that construction of the proposed rail line connections would not significantly affect the quality of the environment with the implementation of the mitigation measures set forth in this EA. Accordingly, SEA recommends that the Surface Transportation Board impose the mitigation measures set forth in Chapter 5.3 as conditions in any final decision approving construction of the proposed rail line connections in the Village of Greenwich, Huron County, Ohio.

**SUMMARY OF ENVIRONMENTAL EFFECTS
-CSX/CONRAIL RAIL LINE CONNECTIONS-
GREENWICH, OHIO**

| Effect Type | Assessment Criteria | Effects |
|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| Land Use | New Right-of-Way Required Prime Farmland Affected Within Coastal Zone Management Area | 0.5 acre 0.5 acre No |
| Socioeconomics and Environmental Justice | Disproportionate Effect on Minority and Low Income Groups | None |
| Transportation and Safety | Train Movements Over Connections: —Northwest Quadrant Connection —Southeast Quadrant Connection New Grade Crossings Grade Crossing Safety/Delay Effects Effect on Transportation of Hazardous Materials Hazardous Waste Sites Affected | 31.7 trains per day 9.4 trains per day Three* None None None |
| Water Resources | Effect on Surface Water Wetlands Affected | None 0.099 acre |
| Biological Resources | Loss of Critical Habitats Effect on Threatened and Endangered Species Effect on Parks, Forest Preserves, Refuges and Sanctuaries | None None None |
| Air Quality | Emissions from Construction + Idling Vehicles Effect on Air Quality Due to Construction (Fugitive Dust) | Negligible None |
| Noise | Additional Receptors within the L _{dn} 65 dBA Contour | Two |
| Historic and Cultural Resources | NRHP-Eligible or Listed Historic Sites Affected NRHP-Eligible or Listed Archeological Sites Affected | None None |
| Energy | Changes in Fuel Consumption due to Construction Effect on Transportation of Energy Resources and Recyclable Commodities Overall Energy Efficiency Rail to Motor Carrier Diversions | Negligible None Improved None |

* Additional at-grade crossings would be constructed adjacent to existing crossings; existing protection systems would be modified to control the wider crossings at these locations

SEA specifically invites comments on all aspects of this EA, including the scope and adequacy of the recommended mitigation. SEA will consider all comments received in response to the EA in making its final recommendations to the Board. Comments (an original and 10 copies) should be sent to: Vernon A. Williams, Secretary, Surface Transportation Board, 1925 K Street NW, Suite 700, Washington, D.C. 20423. The lower left-hand corner of the envelope should be marked: Attention: Dana White, Environmental Comments, Finance Docket No. 33388 (Sub Nos. 1-7). Questions may also be directed to Ms. White at this address or by telephoning (888) 869-1997.

Date EA Made Available to the Public: **October 7, 1997**

Comment Due Date: **October 27, 1997**

ES-4

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CSX/NS CONSTRUCTION WAIVER APPLICATION
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CHAPTER 1

Description of the Proposed Action

CSX Corporation and CSX Transportation Inc. (collectively CSX), Norfolk Southern Corporation and Norfolk Southern Railway Corporation (collectively NS), and Conrail Inc. and Consolidated Rail Corporation (collectively Conrail) have filed a joint Application with the Surface Transportation Board (the Board) seeking authorization for the acquisition of Conrail by CSX and NS. The fundamental objective of the proposed acquisition is to divide existing Conrail assets and operations between CSX and NS. As a result, certain Conrail facilities and operations would be assigned individually to either CSX or NS through operating agreements or other mechanisms, and certain other existing Conrail facilities would be shared or operated by both CSX and NS.

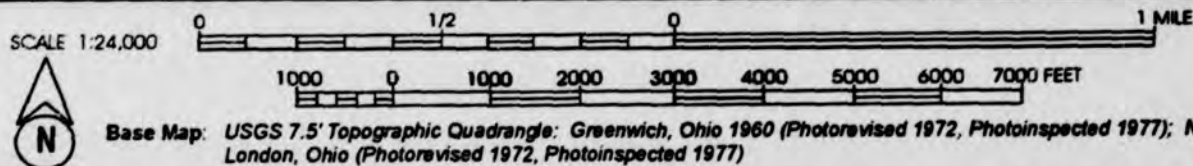
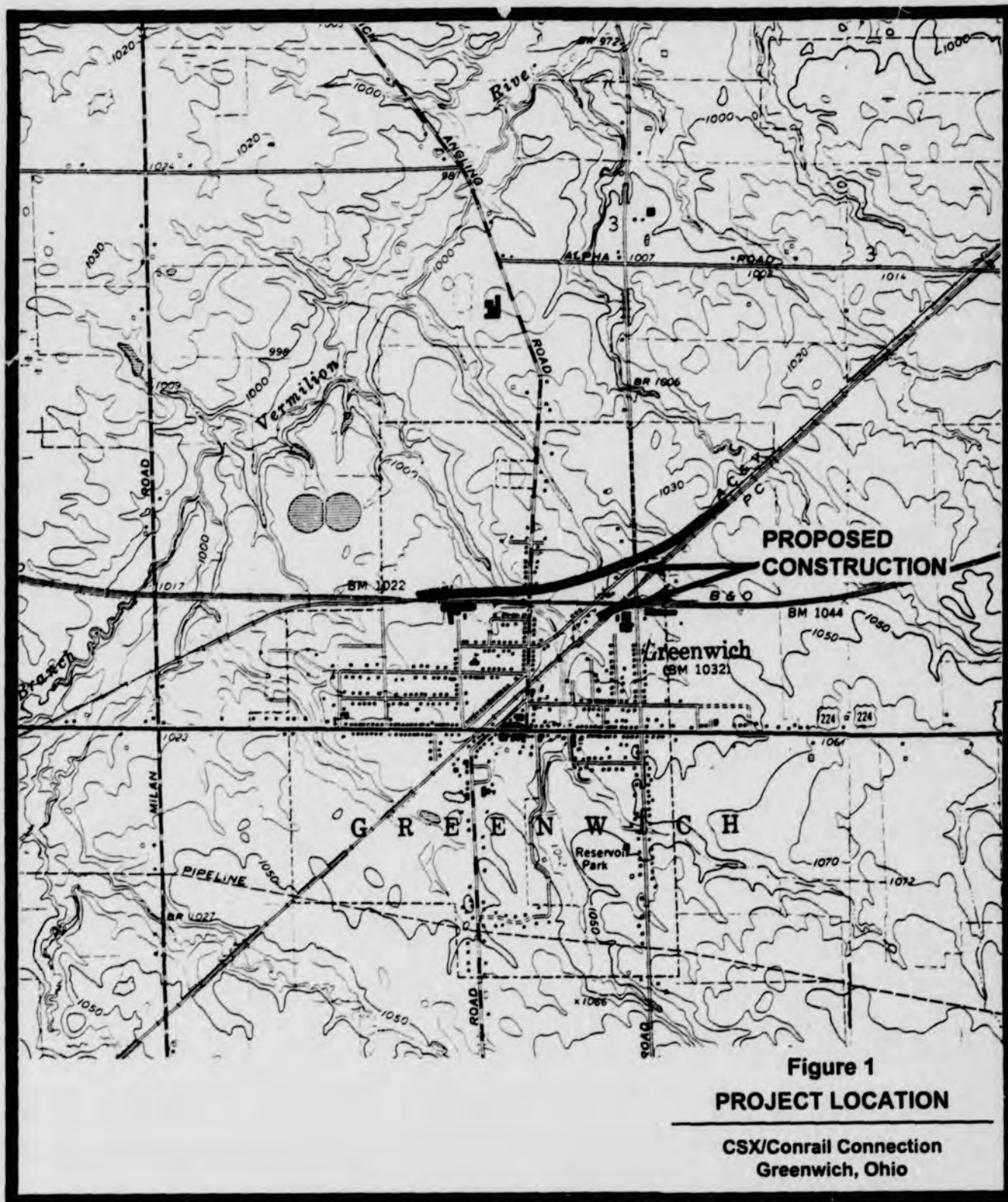
As a part of their joint Application, CSX proposes to construct two rail line connections in Greenwich, Huron County, Ohio to permit traffic movements between the CSX and Conrail systems. The Board's Section of Environmental Analysis (SEA) has prepared this Environmental Assessment (EA) to determine whether construction of these connections would have any significant effects on the environment.

1.1 OVERVIEW OF THE PROPOSED RAIL LINE CONNECTIONS

1.1.1 Location and Description

The proposed connections are located in the Village of Greenwich in Huron County, Ohio. Greenwich is located in north-central Ohio, approximately 50 miles southwest of Cleveland and 75 miles north of Columbus. The new connections would be built in the northwest and southeast quadrants of the intersecting CSX and Conrail rail lines, which together form the proposed CSX Northeastern Gateway Service Route, a major route for time-sensitive traffic moving between the northeastern United States and Chicago (see Figure 1). At this location, an existing Conrail line runs southwest to northeast between Indianapolis and Cleveland and the existing CSX line runs west to east from Chicago to Akron, Ohio.

The proposed connection in the northwest quadrant (see Figure 2a) would provide a 4,600-foot, 45-mph connection, adjacent to the existing Wheeling & Lake Erie (W&LE) railroad tracks. This connection would enable eastbound CSX trains from Chicago to utilize the Conrail line to proceed northeast toward Cleveland. The proposed connection would require the acquisition of 0.4 acre of agricultural land. The remainder of the connection would be constructed within existing CSX, Conrail and W&LE rights-of-way. The connection would begin at Milepost 193 on the CSX line (located west of Townsend Street) and terminate at the Conrail line. This connection would allow CSX to more efficiently schedule time-sensitive intermodal trains which



transport goods from New England to Chicago along the proposed CSX Northeastern Gateway Service Route.

The proposed construction in the southeast quadrant (see Figure 2b) would provide a 1,044-foot, 30-mph connection between the existing CSX and Conrail rail lines. The connection would enable northeast bound trains from Indianapolis to access the eastbound CSX line toward Akron and would allow freight transportation from Indianapolis to Greenwich along the Conrail line, and from Greenwich to Baltimore, Maryland along the CSX line. The proposed connection would require the acquisition of approximately 0.1 acre of right-of-way currently owned by Versitech Corporation. The remainder of the connection would be constructed within existing CSX and Conrail rights-of-way.

1.1.2 Construction Requirements

CSX estimates that the construction of the new rail line connections would require a labor force of about 60 people over a period of two months. The constructions would require existing clearing of existing vegetation and grading; approximately 21,500 cubic yards of earthwork (cut/fill) would be required. Use of borrow material could also be required; borrow material would be obtained from local sources and hauled to the construction site by rail or truck. Various types of heavy equipment (such as bulldozers, roller/compactors, tie loaders, and rail installers) would be used during construction.

1.1.3 Changes in Rail Traffic

The proposed connections would facilitate rail operations and traffic movements on the CSX and Conrail rail lines. CSX estimates that an average of 31.7 trains per day (primarily automotive, merchandise, intermodal, and unit trains with an average length of 6,200 feet) would operate over the new connection in the northwest quadrant; an average of 9.4 trains per day would operate over the new connection in the southeast quadrant.

Rail traffic on the existing rail lines served by the connections would change as follows:

- Traffic on the CSX line would increase, on average, from 34.5 trains per day to 34.9 trains per day southeast of the proposed connection (Sterling to Greenwich, Ohio segment) and from 34.5 trains per day to 57.2 trains per day northwest of the connection (Greenwich to Willard, Ohio segment).
- Traffic on the Conrail line would increase, on average, from 14.5 trains per day to 54.2 trains per day northeast of the connection (Berea to Greenwich, Ohio segment). Traffic on the Conrail line southwest of the connection (Greenwich to Crestline, Ohio segment) would increase from 14.5 trains per day to 31.3 trains per day.

1.2 PURPOSE AND NEED FOR THE PROPOSED CONNECTIONS

The purpose of the environmental review documented in this EA was to identify, analyze, and disclose the environmental issues and potential effects associated with the construction of the rail line connection in Greenwich, Ohio. Based on the joint Application filed by CSX and NS, this connection would improve the service capabilities and operating efficiencies of each railroad. These efficiencies include enhanced single-line service, reduced travel times, and increased utilization of equipment.

This EA was prepared to determine whether the Board should approve construction of the connection before it decides on the merits of the entire acquisition transaction. If approved by the Board, this connection would be constructed before the Board's final decision on the CSX and NS Application to acquire Conrail. If the entire transaction is subsequently approved by the Board, CSX intends to begin operations on this connection immediately. If the Board does not approve the transaction, or approves it with conditions which preclude its use, operation of this connection would not be allowed.

1.3 RELATIONSHIP BETWEEN THE PROPOSED ACTION AND THE CONRAIL ACQUISITION TRANSACTION

On April 10, 1997 CSX, NS, and Conrail filed their notice of intent to file an application seeking the Board's authorization for: (1) the acquisition by CSX and NS of control of Conrail, and (2) the division of Conrail's assets. On May 2, 1997 CSX and NS filed petitions seeking a waiver of the Board's regulations at 49 CFR 1180.4(c)(2)(vi) that provide that all "directly related applications, e.g., those seeking authority to construct or abandon rail lines,..." be filed at the same time. The waiver would allow CSX and NS to seek the Board's authority to construct and operate seven rail line connections (four for CSX and three for NS) prior to the Board's decision on the acquisition and division of Conrail.

The seven constructions are each relatively short connections between two rail carriers and have a total length under 4 miles. Most of the construction on these short segments would take place within existing rights-of-way. CSX and NS stated that these seven connections must be in place before the Board's decision on the primary application in order for them to provide efficient service in competition with each other. Without early authorization to construct these connections, CSX and NS contended, each railroad would be severely limited in its ability to serve important customers.

In Decision No. 9 (see Appendix A) served June 12, 1997, the Board granted CSX's and NS's petitions. The Board stated that it understood the railroads' desire to "be prepared to engage in effective, vigorous competition immediately following consummation of the [acquisition]." In granting the waiver, the Board noted that the railroads were proceeding at their own risk. If the Board were to deny the primary application, any resources expended by CSX and NS in building

the connections would be of little benefit to them. Both the railroads and the Board recognized that no construction could occur until the Board completed its environmental review of each of the construction projects. Thus, the Board stated that it would consider the environmental aspects of these proposed constructions and the railroads' proposed operations over these lines together in deciding whether to approve the physical construction of each of these lines.

The operational implications of the Conrail acquisition as a whole, including operation over the roughly 4 miles of line included in the seven connection projects, will be examined in the Environmental Impact Statement (EIS) being prepared to assess the impacts of the entire acquisition transaction. The EIS will be available for a 45-day public review and comment period in late November 1997.

1.4 SEA ENVIRONMENTAL REVIEW PROCESS

SEA prepared this EA to ensure that the proposed action complies with the statutory requirements under the National Environmental Policy Act (NEPA), the Board's environmental regulations, and other applicable rules and/or regulations. SEA is responsible for conducting the Board's NEPA environmental review.

The Board has adopted the former Interstate Commerce Commission's environmental regulations (49 CFR Part 1105), which govern the environmental review process and outline procedures for preparing environmental documents. Section 1105.6(b) of these regulations established the criteria that identify the types of actions for which an EA would be required. The construction of a rail line connection, like the ones proposed in Greenwich, is classified under the Board's regulations as normally requiring preparation of an EA. SEA reviewed the proposed rail line construction and determined that because the connection is not expected to result in significant environmental impacts, an EA should be prepared.

In preparing the EA, SEA identified issues and areas of potential environmental effect, analyzed the potential environmental effects of the proposed rail line construction projects, reviewed agency comments, and developed mitigation measures to avoid or reduce anticipated effects on the environment. To assist it in conducting the NEPA environmental analysis and in preparing the EA, SEA selected and approved De Leuw, Cather & Company to act as the Board's independent third party consultant, in accordance with 49 CFR Part 1105.10(d). The independent third party consultant worked solely under the direction and supervision of SEA in conducting the environmental analyses related to the proposed construction. The Applicants provided funding for these activities.

SEA analyzed the Environmental Report and Operating Plan that accompanied the transaction Application, technical studies conducted by CSX's environmental consultants, and the Preliminary Draft Environmental Assessment for the Greenwich connections. In addition, SEA conducted its own independent analysis of the proposed constructions, which included verifying

the projected rail operations; verifying and estimating future noise levels; estimating air emission increases; performing land use, habitat, surface water, and wetland surveys; assessing effects to biological resources; and performing archeological and historic resource surveys. In addition, SEA and/or its independent third party consultant consulted with CSX and its environmental consultants and visited the proposed rail line construction site to assess the potential effects on the environment.

CHAPTER 2

Alternative Actions Considered

This chapter outlines the alternatives considered for the proposed connections.

2.1 NO-ACTION ALTERNATIVE

In its environmental review, SEA considered a "no-action" alternative. Under this alternative, current operations would continue over existing CSX and Conrail rail lines. However, as outlined below, access between the two lines would be limited to existing connections, interchanges, or terminals. This would preclude the railroads from attracting substantial volumes of freight now carried by truck and the associated environmental benefits.

According to CSX, if the northwest connection is not built in Greenwich, trains would lose the operational flexibility provided by the connection and the travel time savings resulting from shorter routes. CSX would have to route trains in a manner that would add approximately 100 miles to each train trip, resulting in more fuel usage and additional air emissions. That alternative routing would require eastbound trains to transit through Cleveland, where a new connection would need to be built. In addition, to accommodate the added traffic on the alternative route, CSX would need to double track its line between Cleveland to Sterling, Ohio. Local shippers on that line would suffer as a result of increased congestion. In the absence of the southeast quadrant connection in Greenwich, traffic would need to be routed from Cleveland south to Sterling, Ohio and then westbound to Greenwich. This would add approximately 80 miles to each train trip, resulting in more fuel usage and additional air emissions. Further, a connection would need to be built at Cleveland to facilitate this routing.

2.2 BUILD ALTERNATIVES

SEA considered alternative locations for the proposed connections, but after an initial review, these alternatives were determined to be more harmful to the environment than the proposed connection locations. The proposed rail lines would be the most direct connection between the existing rail lines and would minimize the use of new land outside the CSX and Conrail rights-of-way.

The alternative considered in the northwest quadrant would be a much smaller and tighter connection, constructed closer to the intersection of the existing CSX and Conrail lines, than the proposed connection. It would require acquiring more property than the proposed connection location (1.2 acres vs. 0.4 acre) and several residences on Union Avenue near the construction site would be affected. It would also require the construction of a roadbed and right-of-way in

an area not previously used for railroad operations, as well as the extension of a concrete culvert. For these reasons, this alternative location was rejected.

The alternative considered in the southeast quadrant alternative was farther south than the selected alternative. It would require the acquisition of additional property (1.2 acres vs. 0.1 acre) and the relocation of an Ohio Power Substation, and would result in adverse effects to residents and local businesses. The alternative also would result in the construction of a new (or at a minimum, wider) at-grade crossing of Kniffin Street. For these reasons, the alternative location in the southeast quadrant was not considered a suitable option.

2.3 SELECTION OF PROPOSED CONNECTION LOCATIONS

A 4,600-foot single-track connection in the northwest quadrant of the CSX and Conrail mainline intersection (north of the existing W&LE railroad tracks) in Greenwich, Ohio provides the optimal location and most direct routing for a new connection. This connection would allow for the optimal transport of freight along the proposed CSX Northeastern Gateway Service Route linking the northeastern United States and Chicago.

The proposed connection location in the southeast quadrant was chosen because it would transport freight from Indianapolis to Greenwich along the Conrail line, and from Greenwich, to Baltimore, along the CSX line. This configuration would provide greater train routing flexibility and allow slower trains to avoid using the higher speed routes. Operation of the proposed connection would enhance the efficiency of transporting intermodal freight.

SEA concluded that there were no construction, operational, or environmental features that would render other alignments of the proposed rail line connections more reasonable than the proposed locations.

CHAPTER 3

Existing Environment

This chapter provides an overview of the existing environment in the vicinity of the proposed construction projects.

3.1 LAND USE

3.1.1 Current Land Use

To identify current land uses and protected lands in the vicinity of the proposed construction sites, SEA reviewed local plans and maps, consulted with the appropriate federal, state and local agencies, and conducted field reviews at the proposed connection sites. Land uses of concern include those sensitive to environmental changes, such as residential properties, commercial buildings, educational and medical facilities, and institutions. SEA also contacted the Bureau of Indian Affairs to obtain information on any federally recognized American Indian tribes or reservations within the project area.

The current CSX/Conrail track intersection is located in the Village of Greenwich in an area of mixed land uses (see Figure 3). The existing rail lines cross each other at equal grade approximately 125 feet west of Kniffen Road, where there is an existing at-grade crossing for each line. The topography of the site is relatively flat with low rolling hills and deep drainage ditches in the surrounding area. North of the CSX tracks (northwest of the Conrail line), the area includes agricultural fields, scattered farms, residential dwellings, and wooded, undeveloped land. South of the existing CSX tracks (southeast of the Conrail line) are residential and industrial land uses. Two manufacturing companies (Versitech Corporation and Central Plastics Company) and a church (Greenwich Church of Christ), and approximately 65 residences are located within 500 feet of the proposed connections. In addition, an elementary school—South Central Primary School—is located about 750 feet south of the proposed connection in the northwest quadrant. Utility lines are located in the vicinity of the at-grade crossings at Kniffen and Townsend Streets.

None of the land for the proposed constructions is located within an American Indian reservation. According to the Bureau of Indian Affairs, there are no federally recognized American Indian tribes or reservations in Ohio.

3.1.2 Consistency with Local Plans

SEA contacted the Village of Greenwich Administrator to obtain information on local planning and zoning requirements. Although Greenwich has no land use plan, the zoning map indicates that most of the land adjacent to railroad tracks is zoned for industrial uses. A small area at the eastern end of the northwest connection is zoned for residential uses. These areas are currently undeveloped or used for agriculture.

3.1.3 Prime Farmlands and Coastal Zones

The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) maintains a national database of prime farmlands. SEA contacted the local NRCS office to determine whether prime farmland soils were located in the vicinity of the proposed connections. According to the NRCS and the Huron County, Ohio Soil Survey, prime farmland soils, including Bennington silt loam (0-2 percent slopes and 2-6 percent slopes), Cardington silt loam (2-6 percent slopes) and Condit silt loam, are located within or adjacent to the construction sites.

Any proposed project which may affect land or water uses within a coastal zone designated pursuant to the Coastal Zone Management Act (16 USC 1451 *et seq.*), must be consistent with the state's Coastal Zone Management Plan. Ohio does not have a federally recognized Coastal Zone Management program.

3.2 SOCIOECONOMICS AND ENVIRONMENTAL JUSTICE

Based on the 1990 census, the population of Huron County is 56,240, and the population of the Village of Greenwich is 1,442. Since the areas of the proposed constructions encompass a large portion of the village and more detailed census data are not available, statistics for the village were used for the areas of proposed construction.

Only 0.1 percent of the residents in the vicinity of the proposed connections are minorities, compared to 3.3 percent of residents in Huron County. The racial composition of these areas is summarized in Table 1.

Census data indicate that the 1989 median family income for Huron County was \$32,133 and \$28,871 in the Village of Greenwich. In the vicinity of the proposed connections, approximately 10.3 percent of the residents are low-income (below the federal poverty level), compared to 9.5 percent of residents in Huron County.

Table 1
RACIAL COMPOSITION OF POPULATION

| Race | Huron County | Village of Greenwich | Area of Proposed Connection |
|---------------------|---------------------|---------------------------------|----------------------------------------|
| White | 96.7 % | 99.9 % | 99.9 % |
| Black | 1.0 % | 0.0 % | 0.0 % |
| Asian | 0.3 % | 0.1 % | 0.1 % |
| Hispanic (Any Race) | 1.8 % | 0.0 % | 0.0 % |
| American Indian | 0.1 % | 0.0 % | 0.0 % |
| Other | 0.1 % | 0.0 % | 0.0 % |

3.3 TRANSPORTATION AND SAFETY

3.3.1 Transportation Systems

SEA gathered information relating to the existing transportation system in the vicinity of the proposed constructions during consultations with federal, state, and local agencies and field visits to the proposed connection sites.

The existing rail transportation network consists of CSX and Conrail rail lines that intersect just west of Kniffen Street. The CSX line is used for east-west rail traffic; the Conrail line is used for northeast-southwest traffic. A W&LE line is located in the northwest quadrant of the CSX/Conrail intersection. All lines are currently used for rail operations. The existing roadway network in the vicinity of the proposed connections includes Kniffen and Townsend Street, both north-south roadways. Access to the rail construction areas would be from these roadways, Maple Street, Pierce Street, and the CSX and Conrail rail lines.

Kniffen Street is a two-lane, asphalt paved road which crosses the CSX and Conrail tracks at grade. The at-grade crossings of these rail lines are currently protected by a cross buck and lights. South of East Union Street, this road has an average daily traffic (ADT) volume of 200 vehicles; north of the East Union Street, the ADT is 100 vehicles. The at-grade crossing of the W&LE tracks is currently protected by a cross buck and a yield sign. According to CSX, one accident was reported at the Kniffen Street crossing in 1996.

3.3.2 Transport of Hazardous Materials

SEA reviewed CSX and Conrail operational data to determine whether the trains that would operate on the proposed connection are used to transport hazardous materials. Both the CSX and Conrail lines in Greenwich are designated as Key Routes for the shipment of hazardous materials. A Key Route, as defined by the Inter-Industry Task Force, is a route where more than 10,000 carloads of hazardous materials are transported per year.

3.3.3 Hazardous Waste Sites

SEA examined railroad records and government databases to determine whether there are known hazardous waste sites or reports of hazardous materials spills within 500 feet of the proposed construction sites. The databases reviewed include: the National Priority List; the Comprehensive Environmental Response, Compensation, and Liability Information System; Resource Conservation and Recovery Information System--Treatment, Storage or Disposal sites; Emergency Response Notification System spill sites; the State Priority List; State Licensed Solid Waste Facilities; the State Inventory of Leaking Underground Storage Tanks; the State Inventory of Reported Spills; and the orphan, or unmappable, sites list.

No hazardous waste sites or other sites of environmental concern were identified as being located within 500 feet of the proposed rail line connections. The database search did reveal three orphan sites within the Village of Greenwich. Based on the limited address information available, none of these sites appear to be located in the immediate vicinity of the proposed construction sites.

3.4 WATER RESOURCES

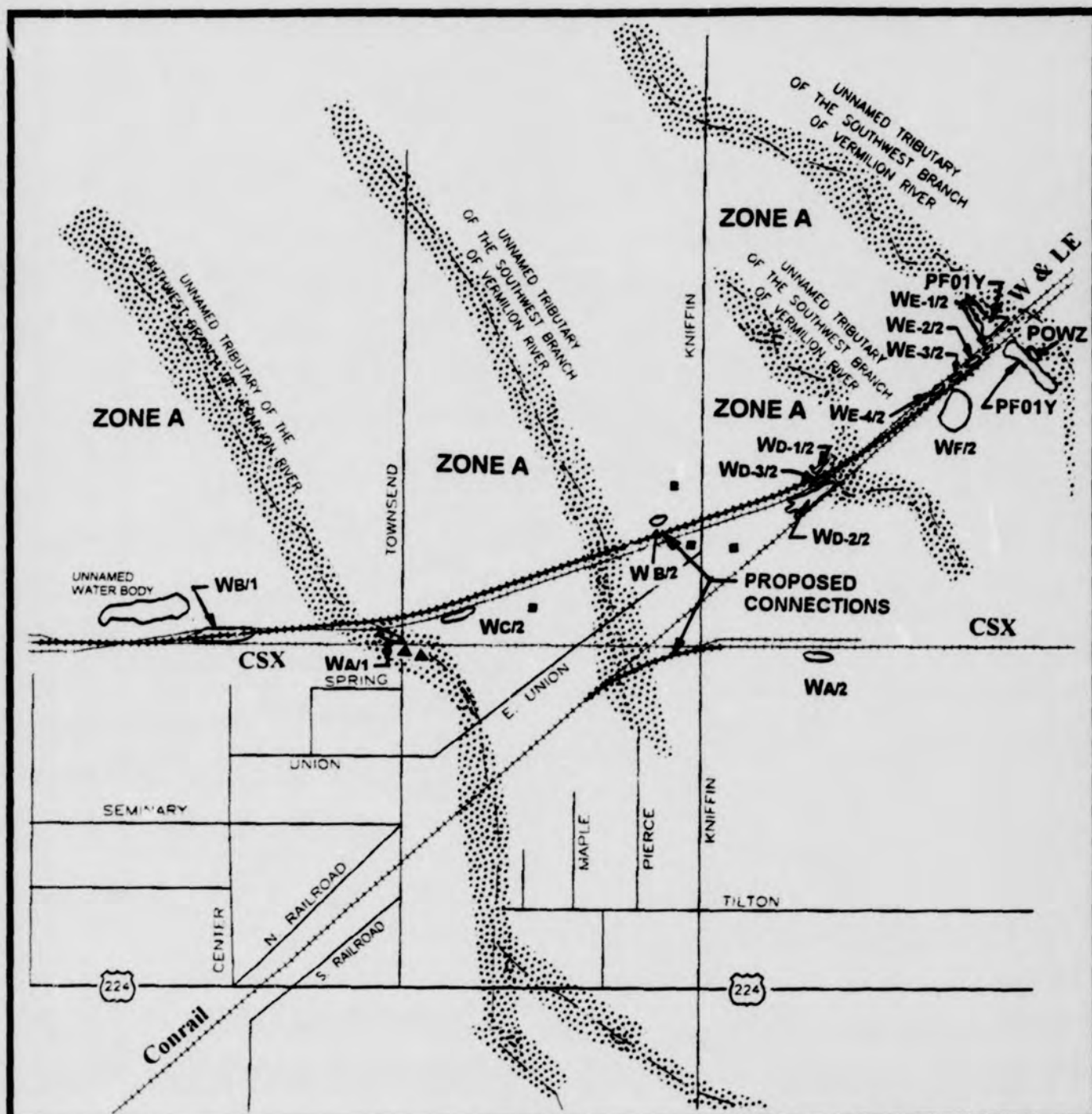
SEA identified water resources that could be adversely affected by the construction of the new rail connection. SEA also ascertained whether there were any designated wetlands or 100-year flood plains in the vicinity of the proposed construction sites.

SEA consulted several data sources, including United States Geological Survey (USGS) 7.5-minute topographic maps, National Wetland Inventory (NWI) maps produced by the U.S. Fish & Wildlife Service (USFWS), Federal Emergency Management Agency (FEMA) flood insurance maps, and NRCS soil survey maps, to identify existing water resources. Each site was also visited by SEA's third-party consultant for field reviews and data verification. Water resources within 500 feet of the centerline of the proposed construction sites, as described below, were identified primarily from site inspections and the interpretation of hydrologic features delineated on USGS topographic maps. The other information sources were used to confirm and/or refine the locations and extent of these features.

3.4.1 Wetlands

NWI mapping indicates that three wetlands are located within 500 feet of one of the proposed connections (see Figure 4). These wetlands are at the eastern terminus of the proposed northwest quadrant connection, adjacent (just north and south) to the existing Conrail tracks. Two of the wetlands are classified as palustrine forested broad-leaved deciduous saturated/semipermanent/seasonal (PFO1Y); the third is a palustrine open water intermittently exposed/permanent (POWZ). During site visits in August 1997 by SEA's third-party consultant, 13 additional wetlands (designated as W_{A1} through W_{F2} in Figure 4) were identified within 500 feet of the proposed connections. They have been classified as follows:

- *Wetland A/1*, located west of Townsend Street and south of the W&LE line, is classified as riverine intermittent stream bed seasonal (R4SBC).
- *Wetland A/2*, located south of the CSX line and east of the Conrail line, is classified as palustrine emergent temporarily flooded (PEMA).
- *Wetland B/1*, located near the western terminus of the proposed northwest quadrant connection and south of the W&LE tracks (Milepost 113.1) is classified as a palustrine emergent temporary wetland (PEMA).
- *Wetland B/2*, located on the south side of the W&LE line and west of Kniffin Street (Milepost 112.4), is classified as palustrine emergent seasonally flooded (PEMC).
- *Wetland C/2*, located south of the W&LE line (near Milepost 102), is classified as a palustrine emergent seasonally flooded excavated (PEMCx).
- Wetland D is comprised of three sub-wetlands (Wetlands D-1/2, D-2/2, and D-3/2). *Wetland D-1/2* is located on the north side of the W&LE line, and is classified as palustrine emergent seasonally flooded (PEMC). *Wetland D-2/2*, located between the intersection of the W&LE and Conrail rail lines, is classified as palustrine scrub/shrub broad-leaved deciduous saturated/semipermanent/seasonal (PSS1Y). *Wetland D-3/2*, also located on the east side of the W&LE line, near the Conrail intersection (at Milepost 112.2), is classified as palustrine scrub/shrub broad-leaved deciduous seasonally flooded (PSS1C).
- Wetlands E-1/2 through E-4/2 are located near the northeast terminus of the proposed northwest quadrant connection, between the W&LE and Conrail rail lines. *Wetland E-1/2* is classified as palustrine emergent seasonally flooded (PEMC). *Wetland E-2/2* is classified as palustrine scrub/shrub broad-leaved deciduous seasonally flooded (PSS1C). *Wetland E-3/2* is classified as palustrine emergent seasonally flooded (PEMC). *Wetland E-4/2* is classified as palustrine scrub/shrub broad-leaved deciduous temporarily flooded (PSS1A).



KEY:
 W = WETLAND
 = FLOOD ZONE
 ▲ = POTENTIAL HISTORIC SITE
 ■ = RESIDENCES



QUADRANGLE LOCATION

Figure 4
WATER RESOURCES

CSX/Conrail Connection
Greenwich, Ohio



SCALE: 1" = 750'

- *Wetland F/2*, located adjacent and southeast of the Conrail line and north of the CSX line, is classified as palustrine emergent seasonally flooded (PEMC) .

3.4.2 Surface Waters

SEA identified five water bodies within 500 feet of the proposed connections. Four are unnamed tributaries of the Southwest Branch of the Vermilion River. The first tributary is located at Townsend Street near the W&LE and CSX lines. The second tributary is located near the intersection of the CSX and Conrail rail lines, south and west of the Versitech facility. The third tributary is located east of Kniffin Street near the eastern terminus of the proposed northwest quadrant connection. The fourth tributary is located northeast of the proposed northwest quadrant connection. All of the tributaries flow, via culverts, under the existing CSX, Conrail, and W&LE rail lines in a northwesterly direction toward the Southwest Branch of the Vermilion River, located approximately 1 mile northwest of the site. The fifth water body, an unnamed pond, is located approximately 200 feet north of the western terminus of the proposed northwest quadrant connection.

The proposed northwest quadrant construction site is located within the 100-year flood plain of three unnamed tributaries of the Southwest Branch of the Vermilion River. The proposed southeast quadrant connection is within the 100-year flood plain of an unnamed tributary of the Southwest Branch of the Vermilion River.

3.5 BIOLOGICAL RESOURCES

SEA identified biological resources that could be adversely affected by the construction of the proposed rail connection. SEA also investigated whether there were any parklands, forest preserves, refuges, or wildlife sanctuaries in the vicinity of the proposed connections.

SEA consulted several data sources to identify existing biological resources, including USGS 7.5-minute topographic maps, NRCS soil surveys, and USFWS lists of sensitive or threatened and endangered species. Each site also was visited by SEA's third-party consultant to evaluate habitats, identify the presence or potential occurrence of sensitive species, and to verify published data. Federal and state resource management agencies were consulted concerning the potential occurrence of sensitive plants and animals.

3.5.1 Vegetation

The proposed connection in the northwest quadrant would be constructed in an area with agricultural fields and wooded, undeveloped land. Existing vegetation along the Conrail and W&LE rail lines consists of a variety of woody and non-woody plants. East of Kniffin Street,

these plants include: catnip, thistle, pigweed, Queen Anne's lace, poison ivy, ox-eyed daisies, strawberry, as well as small elms (less than 6 inches in diameter), red haws, and box elder trees. West of Kniffin Street, existing vegetation includes, in addition to those plants listed above, mustard, mint, common tansey, common mullein, sedge, and day lilies. Farther west along the tracks, the density of trees (including elm, walnut, cherry, cottonwood, quaking aspen, and mulberry) increases. West of Townsend Street, the area along the stream is heavily wooded until it reaches the westernmost tributary of the Southwest Branch of the Vermilion River. Beyond this stream, the density of the trees decreases and prairie vegetation predominates.

The connection in the southeast quadrant would be constructed primarily in a developed area along the southeastern side of the Conrail line and the southern side of the CSX line among existing industrial land uses. South of the CSX tracks and west of Kniffin Street, a few small trees (elms, apple, box elder, and maple), as well as Queen Anne's lace, chicory, and thistle, among other non-woody plants are present. This area also includes grasses adjacent to the Conrail right-of-way that are mowed periodically. Dense, non-woody vegetation, including butterfly weed, honeysuckle, ox-eyed daisies, ragweed, and common mullein, is present.

3.5.2 Wildlife

Wildlife habitat in the vicinity of the proposed construction sites consists of the forest, forest-edge, prairie, agricultural, and developed lands described above.

For the northwest quadrant connection, the eastern portion of the connection (east of Townsend Street) provides habitat more attractive to wildlife than the western portion of the connection. This eastern portion contains wooded areas, areas of dense vegetation, wetland areas and an unnamed tributary of the Southwest Branch of the Vermilion River that would attract animals. Mammals, birds, reptiles, amphibians and invertebrates would be expected throughout the area, though none were observed during field visits to the site.

In contrast, the area of proposed construction in the southeast quadrant offers poor wildlife habitat. Small mammals and birds acclimated to urbanized or developed environments would be expected in this area. Some fish were observed in the small riparian habitat associated with the unnamed tributary of the Southwest Branch of the Vermilion River (west of Kniffin Street) and, although none were observed during field visits to the site, amphibians, reptiles, and a wide variety of invertebrate species also would be expected. West of Townsend Street, the W&LE and the CSX rail lines are separated only by a narrow strip of land (about 60 feet wide) that contains another unnamed tributary of the Southwest Branch of the Vermilion River. Fish and frogs were observed in the stream. It is likely that small mammals, birds, reptiles, amphibians, and invertebrates would be attracted to the stream and that some of these species would use the corridor between the tracks as habitat.

3.5.3 Threatened and Endangered Species

There are no records of the presence of rare or endangered species in the vicinity of the proposed constructions. Of the federally listed threatened or endangered species known to occur in Ohio, only the Indiana bat (*Myotis sodalis*) is reported as potentially located in Huron County based on its historic range. Typically, this species winters in caves or abandoned mines; during the rest of the year its habitat includes wooded areas along or near small or medium-sized streams, where the species roosts in hollow trees, under the bark of trees with exfoliating bark, or in man-made structures. The environment at the construction site for the proposed northwest quadrant connection provides habitat that may be attractive to the Indiana bat. However, the presence of this species in the area of the construction site has not been documented. The Ohio Department of Natural Resources (ODNR) has no record of the Indiana bat in Huron County. Further, the ODNR-Division of Nature Areas and Preserves reported that it has no records of rare or endangered species in the proposed project area.

3.5.4 Parks, Forest Preserves, Refuges and Sanctuaries

A village park—Reservoir Park—is located approximately one-half mile south of the proposed connections. No other parks, forest preserves, wildlife sanctuaries or refuges are located in the vicinity of the proposed connections.

3.6 AIR QUALITY

Huron County, Ohio is currently categorized as being in attainment with the National Ambient Air Quality Standards (NAAQS). Current sources of emissions in the project area include locomotives, vehicles, and industries.

During construction, ambient air quality in the vicinity of the proposed connections, could be affected by fugitive dust. The State of Ohio regulates fugitive dust emissions under Rule 3745-17-08 of the Ohio Administrative Code. This rule requires the application of control measures, such as the use of water or dust suppression chemicals, to prevent fugitive dust from becoming airborne during construction.

3.7 NOISE

SEA identified noise-sensitive land uses in the vicinity of the proposed construction sites and measured existing noise levels resulting from operation of the existing Conrail and CSX rail lines.

The proposed connections are located in an area of the Village of Greenwich that contains residential, industrial, and agricultural land uses. The Board's regulations require the use of

day-night sound level (L_{dn}) measurements to characterize community noise; a standard of 65 decibels (L_{dn} 65 dBA) is used to determine the extent of affected sensitive receptors. Operation of rail traffic on the existing rail lines in the vicinity of the proposed connections results in a L_{dn} 65 dBA noise contour which affects approximately 150 sensitive receptors, including residences, a church, and a school (see Figure 5). Portions of neighborhoods to the south and southeast of the existing railroad tracks already experience noise levels in excess of 65 dBA from rail operations. approximately 65 receptors are within 500 feet of an existing line. Much of the existing noise in the vicinity of the proposed connection is horn noise from trains as they approach the Kniffen Street and Townsend Street grade crossings, as well as noise from vehicle traffic on local streets.

3.8 CULTURAL RESOURCES

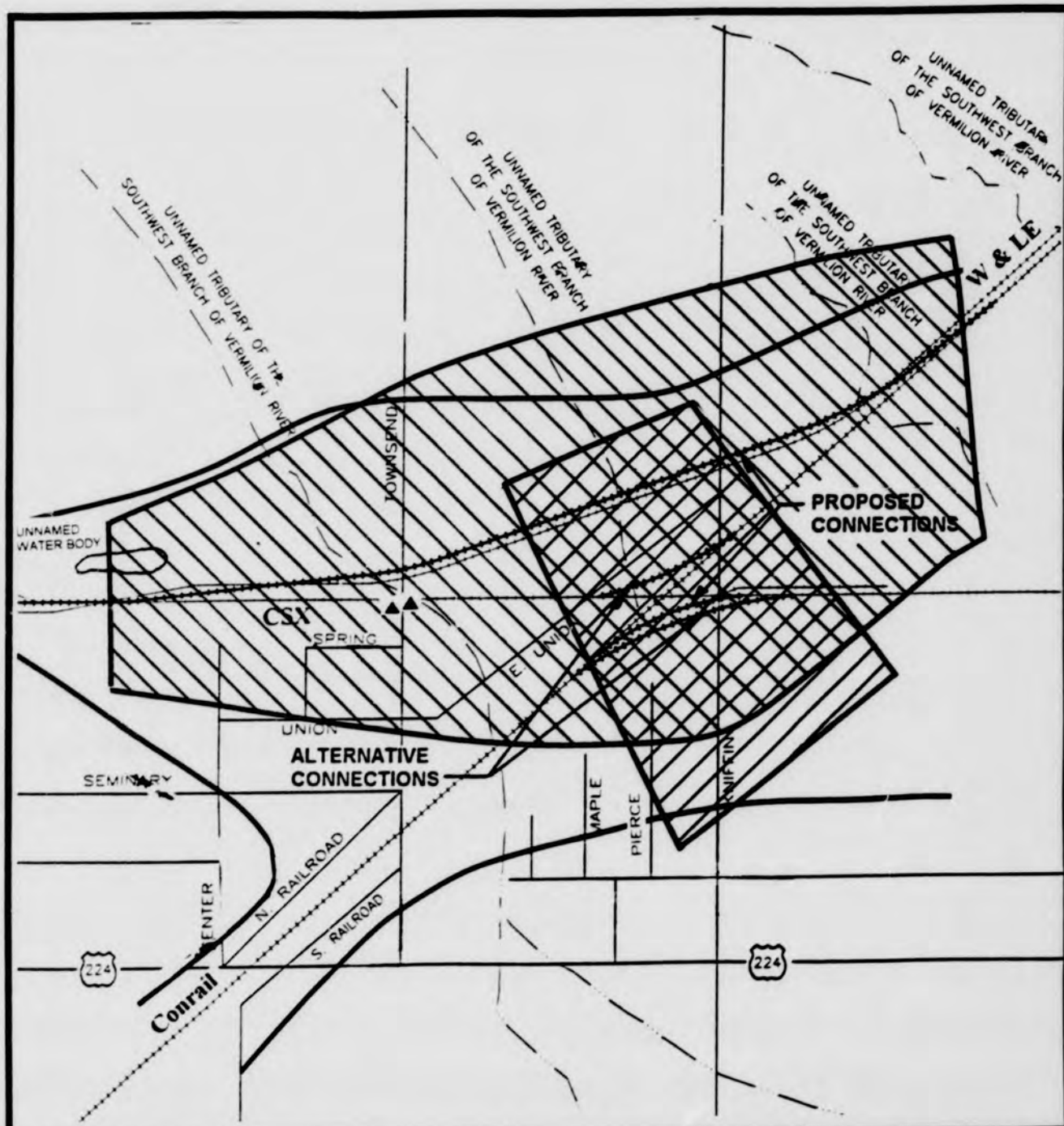
To identify cultural (archeological or historic) resources in the area of the proposed construction, SEA reviewed CSX and Conrail records and historic valuation maps, examined soil surveys and topographic maps, reviewed the State's archives, conducted site visits, and consulted with the Ohio State Historic Preservation Officer (SHPO).

3.8.1 Archeological Resources

Although no archeological resources had been identified previously within the area of the proposed constructions in Greenwich, Ohio, the potential for archeological sites in the land to be acquired for the northwest quadrant connection warranted an archeological field study (the area of the proposed southeast quadrant connection has been previously disturbed). A field investigation was conducted by CSX within the proposed new right-of-way north of the existing W&LE tracks. One transect of shovel test pits was excavated at a 15-meter intervals from just east of Townsend Street to the end of the proposed northwest quadrant connection. Units were not excavated in disturbed or wetland areas; a total of 49 shovel test pits were excavated. Artifacts recovered included bits of barbed wire and isolated lithic flakes found in some shovel test pits. No significant resources were recovered. Based on archival and field investigations, SEA concluded that there are no known archeological sites in the project area; no archeological sites in the vicinity of the proposed connections have been recorded in the Ohio State Site Files or the National Register of Historic Places.

3.8.2 Historic Resources

No significant historic structures in the vicinity of the proposed construction have been recorded in the Ohio State Site Files or the National Register of Historic Places. However, two older structures—a cut sandstone culvert and a single-span trestle bridge—are located near the proposed northwest quadrant connection. Both appear to have been constructed between 1920 and 1940. Based on consultations with the Ohio SHPO, neither structure appears to be eligible for listing in the National Register of Historic Places.



KEY:

- = EXISTING 65 Ldn CONTOUR
 - = PROPOSED CONNECTION CONTOUR
 - = ALTERNATIVE CONNECTION CONTOUR
 - = POTENTIAL HISTORIC SITE
- FLOODZONE INFORMATION NOT ON MAP



QUADRANGLE LOCATION

**Figure 5
NOISE CONTOURS**

CSX/Conrail Connection
Greenwich, Ohio



3.9 ENERGY

Current sources of energy consumption in the project area include locomotives, railroad maintenance equipment, and motor vehicles. The existing CSX and Conrail lines may be used to transport energy-producing commodities and recyclables.

CHAPTER 4

Potential Environmental Effects

This chapter provides an overview of the potential environmental effects from the proposed rail line connections between the CSX and Conrail tracks in Greenwich, Ohio. These connections would involve the construction of new rail line segments, mostly within existing right-of-way, to connect an existing CSX line to an existing Conrail line. As with any construction of new railroad tracks, the steps required to build a new connection include site preparation and grading, rail bed preparation, ballast application, track installation, and systems (e.g., signals, communications) installation. Although the construction zone required would vary depending on site conditions, most work would be completed within 250 feet of the new connections.

In conducting its analysis, SEA considered potential effects in the following environmental areas in accordance with the Board's environmental rules at 49 CFR Part 1105.7(e) and other applicable regulations:

- Land Use
- Socioeconomics and Environmental Justice
- Transportation and Safety
- Water Resources
- Biological Resources
- Air Quality
- Noise
- Cultural Resources
- Energy
- Cumulative Effects

4.1 POTENTIAL ENVIRONMENTAL EFFECTS FROM THE PROPOSED ACTION

4.1.1 Land Use

Assessment Methods and Evaluation Criteria

To assess land use effects, SEA consulted with local planning officials to establish whether the construction and operation of the proposed rail line connections were consistent with existing land uses and future land use plans. Determination as to whether the proposed rail line constructions would affect any prime agricultural land was based on SEA's consultations with the NRCS. SEA conducted similar consultations with State Coastal Zone Management agency to assess whether the proposed construction would not harm protected coastal areas. SEA also

contacted the Bureau of Indian Affairs to obtain information on any federally recognized American Indian tribes or reservations within the project area.

SEA considered land use effects to be adverse if any construction activities or subsequent operations cause long-term changes which:

- Conflict with existing land uses in the area or future land use plans.
- Displace prime farmland from use for agricultural production.
- Conflict with an existing Coastal Zone Management Plan.
- Affect any Indian reservation or tribal lands.

Potential Effects

No adverse land use effects are expected from the construction of the proposed connections. They are compatible with surrounding land uses, comply with applicable zoning ordinances, and are consistent with community plans for the area. A small amount (0.5 acre) of property adjacent to the existing rail lines would be acquired for new right-of-way. Most of this land (0.4 acre) is located north of the existing W&LE tracks and is currently used for agriculture (row crops and pasture) or is undeveloped, wooded land. The remainder of the land to be acquired (0.1 acre) is industrial property south of the CSX tracks. These lands, currently undeveloped, are zoned for industrial uses. No buildings or residents would be displaced. Approximately 0.5 acre of prime farmland soils would be converted to railroad use as a result of the proposed constructions. The project is not located within a designated coastal zone management area, nor would any known American Indian reservations or tribal lands be affected.

4.1.2 Socioeconomics and Environmental Justice

Assessment Methods and Evaluation Criteria

SEA analyzed the effects of the proposed connections on low-income and minority populations in accordance with the procedures outlined in the Executive Order 12898: "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." SEA reviewed demographic and income data from the 1990 Census to compare the population in the area of the proposed construction (Village of Greenwich) with that of Huron County.

An adverse environmental justice effect would occur if any significant adverse effects of the proposed construction fall disproportionately on low-income or minority populations.

Potential Effects

SEA concluded that no environmental justice effects would result from the construction or operation of the proposed connections. Only 0.1 percent of the population in the area surrounding the proposed connections are minorities, a proportion less than the percentage of

minority residents in Huron County as a whole (3.3 percent). Although, the median family income in the Village of Greenwich is lower than the county-wide median (\$28,871 vs. \$32,133), the share of the population living below the federal poverty level is the same, approximately 10 percent. Therefore, the area of the proposed constructions do not contain minority or low-income communities which could be disproportionately affected by the proposed action. Moreover, the proposed connections are not expected to result in any significant adverse effects to any residents, regardless of race or income.

4.1.3 Transportation and Safety

Assessment Methods and Evaluation Criteria

SEA examined the existing local and regional rail systems which could be affected by the proposed construction of the new rail line connections. Potential effects on the local and regional roadways were also evaluated. In evaluating potential safety effects, SEA assessed: (1) the need for new grade crossings; (2) modifications at existing grade crossings; (3) the effect of the proposed connection on the transportation of hazardous materials; (4) the likelihood of encountering hazardous waste sites during construction; and (5) the likelihood of a hazardous material release during construction.

Effects are considered adverse if the construction or operation of the proposed connection would cause long-term disruptions to vehicular traffic, increase the potential for delays or accidents at grade crossings, increase the risk of transporting hazardous materials, or cause spills or release of hazardous materials during construction.

Potential Effects

Transportation Systems. The proposed connections would improve rail access to and through Greenwich and enhance the efficiency of CSX and Conrail operations. The connections would increase the number of trains crossing Kniffin and Townsend Streets and increase the potential for vehicle delays.

The proposed northwest quadrant connection would add an extra track to the existing at-grade crossings at Kniffin and Townsend Streets. The existing crossing protection systems would be modified to accommodate the additional tracks. Although the current ADT at the Kniffin Street crossing is low (100 vehicles per day), the wider at-grade crossing could result in additional delays because vehicles currently stop only for W&LE traffic. The addition of the connection crossing at Townsend Street also could result in additional delays because vehicles currently stop only for W&LE traffic. The potential for increased delay at Townsend Street is greater due to the higher traffic volumes (an ADT of 1,480 vehicles). An average of 31.7 trains per day, traveling at a maximum train speed of 45 mph, are expected to use the new northwest quadrant connection. Based on a train length of 6,200 feet, the average delay time for vehicles at the Kniffin and Townsend Street crossings due to the proposed connection would be approximately

1.4 minutes. New rail traffic on the proposed connection is not expected to result in a significant increase in the accident rate because of the low traffic volumes at these locations. The potential increase in at-grade crossing delays and accident rates at these locations due to increased rail line segment activity are discussed in the EIS on the effects of the entire acquisition transaction.

The proposed southeast quadrant connection would add an extra track to the existing CSX double-track at-grade crossing of the CSX line at Kniffen Street. The new crossing would be located just south of the existing tracks and at-grade crossing. The existing crossing protection systems would be modified to accommodate the additional tracks. Although the current ADT at the Kniffen Street crossing is low (200 vehicles per day), the wider at-grade crossing could result in additional delays because vehicles currently stop only for CSX traffic. An average of 9.4 trains per day, traveling at a maximum train speed of 30 mph, are expected to use the new southeast quadrant connection. Based on a train length of 6,200 feet, the average delay time for vehicles at the Kniffen Street crossing due to the proposed connection would be approximately 1.7 minutes. The new rail traffic on the proposed connection is not expected to result in a significant increase in the accident rate because of the low traffic volume at this location. The potential increase in grade crossing delays and accident rates at this location due to increased rail line segment activity are discussed in the EIS on the effects of the entire acquisition transaction.

Construction at the Kniffen Street and Townsend Street crossings could temporarily disrupt vehicular traffic at those crossings. To minimize disruptions to the flow of north-south traffic in Greenwich, work on these crossings would not be done simultaneously. Other transportation effects would be limited to the increased use of public roads due to the transport of construction equipment. SEA expects this effect to be of short duration and unlikely to affect the long-term viability or life span of the roads. Short-term disruptions of local vehicular traffic could occur during the construction period. Some roads, including Kniffen, Union, and Townsend Streets, also could be temporarily closed or traffic rerouted during construction.

Transport of Hazardous Materials. The transportation of hazardous materials is not expected to be affected by the proposed connections. The CSX and Conrail rail lines would remain Key Routes for the shipment of hazardous materials. The manner of transporting hazardous materials would not change, and no increased risk of derailments or chemical releases is expected because of the new connection. The proposed alignment and associated switches would provide adequate safety margins for the proposed 30- to 45-mph train speeds through the connections. CSX has policies to promote safe transportation of hazardous materials and procedures to deal with clean up and remediation, if an accident or spill occurs.

Hazardous Waste Sites. No known hazardous waste sites were identified as being located in the vicinity of the proposed construction sites. The probability of a spill of hazardous or toxic materials during construction is low. In the unlikely event that a spill or contamination occurs, CSX has policies and procedures to deal with clean up and remediation. Appropriate emergency response procedures would be used to promptly address any releases to the

environment. Overall, the proposed constructions are not expected to increase the probability or consequences of hazardous waste contamination in the project area.

4.1.4 Water Resources

Assessment Methods and Evaluation Criteria

SEA assessed whether the following potential effects to water resources could result from construction and operation of the proposed connection:

- Alteration of creek embankments with rip rap, concrete, and other bank stabilization measures;
- Temporary or permanent loss of surface water area associated with the incidental deposition of fill;
- Downstream sediment deposition or water turbidity due to fill activities, dredging, and/or soil erosion from upland construction site areas;
- Direct or indirect destruction and/or degradation of aquatic, wetland, and riparian vegetation/habitat;
- Degradation of water quality through sediment loading or chemical/petroleum spills; and
- Alteration of water flow which could increase bank erosion or flooding, uproot or destroy vegetation, or affect fish and wildlife habitats.

Effects to water resources are considered adverse if there is substantial interference with drainage, adverse discharges (such as sediment or pollutants) or loss of wetlands or flood plains resulting from the construction or operation of the new rail line connections.

Potential Effects

Several of the small wetland areas identified in the project area, totaling 0.099 acre, would be affected by the construction of the northwest quadrant connection. The proposed construction may involve excavation from or the placement of dredged or fill material into the "waters of the United States," including designated wetlands. Therefore, authorization (a permit) from the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act would be required before construction could begin. On August 29, 1997 CSX received this authorization from the Corps under Nationwide Permit Nos. 3, 14, and 26. Any necessary state and/or local permits would also be obtained by the Applicant prior to starting construction. Construction specifications for the new connections would incorporate provisions for environmental protection (including appropriate measures for sediment and erosion control) as required by jurisdictional agencies and federal, state, and local permitting authorities.

Construction of the proposed connections would not have adverse effects on surface water resources; the existing flow of the tributaries of the Southwest Branch of the Vermilion River

would be maintained through the use of culverts. Other surface or open bodies of water located in the vicinity of the proposed connections would not be affected.

Three tributaries of the Southwest Branch of the Vermilion River and one unnamed pond would potentially be subject to increased sediment loading as a result of construction activities. These effects would be temporary.

4.1.5 Biological Resources

Assessment Methods and Evaluation Criteria

SEA assessed whether the following potential effects to biological resources could result from construction and operation of the proposed connections:

- Loss or degradation of unique or important vegetative communities;
- Harm to or loss of rare, threatened, or endangered plant or animal species;
- Loss or degradation of areas designated as critical habitat;
- Loss or degradation of parks, forest preserves, wildlife sanctuaries or refuges;
- Alteration of movement or migration corridors for animals; and
- Loss of large numbers of local wildlife or their habitats.

Effects to biological resources are considered adverse if the proposed construction would result in the loss of important and/or critical vegetation or wildlife habitats, cause harm to threatened or endangered species, or the degradation of parklands, forest preserves, refuges or wildlife sanctuaries.

Potential Effects

Vegetation. Construction of the northwest quadrant connection would result in the permanent loss of numerous trees and non-woody vegetation within the existing railroad right-of-way and along the north side of the W&LE line. The area of the proposed southeast quadrant connection is developed and most of the plants in the area are opportunistic species; the viability of plant communities present in the area would not be adversely affected. However, vegetation within construction staging areas along the right-of-way would be temporarily affected by the operation of heavy equipment operation and storage of building materials. It is anticipated that opportunistic species would reclaim these areas after construction activities are completed.

Wildlife. The area cleared for construction of the connection (0.5 acre) would be permanently lost as wildlife habitat. However, a sufficient amount of similar habitat is available in the area; the loss of this small amount of habitat would not affect the viability of any species. Some aquatic species, such as fish, amphibians, reptiles and invertebrates, could be affected by construction activities in and around the various tributaries of the Southwest Branch of the Vermilion River. Installation of new culverts in the streams would remove existing benthic

habitats and temporarily increase the stream sediment loads. It is possible that wildlife would temporarily avoid habitat near the connection sites during the construction period, though SEA anticipates that any temporarily displaced wildlife would subsequently return to the area.

Threatened and Endangered Species. The federally-listed Indiana bat (*Myotis sodalis*) could potentially inhabit the area and feed along the tributaries to the Southwest Branch of the Vermilion River. However, the Ohio DNR-Division of Wildlife has no records of sightings in Huron County; the USFWS lists the species for the entire State of Ohio because that is its potential range. The loss of vegetation associated with the proposed connections could include trees where bats roost and the construction activities, in general, may disturb these animals should they be present.

Parks, Forests Preserves, Refuges, and Sanctuaries. Reservoir Park would not be affected by the construction of the proposed connections. Its distance from the construction sites (about ½ mile) effectively shields the park from any adverse construction-related visual or noise effects.

4.1.6 Air Quality

Assessment Methods and Evaluation Criteria

Potential air quality effects associated with construction of the proposed connections are primarily related to (1) effects associated with the operation of construction equipment and related vehicles, and (2) effects associated with fugitive dust generation.

SEA assessed whether construction of the proposed connections would result in increased levels of pollutant emissions from the operation of construction equipment and vehicles. Air quality effects related to train operations over the CSX and Conrail line segments adjoining the connections, to the extent they meet the Board's thresholds for analysis, will be analyzed in the EIS being prepared for the entire acquisition transaction. SEA also evaluated the potential for air quality effects from fugitive dust emissions. In general, the amount of fugitive dust generated by construction activities depends on the topography of the site, soil conditions, wind speeds, precipitation, and the types of roadways used to access the site.

Air quality effects are considered to be adverse if the proposed connection would lead to long-term increases in pollutant emissions or excessive fugitive dust emissions.

Potential Effects

During construction of the Greenwich connections, the air quality in the vicinity could be affected by temporary increases in vehicle and fugitive dust emissions. Pollutant emissions from a small number of heavy equipment and construction vehicles would occur. Particulate matter, volatile organic compounds (VOCs), carbon monoxide (CO) and nitrogen oxide (NO_x) result

from combustion of diesel fuel. The emissions of these pollutants from construction operations generally would be minor and of short duration and would have insignificant effects on air quality. Emissions from the proposed constructions would not be sufficient to change Huron County's attainment with the NAAQS. Increases in fugitive dust could occur due to grading and other earthwork necessary for railbed preparation. Appropriate control measures, such as the use of water or dust suppression chemicals, would be implemented to minimize fugitive dust effects during construction.

4.1.7 Noise

Assessment Methods and Evaluation Criteria

SEA evaluated the proposed rail line connections for effects from both short-term construction activities and long-term operations of trains over the connections. SEA's approach for analyzing operational noise effects was to identify noise-sensitive land uses where changes in operation could result in noise exposure increases. Existing noise levels were measured and noise models were used to develop the current L_{dn} 65 dBA noise contours. The future L_{dn} 65 dBA noise contours resulting from operation of the connections were determined using the post-connection volumes on the mainline and connection tracks. SEA then identified the number of noise-sensitive receptors (residences, schools, hospitals, libraries) within these contours. Noise levels from rail traffic on the main line tracks is generally greater than noise from operations over connections. Noise effects from the operation of the mainline tracks will be analyzed in the EIS which addresses rail line segment effects for the entire acquisition transaction.

Noise effects were considered adverse if the connections would expand the L_{dn} 65 dBA contours and affect a substantial number of new noise sensitive receptors.

Potential Effects

Although most construction activities have the potential of causing intrusive noise at nearby noise-sensitive land uses, any noise effects during construction of the Greenwich connections would be for a limited duration and would not cause any permanent noise effects. Construction activities would last for only a few months; the noise generated during that period would be similar to that caused by normal track maintenance.

An average of 31.7 trains per day would use the proposed northwest quadrant connection. The construction of the new connection and the operation of trains over the connection would extend the existing L_{dn} 65 dBA contour to the north, since the proposed connection is just north of the existing W&LE tracks. After the connection is constructed, two additional sensitive receptors (residences) would be within the L_{dn} 65 dBA contour (see Figure 5). An average of 9.4 trains per day would use the proposed southeast quadrant connection. No additional sensitive receptors would be affected by the connection in the southeast quadrant, because its operation would not

produce a L_{dn} 65 dBA contour noise contour exceeding that produced by existing main line operations (see Figure 5).

In general, the noise from train operations on the main lines far exceeds the noise expected from train operations over the proposed connections. Train noise at this track junction for both the pre- and post-construction conditions is dominated by horn noise. The train noise projection model assumes that the engineer begins blowing the horn one quarter mile before the grade crossing, and stops blowing the horn at the grade crossing. Wheel squeal can occur on any curve with a radius less than about 1,000 feet, or when the curvature is greater than approximately 5 degrees. The curvature on the northwest quadrant connection is less than 5 degrees; no adverse noise effects from wheel squeal are expected. The curvature on the southeast quadrant connection is approximately 7 degrees. Although wheel squeal is likely to occur on the southeast connection, this noise would be insignificant compared to the horn noise which dominates noise levels near this connection. To ensure that wheel squeal noise is minimized, CSX regularly lubricates short radius or tightly curved connections. With the use of lubrication, noise levels from wheel squeal on the proposed connections would be minimized to the maximum extent possible.

4.1.8 Cultural Resources

Assessment Methods and Evaluation Criteria

SEA consulted with the Ohio SHPO to identify potentially affected archeological and historic resources in the vicinity of the proposed construction. If National Register of Historic Places-eligible or listed resources or properties were present within the project area, SEA consulted with the SHPO to determine what effect, if any, the proposed construction would have on these resources.

Effects to archeological and historic resources are considered adverse if any National Register-eligible or listed resource would experience an Adverse Effect as defined in 36 CFR Part 800.9 as a result of the proposed rail line construction or subsequent rail operations.

Potential Effects

There are no National Register-eligible or listed historic resources in the immediate vicinity of the proposed construction site. Two older structures (a cut sandstone culvert and a single-span trestle bridge) are located near the proposed northwest quadrant connection, but would not be affected by the construction or operation of the proposed connection. There are no known archeological sites in the project area and no significant resources were recovered during a field investigation at the proposed construction sites.

4.1.9 Energy Resources

Assessment Methods and Evaluation Criteria

SEA assessed the effect of the proposed connections on energy consumption, the transportation of energy resources and recyclable commodities, and diversions of shipments from rail to trucks.

Energy effects are considered significant if the proposed action would result in a substantial increase in energy consumption, would adversely affect the transportation of energy resources or recyclable commodities, or would cause diversions from rail to motor carriers.

Potential Effects

The operation of construction equipment would require the consumption of a small amount of energy (primarily diesel fuel) to operate motor or rail vehicles required to deliver construction materials to the sites, prepare the sites, and construct the connections. SEA considers this minimal consumption of energy resources insignificant.

The amount of energy resources and recyclable commodities that would be transported over the proposed connections is not known. However, the construction and operation of the proposed connections and the resulting improvement in operating efficiencies is expected to benefit the transportation of energy resources and recyclable commodities. The connections also would reduce the length of the route for trains traveling between the northeastern United States, Cleveland, and points west, thereby increasing overall energy efficiency. Construction and operation of the proposed connections are not expected to result in diversions from rail to motor carrier.

4.1.10 Cumulative Effects

Based on a review of the transaction Application and the proposed Operating Plan supplied by CSX, no other rail construction projects are underway or planned in the vicinity of the proposed connections. Consultations with federal, state, and local agencies identified no other planned or on-going construction projects in the vicinity of the proposed connections. Therefore, the effects outlined above represent the cumulative effects of the proposed construction projects. The cumulative effects of the entire acquisition transaction, which could result from increased rail line segment, rail yard and intermodal facility activity, abandonments, and other construction projects, will be addressed in the EIS.

4.2 POTENTIAL ENVIRONMENTAL EFFECTS OF ALTERNATIVE ACTIONS

4.2.1 No-Action Alternative

If the "no-action" alternative were implemented, the proposed rail line connection would not be constructed or operated. Therefore, the current land use and other existing environmental conditions would remain unchanged. However, if the related transaction is approved, the absence of this rail line connection could result in less efficient rail service. The capacity constraints, more circuitous routing of rail service, delays, and slower operating speeds that could result without the new connection may cause additional fuel consumption and increase pollutant emissions from locomotives.

4.2.2 Build Alternatives

As discussed in Section 2.2, SEA identified no feasible "build" alternatives to the proposed rail line construction project. Therefore, the potential environmental effects of alternatives considered, but later rejected, were not evaluated.

CHAPTER 5

Agency Comments and Mitigation

This chapter summarizes comments received from federal, state and local agencies or officials about the proposed constructions, and outlines SEA's recommended mitigation measures.

5.1 SUMMARY OF AGENCY COMMENTS

A list of federal, state and local agencies consulted in considering the potential environmental effects of the proposed connections is provided in Appendix B. These agencies also were contacted by the Applicant while preparing the Environmental Report which accompanied the transaction Application. Any agency responses received during the consultation process are included in Appendix B.

Agency comments regarding the proposed construction projects are summarized below:

- The Ohio DNR, Division of Natural Areas and Preserves indicated that it has no records of rare, threatened or endangered species located in the area of the proposed connections in Greenwich, Ohio. It also indicated that there are no parks, forest preserves, state nature area, or wildlife refuges in the vicinity of the proposed project.
- The Ohio SHPO indicated that the proposed projects would not affect any historic properties listed in or eligible for the National Register of Historic Places.

5.2 AGENCY SUGGESTED MITIGATION

No mitigation measures were suggested for the proposed construction projects by the various parties consulted in the process of preparing the EA.

5.3 SEA RECOMMENDED MITIGATION

SEA recommends that the Board impose the following mitigation measures in any decision approving the construction of the proposed rail line connections in Greenwich, Ohio.

5.3.1 General Mitigation Measures

Land Use

- CSX shall restore any adjacent properties that are disturbed during construction activities to their pre-construction conditions.

Transportation and Safety

- CSX shall use appropriate signs and barricades to control traffic disruptions during construction.
- CSX shall restore roads disturbed during construction to conditions as required by state or local jurisdictions.
- CSX shall observe all applicable federal, state, and local regulations regarding handling and disposal of any waste materials, including hazardous waste, encountered or generated during construction of the proposed rail line connections.
- CSX shall dispose of all materials that cannot be reused in accordance with state and local solid waste management regulations.
- CSX shall consult with the appropriate federal, state and local agencies if hazardous waste and/or materials are discovered at the sites.
- CSX shall transport all hazardous materials in compliance with U.S. Department of Transportation Hazardous Materials Regulations (49 CFR Parts 171 to 180). CSX shall provide, upon request, local emergency management organizations with copies of all applicable Emergency Response Plans and participate in the training of local emergency staff (upon request) for coordinated responses to incidents. In the case of a hazardous material incident, CSX shall follow appropriate emergency response procedures contained in their Emergency Response Plans.

Water Resources

- CSX shall obtain all necessary federal, state, and local permits if construction activities require the alteration of wetlands, ponds, lakes, streams, or rivers, or if these activities would cause soil or other materials to wash into these water resources. CSX shall use appropriate techniques to minimize effects to water bodies and wetlands.

Biological Resources

- CSX shall use Best Management Practices to control erosion, runoff, and surface instability during construction, including seeding, fiber mats, straw mulch, plastic liners, slope drains, and other erosion control devices. Once the tracks are constructed, CSX shall establish vegetation on the embankment slopes to provide permanent cover and prevent potential erosion. If erosion develops, CSX shall take steps to develop other appropriate erosion control procedures.
- CSX shall use only EPA-approved herbicides and qualified contractors for application of right-of-way maintenance herbicides, and shall limit such application to the extent necessary for rail operations.

Air Quality

- CSX shall comply with all applicable federal, state, and local regulations regarding the control of fugitive dust. Fugitive dust emissions created during construction shall be minimized by using such control methods as water spraying, installation of wind barriers, and chemical treatment.

Noise

- CSX shall control temporary noise from construction equipment through the use of work hour controls and maintenance of muffler systems on machinery.

Cultural Resources

- If previously undiscovered archeological remains are found during construction, CSX shall cease work and immediately contact the SHPO to initiate the appropriate Section 106 process.

5.3.2 Specific Mitigation Measures

In addition to the general mitigation measures identified above, SEA recommends that the Board impose the following specific mitigation measure in any decision approving the construction of the proposed rail line connections in Greenwich, Ohio:

Transportation and Safety

- To minimize disruption to the flow of north-south traffic in the Village of Greenwich, CSX shall not have construction activities occurring at the Kniffen and Townsend Street at-grade crossings simultaneously.

Noise

- If wheel squeal occurs during operation of the connection, CSX shall use rail lubrication to minimize noise levels.

5.4 REQUEST FOR COMMENTS

SEA specifically invites comments on all aspects of this EA, including the scope and adequacy of the recommended mitigation. SEA will consider all comments received in response to the EA in making its final recommendations to the Board. Comments (an original and 10 copies) should be sent to: Vernon A. Williams, Secretary, Surface Transportation Board, 1925 K Street NW, Suite 700, Washington, D.C. 20423. The lower left-hand corner of the envelope should be marked: Attention: Dana White, Environmental Comments, Finance Docket No. 33388 (Sub Nos. 1-7). Questions may also be directed to Ms. White at this address or by telephoning (888) 869-1997.

Date EA Made Available to the Public: **October 7, 1997**

Comment Due Date: **October 27, 1997**

APPENDIX A
CSX/NS CONSTRUCTION WAIVER APPLICATION
PRESS RELEASE FOR STB DECISION 9
STB DECISION 9

EXPEDITED CONSIDERATION REQUESTED

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

PETITION FOR WAIVER OF
49 C.F.R. § 1180.4(c)(2)(vi)

CSX Corporation ("CSXC"), CSX Transportation, Inc. ("CSXT"),¹
Conrail Inc. ("CRI") and Consolidated Rail Corporation ("CRC"),² hereby
petition the Board, pursuant to 49 C.F.R. § 1180.4(f), for waiver of those
provisions of 49 C.F.R. § 1180.4(c)(2)(vi) which might otherwise require that
certain Notices or Petitions for Exemption that CSX and Conrail wish to file
forthwith, for construction of certain connections, be delayed and filed
concurrently with the filing of the Primary Application.

CSX has determined that it is necessary to construct four connections
prior to a decision on the Primary Application. This construction must be
completed and ready to operate immediately in order for CSXT to provide
efficient service over its portions of Conrail and to compete effectively with
Norfolk Southern Railway Company ("NSRC") if the application for joint control

¹ CSXC and CSXT are referred to collectively as "CSX."

² CRI and CRC are referred to collectively as "Conrail."

of Conrail is approved. If the Board ultimately were to grant this Petition and the construction exemptions, CSXT would undertake to complete construction of these connections prior to the Board's decision on the Primary Application. As discussed more fully below, completion of these connections is essential if CSXT is to be able immediately to compete vigorously with NSRC at such time as the Board might grant the Primary Application. Without early authorization to proceed with such construction, CSXT would be severely limited in its ability to serve important customers.

Petitioners realize that such a request is not typical of the waivers routinely sought in major control transactions. For that reason, Applicants have limited the request as much as possible. If the Board agrees to waive the concurrent filing requirements of § 1180.4(c)(2)(vi), Petitioners initially would seek authority only to construct these essential connections. Petitioners would not operate over these connections unless and until the Board authorizes such operations pursuant to the Primary Application. Thus, the decision on operating authorization would depend on the Board's decision on the Primary Application.

If the Board grants this Petition for Waiver, CSX and Conrail will file, in separate dockets, a Notice of Exemption pursuant to 49 C.F.R. § 1150.36 for construction of a connection at Crestline, OH, and Petitions for Exemption pursuant to 49 U.S.C. § 10502 and 49 C.F.R. §§ 1121.1, 1150.1(a) for the construction of connections at Willow Creek, IN, Greenwich, OH, and Sidney, OH. CSX and Conrail expect to demonstrate that the standards for exemption set forth in 49 U.S.C. § 10502 are satisfied here: regulation of the proposed constructions is not necessary to carry out the national transportation policy or to protect shippers from abuse of market power. CSX would consult with appropriate federal, state and local agencies with respect to any potential

environmental effects from the construction of their connections and would file environmental reports with SEA at the time that the notice and petitions are filed.

If CSXT must wait for approval of the Primary Application before it can begin construction of these four essential connections, its ability to compete effectively with NSRC upon the effectiveness of a Board order approving the Primary Application (the "Control Date") would be severely compromised; neither CSX nor the shipping public would be able to reap the full competitive benefits of the proposed transaction. Specifically, if CSXT could not offer competitive rail service from New York to Chicago and New York to Cincinnati using lines that it proposes to acquire from Conrail (including its new "Water Level Route" between New York and Cleveland), the achievement of effective competition between NSRC and CSXT -- one of the fundamental underlying bases for the transaction proposed in the Primary Application -- would be delayed significantly. This delay would adversely affect the shipping public, which would benefit from the anticipated vigorous competition between CSXT and NSRC. Moreover, if CSXT cannot compete effectively with NSRC "out of the starting blocks," this initial competitive imbalance could have a deleterious -- and long term -- effect on CSXT's future operations and its ability to compete effectively with NSRC even when the connections were ultimately built. For example, if only NSRC is able to offer direct service to Chicago and other major midwestern cities, shippers examining their new rail options may turn away from CSXT to NSRC -- or trucks. Customers lost as a result of less competitive service would be hard to win back when the connections are finally ready.

Waiver of the "related application" concurrent filing requirement of 49 C.F.R. § 1180.4(c)(2)(vi) with respect to exemptions for the construction of these connections would not require the Board to prejudge the Primary

Application. While the connections are essential to the prompt and full realization of the benefits of the Primary Application, exemption of their construction from regulation does not require the Board to make any assessment of the merits of the Primary Application itself. CSX is prepared to accept the risk that the Primary Application will not be granted and that CSXT will not benefit from the connections.

I. DESCRIPTION OF THE CONNECTIONS

Maps illustrating the locations of the proposed connections are included as Exhibits A-C. Exhibit A is a depiction of the proposed CSXT/NSRC rail lines in the Northeast. Exhibits B and C depict the location of the Willow Creek, IN, connection and its relationship to Chicago and Gibson Yard. A narrative description of the four proposed connections follows.

A. Crestline

Two main line tracks of Conrail cross at Crestline. Petitioners propose to construct a connection track between those two Conrail main lines in the NW Quadrant. The connection will extend approximately 1,142 feet between approximately Milepost 75.5 on Conrail's North-South main line between Greenwich, OH, and Indianapolis, IN, and approximately Milepost 188.8 on Conrail's East-West main line between Pittsburgh, PA, and Ft. Wayne, IN.

B. Greenwich

The lines of CSXT and Conrail cross each other at Greenwich, OH. Petitioners propose to construct connection tracks in the NW and SE Quadrants between CSXT's main line and Conrail's main line. The connection in the NW Quadrant will extend approximately 4,600 feet between approximately Milepost BG-193.1 on CSXT's main line between Chicago and Pittsburgh, and

approximately Milepost 54.1 on Conrail's main line from Cleveland to Cincinnati. A portion of this connection in the NW Quadrant will be constructed utilizing existing trackage and/or right-of-way of the Wheeling & Lake Erie Railway Company (W&LE). The connection in the SE Quadrant will extend approximately 1,044 feet between approximately Milepost BG-192.5 on CSXT's main line and approximately Milepost 54.6 on Conrail's main line.

C. Sidney

CSXT and Conrail lines cross each other at Sidney Junction, OH. Petitioners propose to construct a connection track in the SE Quadrant between CSXT's main line and Conrail's main line. The connection will extend approximately 3,263 feet between approximately Milepost BE-96.5 on CSXT's main line between Cincinnati, OH, and Toledo, OH, and approximately Milepost 163.5 on Conrail's main line between Cleveland, OH, and Indianapolis, IN.

D. Willow Creek

CSXT and Conrail cross each other at Willow Creek, IN. Petitioners propose to construct a connection track in the SE Quadrant between CSXT's main line and Conrail's main line. The connection will extend approximately 2,800 feet between approximately Milepost BI-236.5 on CSXT's main line between Garrett, IN, and Chicago, IL, and approximately Milepost 248.8 on Conrail's main line between Porter, IN, and Gibson Yard, IN (outside Chicago).

II. EARLY CONSTRUCTION OF THESE CONNECTIONS IS NECESSARY TO REALIZE THE PUBLIC BENEFITS OF THE TRANSACTION IN THE EVENT THE BOARD APPROVES THE PRIMARY APPLICATION

An essential feature of the proposed transaction is the creation of two competitive routes between New York and Chicago, and between New York and

other major midwestern cities such as Cincinnati. The proposed transaction would provide both CSXT and NSRC with competitive routes from New York to Chicago and other major midwestern cities through, among other things, the division of operating rights over the "Conrail X"³ between them.

Under the terms of the Letter Agreement of April 8, 1997, between CSX and Norfolk Southern Corporation ("NSC"),⁴ CSXT would acquire the rights to operate over the leg of the Conrail "X" that runs from New York and Boston, through Cleveland, to St. Louis. NSRC would acquire the rights to operate over the leg that runs from Philadelphia to Chicago, and both parties will reach the New York/Northern New Jersey area. While CSXT has acquired the right to operate the Water Level Route to Chicago from New York and Boston as far west as Cleveland, the remainder of that route, running to Chicago, will be operated by NSRC.

The proposed transaction is designed, *inter alia*, to give CSXT and NSRC each competitive routes from New York to Chicago (and through the Chicago gateway to the West). The creation of two competitive rail routes from New York to Chicago is one of the most important competitive public benefits to be created by the division of Conrail. CSXT must find an alternative or alternatives for the "missing part" of the Water Level Route between Cleveland and Chicago. In addition, an efficient service route from Cleveland to Cincinnati (and beyond, to the Memphis gateway) must be developed by connections with existing parts of CSXT's system. The connections that CSXT proposes to

³ The Conrail lines running diagonally from Boston and New York to St. Louis, through Cleveland, form one half of the formation commonly known as the "Conrail X." The other half of the "X" encompasses the Conrail lines from Chicago to the Philadelphia area.

⁴ NSRC and NSC are referred to collectively as "NS."

construct on an expedited basis would facilitate the establishment of such efficient routes between the Northeast and Chicago over the Water Level Route and from New York to Cincinnati.

To reach Chicago, CSXT would route its New York-Chicago trains southwest from Cleveland on the Conrail line running through Greenwich and Crestline (which CSXT will operate under the proposed division). CSXT then would have two alternative routes to reach Chicago. At Greenwich, CSXT's Chicago-bound trains would be able to connect to the existing CSXT line (part of the former B&O line) from Greenwich to Chicago. At Crestline, these Chicago-bound trains would be able to connect to the Conrail line (which CSXT will operate under the proposed division) from Crestline, OH, to Chicago (via Lima, OH, and Fort Wayne, IN).⁵ Neither connection exists today.

Of these two alternatives, the primary route to Chicago would be the former B&O line, which would be accessed at Greenwich, OH. CSX has committed itself to a multimillion dollar program of improvement of the B&O line to Chicago.⁶ Yet, presently at Greenwich there is no connection at the only point where movement on and off the B&O line, coming off or going to the Water Level Route at Cleveland, can take place. Thus, a connection must be constructed.

The line from Crestline through Fort Wayne, IN, will handle less time-sensitive traffic. Again, there is no existing connection at the intersection of the

⁵ NS presently owns this line from Fort Wayne, IN, to Chicago. The Fort Wayne-Chicago line will be the subject of a like-kind exchange by NS with Conrail for another line.

⁶ During the pendency of the Primary Application, CSX intends to make substantial improvements, which are not subject to STB jurisdiction, to various of its lines such as double tracking, the installation of side tracks and the rehabilitation of track.

Conrail northeast to southwest line with its Fort Wayne line at Crestline. A connection must be constructed.

Trains moving to Chicago over the CSXT (former B&O) line would have to switch to the Porter Branch of the Conrail line at Willow Creek, IN, in order to enter the IHB's Gibson Yard in Chicago. Again, there is no connection at Willow Creek. Construction of connections at Greenwich, Crestline, and Willow Creek therefore are essential to permit CSXT's trains to move efficiently between New York and Chicago (and vice versa).

Similarly, to operate trains efficiently between New York and Cincinnati via the Water Level Route to Cleveland, CSXT must be able to run its trains from the existing Conrail line between Cleveland and Sidney, OH, to the CSXT line segment between Sidney and Cincinnati.⁷ Thus, construction of a connection at Sidney is essential to give CSXT the benefit of the competitive route it would acquire, and is necessary to effectuate the competitive purposes of dividing the "Conrail X."

It is critical that CSXT be able to complete construction of the connections at Greenwich, Crestline, Willow Creek, and Sidney before the decision on the Primary Application. Without these connections, CSXT would be unable to provide efficient, competitive service to the public on these important routes until several months after the Control Date.⁸ If CSXT could not

⁷ Cincinnati is important, not only as an originating/terminating area, but also as the location of CSXT's Queensgate Yard.

⁸ The time needed for construction and signal work could delay competitive operations over these important segments of the proposed CSXT rail system for as long as six months after the Board took action on the Primary Application. CSXT needs to begin construction by September 1, 1997, to avoid delay that would result from the interruption of construction due to the onset of winter in northern Ohio.

immediately begin operation over its new competitive routes from New York to Chicago and New York to Cincinnati, the opportunity for shippers to have access to new head-to-head competition -- a primary benefit of the proposed transaction -- would be delayed.

CSXT's initial inability to link its lines to create competitive routes from the New York to Chicago-Cincinnati markets would place CSXT at a severe competitive disadvantage if NSRC is able to run on its lines from the start. This initial competitive disadvantage could have continuing effects well into the future, diminishing CSXT's strength as a competitor and detracting from the public benefits of the CSXT/NSRC competition anticipated by the Primary Application.

III. APPROVAL OF THIS WAIVER WOULD NOT AFFECT BOARD CONSIDERATION OF THE PRIMARY APPLICATION OR OTHER RELATED APPLICATIONS

A waiver of 49 C.F.R. § 1180.4(c)(2)(vi) would not compromise the Board's ability to consider independently the merits of the Primary Application. First, the waiver simply would permit Conrail and CSX to seek exemptions for construction of the connections. Any grant of authority for CSXT to operate over the connections with Conrail lines would be deferred until the Board's ruling on the Primary Application.

Second, CSX is willing to assume the financial risks associated with constructing these connections without any assurances that operating authority would be granted. If the Board does not approve the Primary Application, it need not approve operations over these connections; the Board also could entertain notices of exemption or other appropriate petitions to permit operations by the interested railroad or railroads over any of the four connections that would provide public benefits independent of the proposed transaction.

CSX's express acceptance of the financial risks attendant to constructing these connections prior to Board action on the Primary Application is intended to reassure the Board and the parties to Docket No. 33388 that CSX neither requests nor expects the Board to prejudge the Primary Application. Indeed, the costs and scope of these connections is quite small in comparison to the scope of the stock acquisition, construction and other expenditures associated with the transaction proposed in the Primary Application.

In the event that the Board rejects the Primary Application, the connections would remain the property of the railroad or railroads on which they are located. Some or all of the connections might later be determined to provide benefits to the national rail system independent of the proposed transaction. Or, the track materials could be removed and reused if needed elsewhere.

The Board has recognized, in other contexts, that conditionally approving construction projects before the Board completes its analysis of all issues related to those projects does not constitute prejudgment of any unresolved issues. For example, the Board has conditionally approved the construction of connections before it completed its environmental review, explaining that "[g]ranting the requested conditional exemption [would] not diminish [its] capacity to consider environmental matters when [it] issue[d] a final decision addressing environmental issues and making the exemption effective at that time." Hastines Indus. Link R.R. - Constr. and Operation Exemption - Hastines, NE, F.D. No. 32984, 1996 WL 706769 *2 (I.C.C.) (decided Dec. 2, 1996); see also Jackson County Port Auth. - Constr. Exemption - Pascagoula, MS, F.D. No. 31536, 1990 WL 287815 *2 (I.C.C.) (decided Aug. 6, 1990).

Permitting Conrail and CSX to file the requisite notice and petitions for exemptions for construction of the connections described herein prior to the filing

of the Primary Application would not affect the Board's ability to decide the Primary Application independently on its merits.

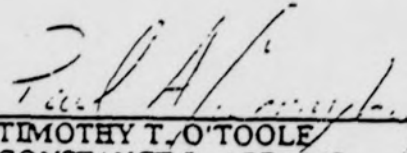
IV. NO ISSUE OF PREMATURE CONTROL IS PRESENTED

The construction of these connections in whole or in part on Conrail property would not involve any unauthorized or premature exercise of control over Conrail by CSX. The constructions would take place only with Conrail's consent, given by its present independent management, and on terms overwhelmingly favorable to Conrail. Construction would be entirely at CSX's expense. Steps would be taken to assure that there is no adverse impact on Conrail's train movements. Conrail would obtain title to the improvements made on its property. Appropriate indemnification of Conrail would be provided. If the Board does not approve the control transaction, Conrail would not be any the worse for having had new construction work done on its property, and may be benefited by it; it would own the constructed connections and, if it wishes, could seek authority from the Board to commence operations using them.

CONCLUSION

CSX and Conrail therefore request that the Board grant this Petition for Waiver of § 1180.4(c)(iv), so that the proposed Notice of Exemption and Petitions for Exemptions may be filed and acted upon separately from the

Primary Application. Further, to facilitate the environmental review process and achieve the benefits described herein in a timely manner, CSX and Conrail request that the Board act expeditiously on this petition.


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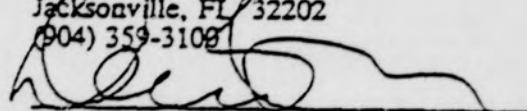
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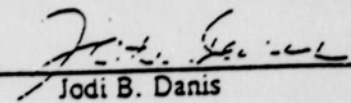
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May 2, 1997

CERTIFICATE OF SERVICE

I, Jodi B. Danis, certify that on May 2, 1997, I have caused to be served a true and correct copy of the foregoing CSX-1, Petition for Waiver of 49 C.F.R. § 1180.4(c)(vi), on all parties that have appeared in Finance Docket No. 33388, by first-class mail, postage prepaid, or by more expeditious means, as listed on the attached Service list.



Jodi B. Danis