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FD-333 (SUB4)

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

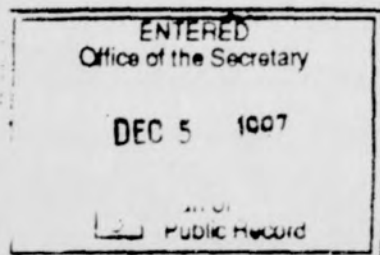
Attention: Dana White  
Environmental Comments  
Finance Docket No. 33388 (Sub Nos. 1-7)

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.

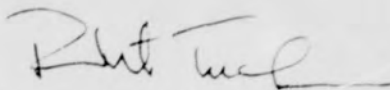


This office previously responded to the proposed construction at Willow Creek in a letter dated June 16, 1997. This letter advised Mr. Gary S. Cipriano of Dames and Moore that any development within wetlands would require a Federal permit prior to the initiation of any work. A copy of this letter can 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



STB

FD-33388 (SUB4)

12-4-97

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ID-FEDS



DEPARTMENT OF THE ARMY

DETROIT DISTRICT, CORPS OF ENGINEERS

BOX 1027

DETROIT, MICHIGAN 48231-1027

November 28, 1997

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Surface Transportation Board  
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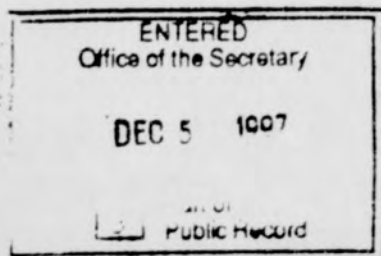
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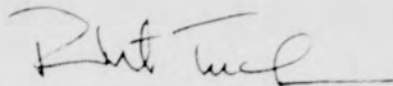


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Should you have any questions, please contact Mary C. Miller at the above address or telephone (313) 226-2220. All correspondence should reference File Numbers: 97-200-014-0E and/or 97-164-015-0E.

Sincerely,



Robert Tucker  
Chief, Enforcement Section  
Regulatory Branch

Enclosures

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

STB FD 33388 (Sub 4) 12-4-97 K 184599



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

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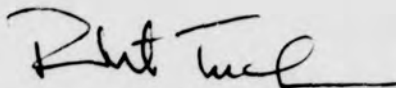


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Sincerely,



Robert Tucker  
Chief, Enforcement Section  
Regulatory Branch

Enclosures

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

STB

FD-33388 (SUB4)

11-12-97

K

ID-STBSEA



**MEMORANDUM**

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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. 4) — CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company, and Conrail Inc., and Consolidated Rail Corporation — CSX/Conrail Rail Line Connection — City of Sidney, Shelby 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 3,263-foot connection is located in the City of Sidney in Shelby County, Ohio. The new connection would be built in the southeastern quadrant of the intersecting CSX and Conrail lines in the southern portion of the City of Sidney. The connection would link the CSX line (which runs southwest to northeast between Cincinnati and Toledo, Ohio) and the Conrail line (which runs from west to east between Indianapolis, Indiana and Cleveland, Ohio). The new connection would allow northbound trains to proceed east on the Conrail line toward Cleveland and westbound trains to proceed south on the CSX line toward Cincinnati. CSX anticipates that an average of 9.3 trains per day (intermodal, automotive, and merchandise trains with an average length of 6,200 feet) would operate over the new connection. A map of the proposed connection and the surrounding area is attached (see Figure 1).

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, the Ohio Department of Natural Resources, the Ohio Environmental Protection Agency. 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 EA. SEA reaffirms that the scope of the 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  
SIDNEY, OHIO  
CSX/CONRAIL RAIL LINE CONNECTION  
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 Sidney, Ohio to verify that no wetlands would be affected by the connection.

**SEA Response:** Additional wetland investigations were completed for the Sidney construction site in August 1997 as reported in Section 3.4.1 (Water Resources) of the EA. This field review confirmed the data presented on the National Wetland Inventory maps; no wetland areas are located in the vicinity of the proposed connection. Therefore, the proposed connection would not adversely affect any wetland areas (see Section 4.1.4 of the EA). A field report summarizing these findings is included in the project's environmental record. Therefore, SEA concludes that no additional wetland investigations at this site are necessary.

**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 Sidney, 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.

### **Ohio Environmental Protection Agency**

**Comment 1:** The EA is unclear whether the project involves construction of a new bridge over the Miami and Erie Canal. If such construction is planned, appropriate erosion and sediment control practices will be needed.

**SEA Response:** The proposed connection does not involve construction of a new bridge over the Miami and Erie Canal. Nonetheless, SEA has recommended the use of Best Management Practices to control erosion, runoff, and surface instability during construction.

**Comment 2:** Soils at the adjacent shooting range should be analyzed for the presence of lead shot.

**SEA Response:** SEA has required CSX to observe all applicable federal, state, and local regulations regarding the disposal of waste materials, including hazardous waste (such as lead contaminated soils) encountered during construction of the rail connection.

**Comment 3:** The project is located in Ohio, not Indiana.

**SEA Response:** SEA acknowledges this error in the text and a correction will be incorporated into the environmental record by reference in this Post EA.

## **SEA RECOMMENDED FINAL MITIGATION**

### **CSX/CONRAIL RAIL LINE CONNECTION SIDNEY, OHIO**

SEA recommends that the Board impose the following mitigation measures in any decision approving the construction of the proposed rail line connection in Sidney, 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 and minimize 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 connection.
- 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 site.
- 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 its 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 15<sup>th</sup> and September 15<sup>th</sup>. 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.

## **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).



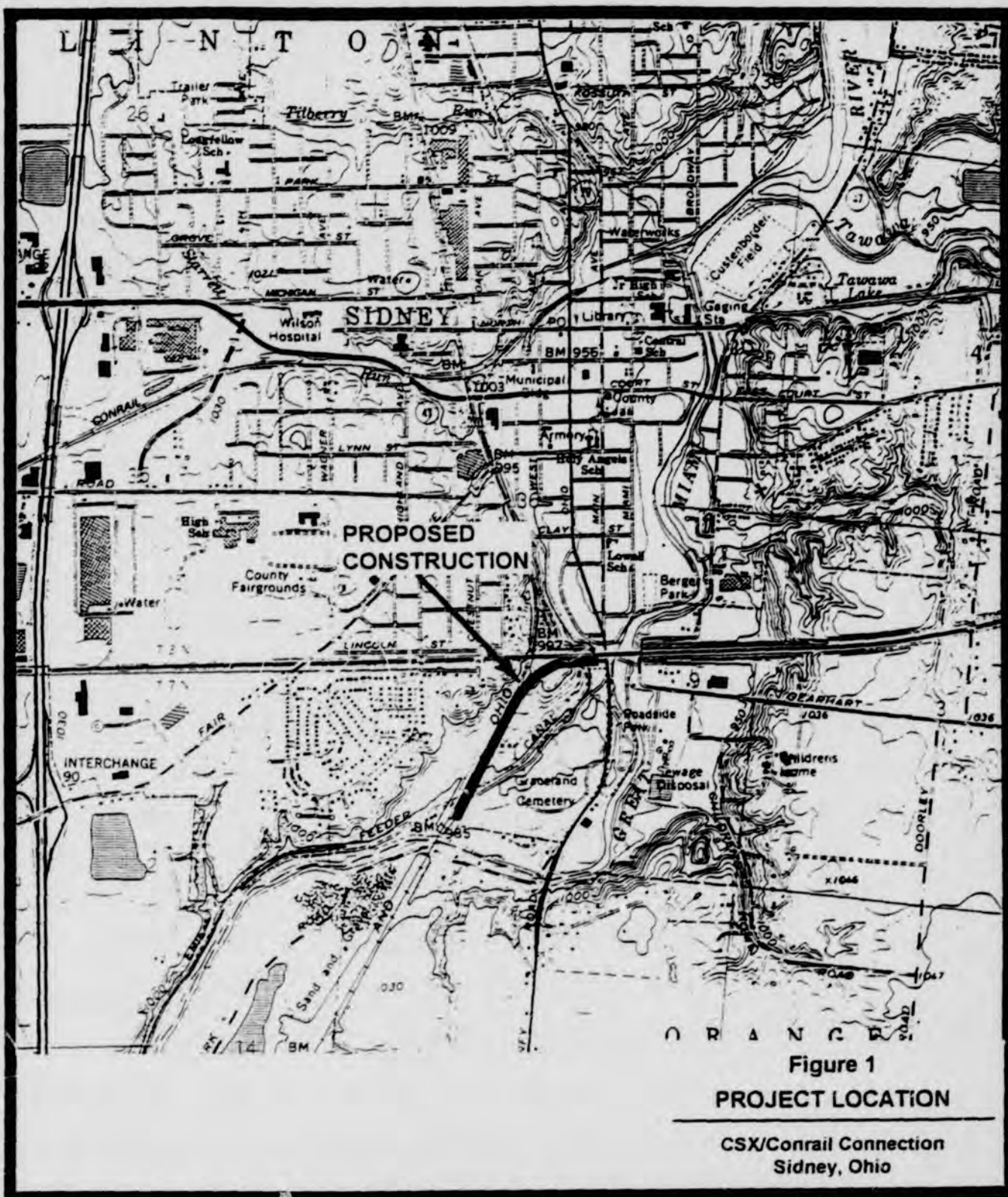
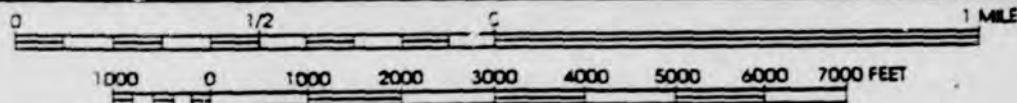


Figure 1  
PROJECT LOCATION  
CSX/Conrail Connection  
Sidney, Ohio

SCALE 1:24,000



Base Map: USGS 7.5' Topographic Quadrangle: Sidney, Ohio 1961 (Photorevised 1982)



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

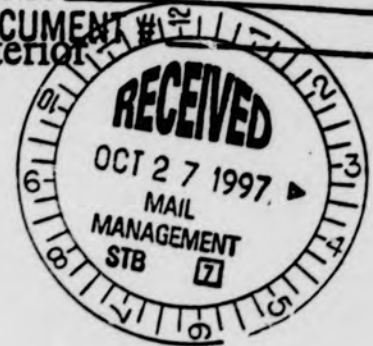
FISH AND WILDLIFE SERVICE

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.

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:

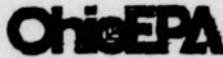
- Federal agency activities and development projects;
- Private applicant activities that require federal licenses, permits or other forms of approval; and
- State and local government activities conducted with federal assistance.

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



State of Ohio Environmental Protection Agency

STREET ADDRESS:

1800 WaterMark Drive  
Columbus, OH 43215-1099

TELE: (614) 644-3020 FAX: (614) 644-2329

MAILING ADDRESS:

P.O. Box 1049  
Columbus, OH 43216-1046



October 30, 1997

Mr. Vernon A. Williams, Secretary  
Surface Transportation Board  
1925 K Street, NW, Suite 700  
Washington, DC 20423-0001

Dear Mr. Williams,

Ohio EPA received and reviewed the Environmental Assessment  
[Finance Docket No. 33388 (Sub No. 4)] for Sidney, Ohio. We  
offer the following comments:

This project does not appear to cause any significant impact  
on the environment. What is not clear is whether or not any  
new bridge construction will be needed over the Miami-Erie  
Canal. If such construction does take place then  
appropriate sediment and erosion control practices will be  
needed. The location of the adjacent shooting range  
relative to the construction site could mean that soils  
would have to be characterized for lead shot.

1  
2  
3

In Chapter 3 section 3.1.1 the author should be reminded  
that this project is in Ohio, not Indiana.

If you have any questions, please contact Mr. Hugh Trimble, of  
the Ohio EPA Southwest District Office at (513) 285-6444.

Cordially,

(Ms) Hari Ruiz  
Review Coordinator  
Division of Surface Water

cc: Hugh Trimble, SWDO  
File

George V. Voinovich, Governor  
Nancy P. Hollister, Lt. Governor  
Donald R. Schregardus, Director



# 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,

*WWS*  
William W. Schenk  
Regional Director



STB

FD-33388 (SUB4)

10-27-97

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ID-FEDS



United States  
Department of  
Agriculture

Natural  
Resources  
Conservation  
Service

200 North High Street  
Room 522  
Columbus, Ohio 43215

ENVIRONMENTAL DOCUMENT

October 22, 1997



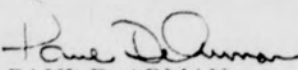
Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N. W., Suite 700  
Washington, D.C. 20423-0001

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

FD

33388

(Sub 4)

10-9-97

K

28470

SERVICE DATE - LATE RELEASE OCTOBER 9, 1997

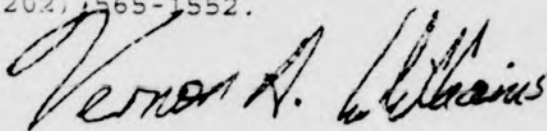
SURFACE TRANSPORTATION BOARD  
Washington, DC 20423-0001

STB Finance Docket No. 33388 (Sub No. 1)<sup>1</sup>

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.

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Records: 15

STB FD

33388

(Sub 4)

10-7-97

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28332

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Decision No. 28332

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

## **Environmental Assessment**

**Finance Docket No. 33388 (Sub No. 4)**

**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**

## **Sidney**

**CSX/Conrail Rail Line Connection—  
Sidney, Ohio**

Information Contact:

Elaine K. Kaiser, Chief  
Section of Environmental Analysis  
Surface Transportation Board  
1925 K Street NW, Suite 500  
Washington, DC 20423  
(888) 869-1997



## 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 a rail line connection in Sidney, 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 this connection would have any significant effects on the environment.

The proposed 3,263-foot connection is located in the City of Sidney in Shelby County, Ohio. The new connection would be built in the southeastern quadrant of the intersecting CSX and Conrail lines in the southern portion of the City of Sidney. The connection would link the CSX line (which runs southwest to northeast between Cincinnati and Toledo, Ohio) and the Conrail line (which runs from west to east between Indianapolis, Indiana and Cleveland, Ohio). The proposed connection would require the acquisition of 2.6 acres of new right-of-way. The land surrounding the project contains a mix of residential and undeveloped property, a firing range, a cemetery, a canal and walking trail, and the Great Miami River. The new connection would allow northbound trains to proceed east on the Conrail line toward Cleveland and westbound trains to proceed south on the CSX line toward Cincinnati. CSX anticipates that an average of 9.3 trains per day (intermodal, automotive, and merchandise trains with an average length of 6,200 feet) would operate over the new connection. The potential environmental effects of constructing the proposed connection 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 connection 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 connection in Sidney, Ohio.

**SUMMARY OF ENVIRONMENTAL EFFECTS**  
**-CSX/CONRAIL RAIL LINE CONNECTION-**  
**SIDNEY, OHIO**

Effect Type	Assessment Criteria	Effects
Land Use	New Right-of-Way Required Prime Farmland Affected Within Coastal Zone Management Area	2.6 acres 1.6 acres None
Socioeconomic and Environmental Justice	Disproportionate Effect on Minority and Low Income Groups	None
Transportation and Safety	Train Movements Over Connection New Grade Crossings Grade Crossing Safety/Delay Effects Effect on Transportation of Hazardous Materials Hazardous Waste Sites Affected	9.3 trains per day None None None None
Water Resources	Effect on Surface Water Wetlands Affected	None None
Biological Resources	Loss of Critical Habitats Effect to 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 Negligible
Noise	Additional Receptors within the L <sub>50</sub> 65 dBA Contour	None
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

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  
DECISION 9 PRESS RELEASE  
STB DECISION 9

## **APPENDIX B**

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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.

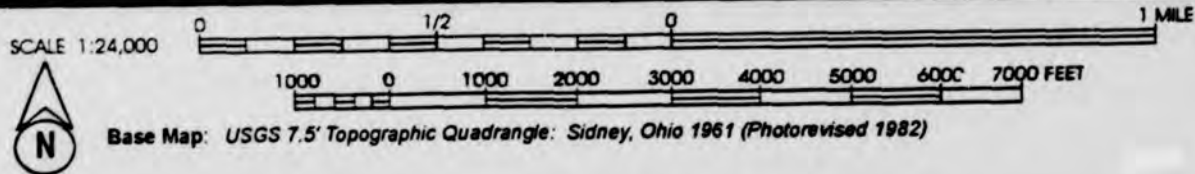
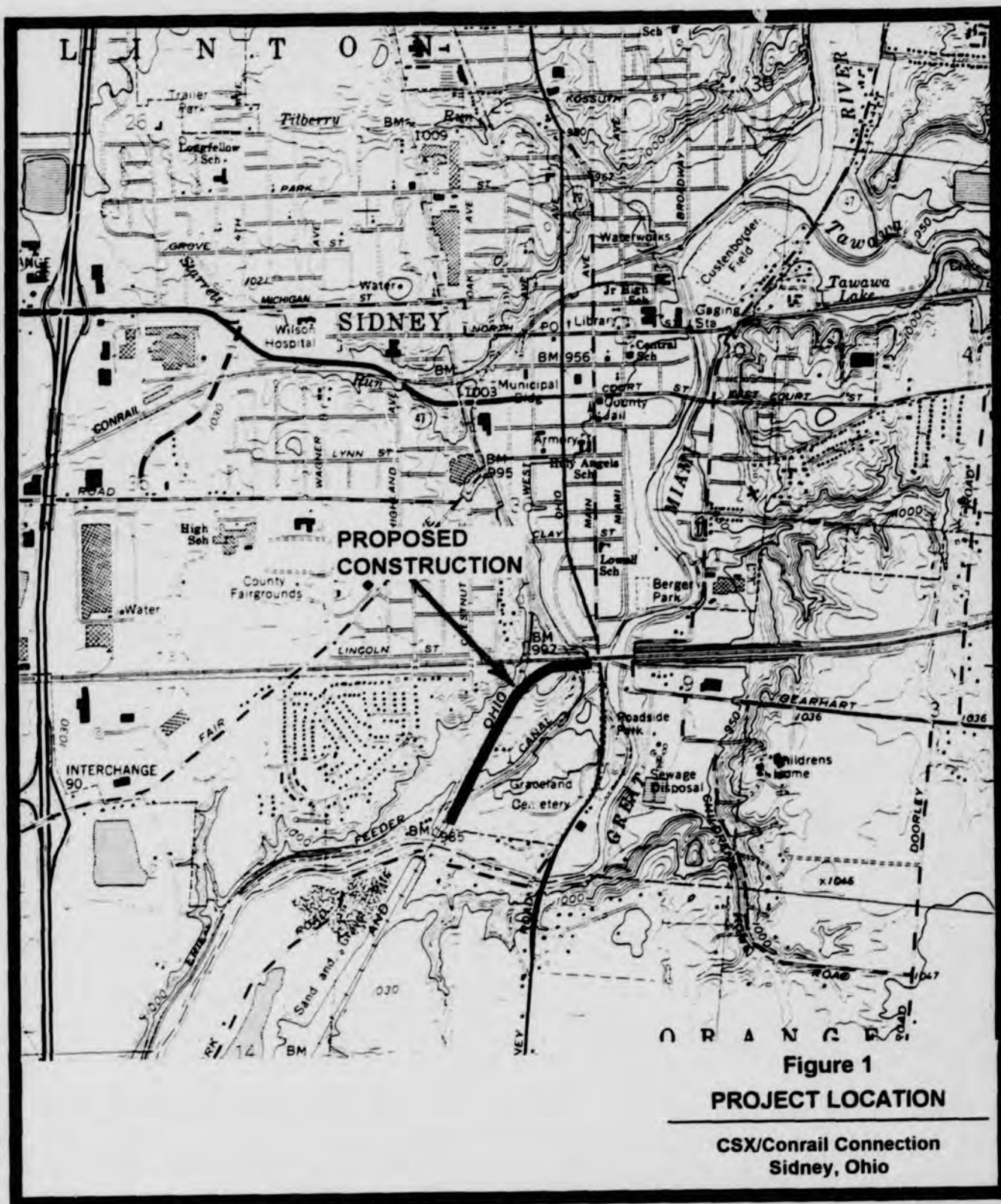
As a part of their joint Application, CSX proposes to construct a rail line connection in Sidney, Ohio to permit traffic movements between the CSX and Conrail systems. The Board's Section of Environmental Analysis (SEA) has prepared this Environmental Assessment (EA) to determine whether construction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

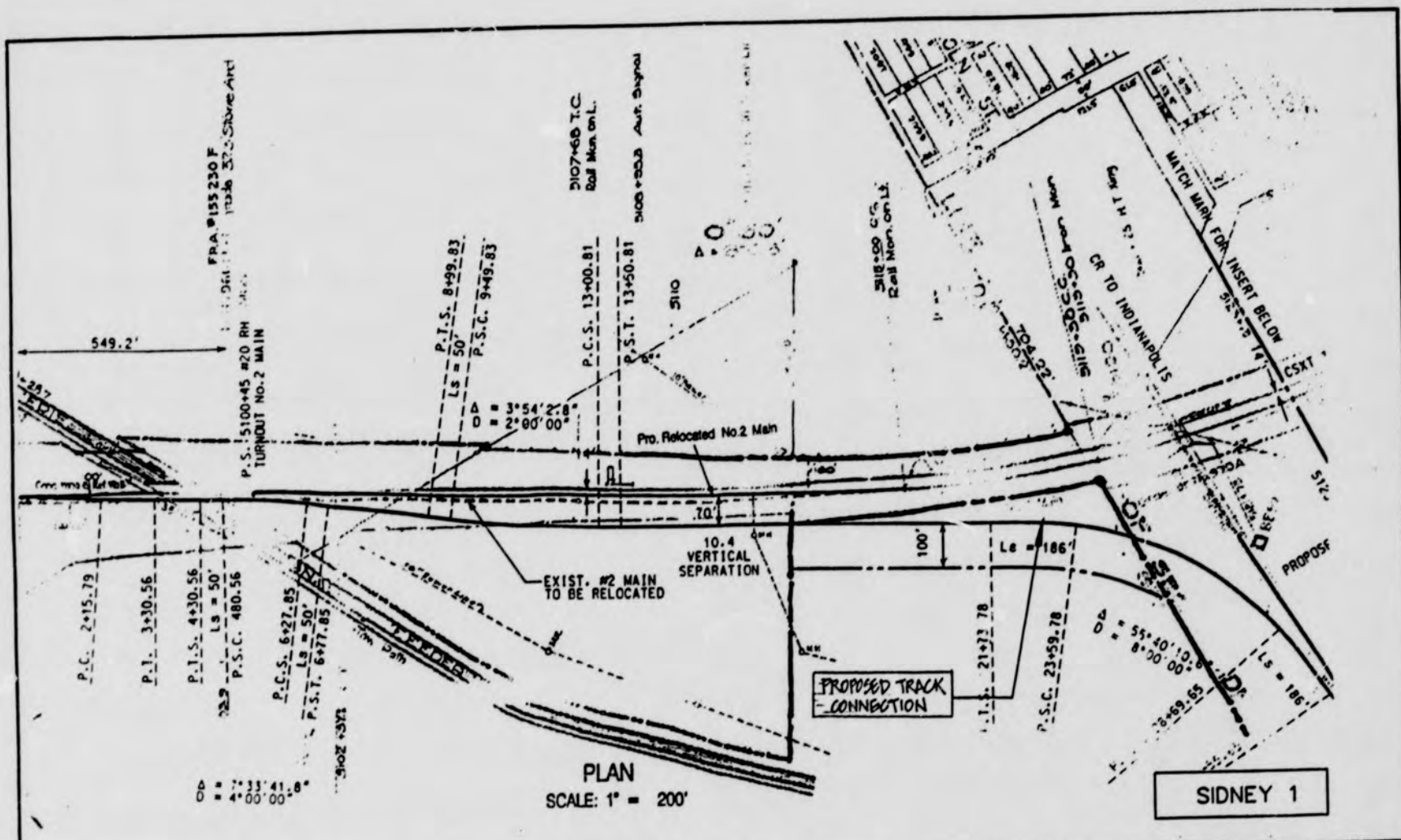
### **1.1 OVERVIEW OF THE PROPOSED RAIL LINE CONNECTION**

#### **1.1.1 Location and Description**

The proposed connection is located in the City of Sidney in Shelby County, Ohio. Sidney is located in western Ohio, approximately 35 miles north of Dayton. The proposed connection would be built in the southeastern quadrant of the intersecting CSX and Conrail rail lines, west of Main Street and north and west of the Great Miami River (see Figure 1).

CSX proposes to construct a 3,263-foot connection between an existing CSX line that runs between Cincinnati and Toledo, Ohio, and an existing Conrail line that runs between Indianapolis, Indiana and Cleveland, Ohio (see Figure 2). In Sidney, the CSX line runs from southwest to northeast, turning north just north of the connection. The Conrail line runs from west to east, turning to the northeast immediately east of the proposed connection. The rail lines presently intersect west of Main Avenue and the Great Miami River, and east of Chestnut Avenue. The connection would begin at Milepost 96.5 on the CSX line, approximately 375 feet north of the Great Miami River, and terminate at Milepost 163.5 on the Conrail line, approximately 25 feet west of the Great Miami River bridge. The curvature of the connection would be approximately 8 percent. The connection would enable northbound trains to proceed east on the Conrail line toward Cleveland and westbound trains to proceed south on the CSX line toward Cincinnati. The existing Conrail line is located approximately 25 feet above the existing





COUNTY : SHELBY  
 U.S.G.S. QUAD. MAP REF.: SIDNEY, OHIO  
 C.S.X. EVALUATION MAP : V105.1/19

OWN: JMB	DES: JMB	PROJECT NO.: 13824
CHD: OHB	APPD: DFP	SCALE: 1" = 200'
DATE: AUGUST 97	REV: 1	

**Sverdrup**  
 CIVIL INC.

**Figure 2**  
**PROPOSED CONNECTION**

CSX/Conrail Connection  
 Sidney, Ohio



CSX line. Construction of the new connection would require CSX to acquire 2.6 acres of additional right-of-way.

### **1.1.2 Construction Requirements**

CSX estimates that the construction of the new rail line connection would require a labor force of 50 to 60 people over a period of approximately 45 to 60 days. The construction would require clearing of existing vegetation and grading; approximately 85,000 cubic yards of earthwork would 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 connection would facilitate rail operations and traffic movements on the CSX and Conrail rail lines. CSX estimates that an average of 9.3 trains per day (primarily automotive and merchandise trains with an average length of 6,200 feet) would operate over the new connection. Rail traffic on the existing rail lines served by the connection would change as follows:

- Traffic on the existing Conrail line would increase, on average, from 24.2 to 31.0 trains per day northeast of the proposed connection (Ridgeway to Sidney, Ohio segment), and would decrease from 29.4 to 26.7 trains per day southwest of the proposed connection (Sidney, Ohio to South Anderson, Indiana segment).
- Traffic on the existing CSX line would increase, on average, from 22.6 to 24.6 trains per day southeast of the proposed connection (Dayton to Sidney, Ohio segment), and would decrease, on average, from 22.6 to 15.3 trains per day northwest of the proposed connection (Sidney to Lima, Ohio segment).

## **1.2 PURPOSE AND NEED FOR THE PROPOSED CONNECTION**

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 Sidney. 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 operations 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 one proposed in Sidney, 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 project, 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 Sidney connection. In addition, SEA conducted its own independent analysis of the proposed construction, 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 connection.

#### **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. According to CSX, trains using the CSX and Conrail lines would lose the operational flexibility provided by the connection and the travel time savings resulting from the shorter route (approximately 15 fewer miles than the existing route) it would create. If no connection is built, traffic would be forced to follow a more circuitous routing through Deshler and Greenwich, Ohio, adding approximately 30 miles to the route of each train that would have used the connection. This rerouting would cause considerable congestion on the CSX main line between Deshler and Greenwich, impairing the usefulness of that line and potentially affecting connected portions of the CSX's rail network.

#### **2.2 BUILD ALTERNATIVES**

SEA considered an alternative location—also in the southeastern quadrant of the intersecting rail lines—for the proposed connection. However, after an initial environmental review, SEA rejected this alternative as infeasible because it would require acquisition of additional right-of-way, and involve more clearing, grading, and filling than the proposed alignment. This alternative also would have required the extension of the connection at its eastern terminus and widening of the bridge over the Great Miami River for its entire length. In contrast, the selected alignment 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.

#### **2.3 SELECTION OF PROPOSED CONNECTION LOCATION**

A 3,263-foot single track connection in the southeastern quadrant at the existing intersection of a southwest/northeast CSX line and a north-south Conrail line provides the optimal location and most direct routing for a new connection. This connection would allow CSX to optimize freight transport between the Conrail line running between Indianapolis and Cleveland and the CSX line running between Cincinnati and Toledo. It would provide the flexibility to route trains several ways and for slower trains to use routes that would avoid higher speed trains. The

proposed connection would allow for more efficient transport of merchandise, intermodal, and automotive freight. After reviewing alternative locations for this connection, SEA concluded that there were no construction, operational, or environmental features that would render another alignment of the proposed rail line connection more reasonable than the proposed location.

## **CHAPTER 3**

### **Existing Environment**

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

#### **3.1 LAND USE**

##### **3.1.1 Current Land Use**

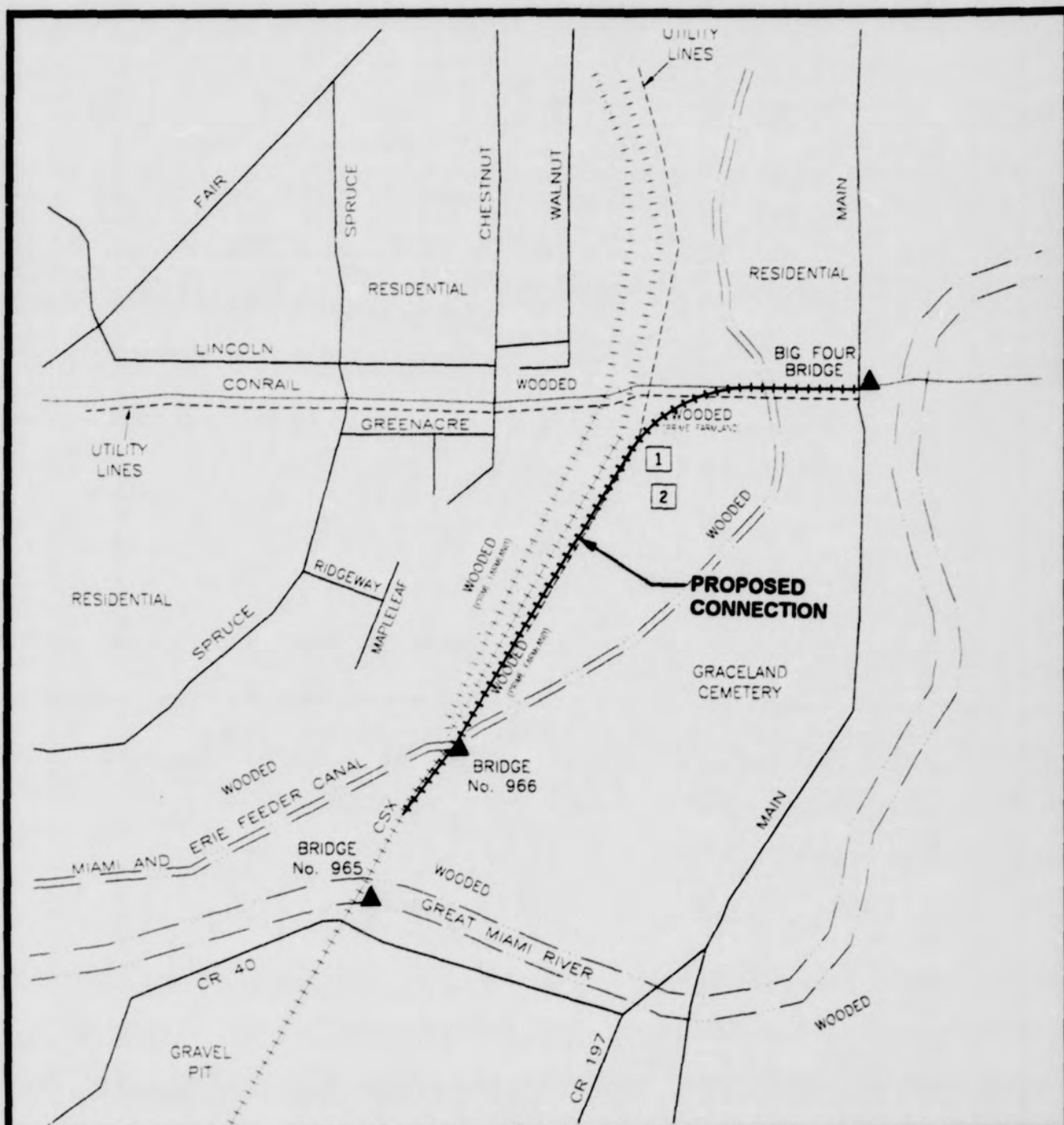
To identify current land uses and protected lands in the vicinity of the proposed construction, SEA reviewed local plans and maps, consulted with the appropriate federal, state and local agencies, and conducted field reviews at the proposed connection site. Land uses of concern include those sensitive 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 an area of mixed suburban residential development and undeveloped land (see Figure 3). North of the rail intersection are residential and wooded areas; utility lines, a firing range, and a maintenance building for Graceland Cemetery are to the southeast; a canal and walking trail (former canal towpath) are to the southeast and south; undeveloped and residential areas are to the west and northwest; and the Great Miami River is to the east and southeast.

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

##### **3.1.2 Consistency with Local Plans**

SEA contacted officials of the City of Sidney and Shelby County to obtain information on local planning and zoning requirements. The proposed project would be constructed entirely within the southeast quadrant of the intersection of the rail lines. The project would require the acquisition of 2.6 acres of land; this area is currently zoned N-1: Non-Urban Residence Districts. According to the City of Sidney Zoning Department, a part of the proposed project area is located on land owned by the City of Sidney, which includes Graceland Cemetery and the firing range property. Gravesites are not within the project area; however, a maintenance building associated with the cemetery is within the project area. The firing range is surrounded by a chain link fence.



**KEY:**

- 1 = FIRING RANGE ENCLOSED BY CHAIN-LINK FENCE
- 2 = GRACELAND CEMETERY SHED
- ▲ = POTENTIAL HISTORIC SITE



QUADRANGLE LOCATION

**Figure 3  
LAND USE**

**CSX/Conrail Connection  
Sidney, Ohio**



SCALE: 1" = 750'



### 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 project. According to the NRCS and the Shelby County, Ohio, Soil Survey, prime farmland soils are located the project site. The prime farmland soils identified in the project area include: Eldean loam (0-2 percent slopes); Eldean loam (2-6 percent slopes); Genesee silt loam, occasionally flooded; Miamian silt loam (2-6 percent slopes); and Ockley silt loam (0-3 percent slopes). The proposed construction area is not in agricultural use.

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 Shelby County is 44,915; the population of the City of Sidney is 18,710; and the population of the area in the vicinity of the proposed construction is 5,164.

Approximately 3.4 percent of the residents in the vicinity of the proposed construction are minorities, compared to 4.9 percent of residents in the City of Sidney and 2.4 percent in Shelby County. The racial composition of these areas is summarized in Table 1.

**Table 3-1**  
**RACIAL COMPOSITION OF POPULATION**

Race	Shelby County	City of Sidney	Area of Proposed Connection
White	97.6%	95.1%	96.6%
Black	1.4%	2.8%	1.7%
Asian	0.6%	1.4%	1.2%
Hispanic (Any Race)	0.3%	0.5%	0.3%
American Indian	< 0.1%	0.1%	0.1%
Other	< 0.1%	0.1%	0.1%

Census data indicate that the 1989 median family income for Shelby County was \$35,602 and \$32,094 in the City of Sidney. In the vicinity of the proposed construction, median family income in 1989 was \$34,256. Approximately 9.5 percent of the residents in the vicinity of the proposed construction are low-income (below the federal poverty level), compared to 10.7 percent of residents of the City of Sidney and 7.8 percent in Shelby County.

### **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 construction during consultations with federal, state, and local agencies and field visits to the proposed connection site.

The existing rail transportation network consists of CSX and Conrail lines that intersect approximately 1,000 feet west of Main Street in Sidney. The intersection is grade-separated with the Conrail line elevated approximately 25 feet above the existing CSX line. Both lines are currently used for rail operations. Access to the proposed construction area would be from Main Street, and Ohio, Lincoln, and Chestnut Avenues.

#### **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 Conrail and CSX lines 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 reviewed railroad records and government databases to determine whether any known hazardous waste sites or reports of hazardous materials spills within 500 feet of the proposed construction site. 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 connection. The database search revealed 10 orphan sites within the Sidney city limits, for which limited address information was available. One orphan



site was identified as Graceland Cemetery leaking underground storage tank site, although a specific location was not available in the database. Subsequent contacts with Graceland Cemetery indicate that this storage tank, which has been removed, was located southeast of the Miami and Erie Feeder Canal, outside the project area. Based upon the limited address information available, SEA believes none of the other orphan sites are located near the proposed connection. No evidence of hazardous waste sites was observed during site visits by SEA's third-party consultant.

### **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.

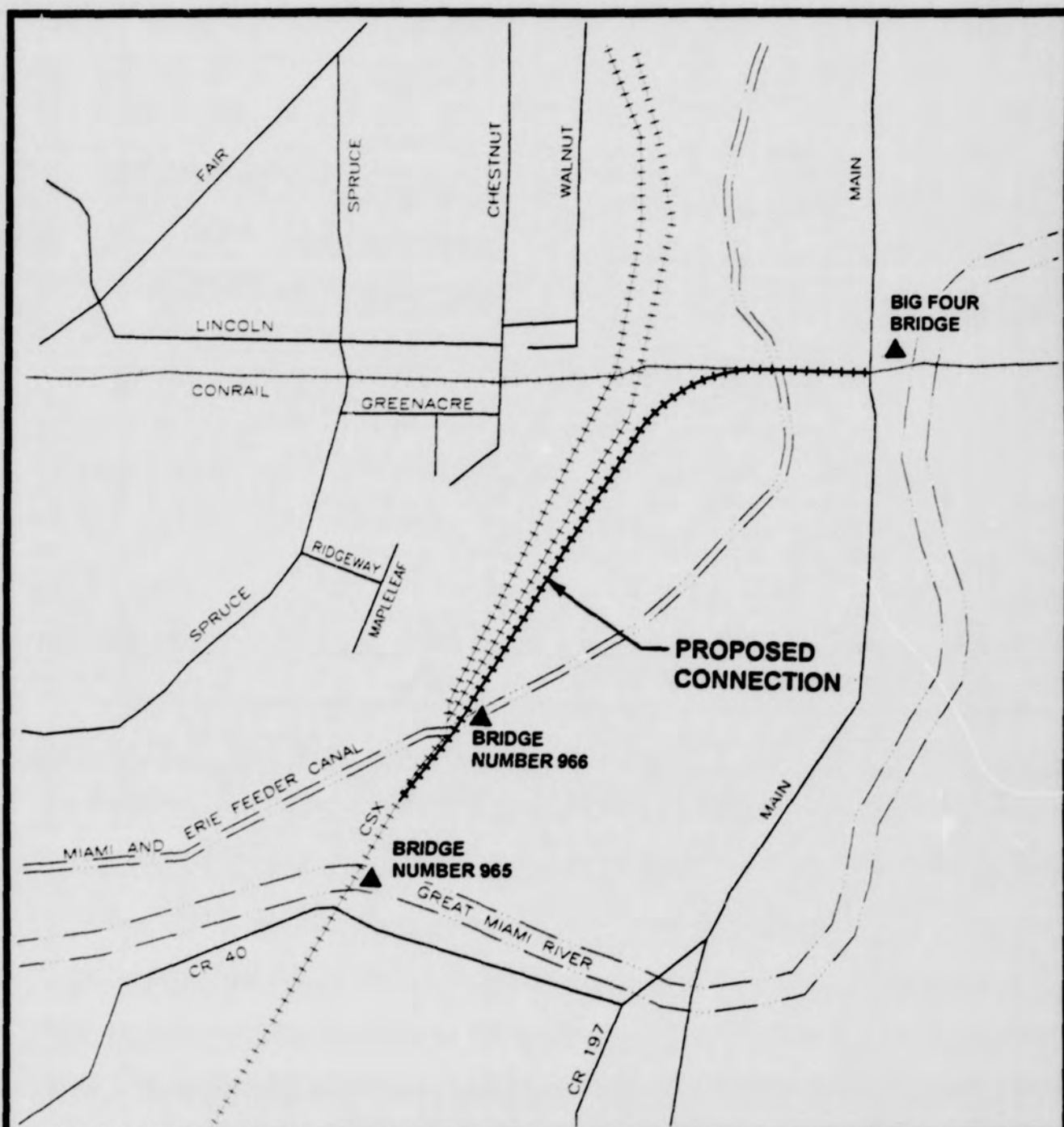
SEA consulted several data sources, including United States Geological Survey (USGS) 7.5-minute topographic maps, National Wetland Inventory (NWI) maps produced by the U.S. Fish & Wildlife Service (USFWS), Federal Emergency Management Agency (FEMA) flood insurance maps, and NRCS soil survey maps, to 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 site, as described above, 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 no wetlands are located within 500 feet of the proposed connection (see Figure 4). During field visits to the project area in July and August 1997, no wetlands were identified within 500 feet of the project area.

#### **3.4.2 Surface Waters**

The Great Miami River, located approximately 300 feet east of the eastern terminus and approximately 375 feet south of the southern terminus of the proposed connection. An unnamed intermittent creek flows, via a culvert, under the existing Conrail tracks near the eastern boundary of the proposed project area. This creek flows generally south and appears to be the beginning of the Miami and Erie Feeder Canal, which flows through a culvert under the CSX line near the southern boundary of the proposed project area. The project is not located within a 100-year or 500-year flood plain.



**KEY:**

▲ = POTENTIAL HISTORIC SITE

SITE IS NOT IN A DESIGNATED FLOOD ZONE.  
NO WETLANDS ARE LOCATED WITHIN  
500 FEET OF THE PROPOSED PROJECT



QUADRANGLE LOCATION

**Figure 4**  
**WATER RESOURCES**

**CSX/Conrail Connection**  
**Sidney, Ohio**



SCALE: 1" = 750'

### **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 construction.

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 construction site is in an area south and east of the Conrail and CSX intersection that is undeveloped except for the presence of a weapons firing range and a maintenance building and staging area for the adjacent cemetery. The topography immediately west of the Main Street bridge and south of the Conrail tracks declines steeply to the south toward the cemetery. The vegetation here is densely wooded with large elms (12 to 15 inches in diameter), box elders, and cottonwoods. To the west, toward the CSX tracks, the topography levels off and the area adjacent to the rail line is more prairie-like. To the south and east, along the CSX tracks, the prairie community dominates, interspersed with a few cottonwood and elm trees. To the south, toward the Great Miami River and on the east side of the CSX line, the topography again declines sharply, and the prairie community gives way to a more wooded habitat supporting cottonwoods exceeding 12 inches in diameter, and smaller elms. A variety of other plants, including smooth sumac, grape, black-eyed Susan, butterfly weed, and honeysuckle, are present

#### **3.5.2 Wildlife**

Wildlife habitat found on and adjacent to the proposed construction site is limited to the forest, forest edge, and prairie habitats described above. The area, in conjunction with the Great Miami River and the Miami and Erie Feeder Canal, provides suitable habitat for a variety of mammals, birds, reptiles, amphibians, and invertebrates.

#### **3.5.3 Threatened and Endangered Species**

One federally listed Indiana bat (*Myotis sodalis*), is reported by the Ohio Department of Natural Resources (DNR) to be potentially present in Shelby County based on its potential range. However, the Ohio DNR has no record of the Indiana bat in Shelby County. 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

near the proposed construction site does not provide the habitat (woodlots) necessary to support the Indiana bat.

#### **3.5.4 Parks, Forest Preserves, Refuges and Sanctuaries**

Three local parks, Shelby County Fairgrounds, Berger Park, and Roadside Park, are located within 1 mile of the site. Berger Park and Roadside Park are approximately 1,200 feet northeast and southeast of the site, respectively. The Shelby County Fairgrounds is approximately 2,400 feet northwest of the site. No wildlife sanctuaries, refuges, national, or state forests/parks are located within 1 mile of the proposed site.

### **3.6 AIR QUALITY**

Shelby 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.

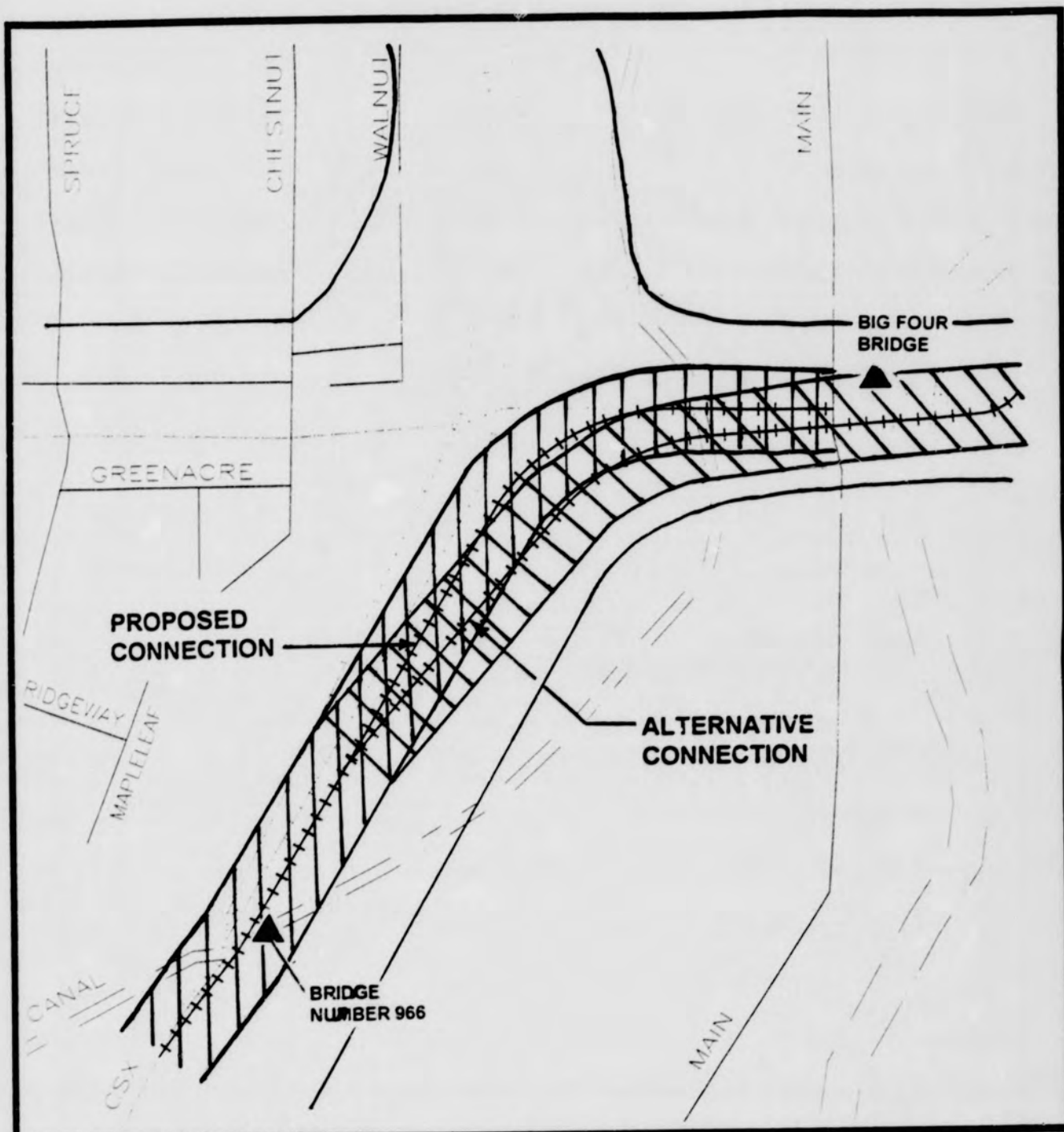
During construction, ambient air quality in the vicinity of the proposed connection could be affected by fugitive dust. The State of Ohio regulates fugitive dust emissions under rule 3745-17-08 of the Administrative Code. This rule requires fugitive dust emission sources within the City of Sidney to apply reasonably available control measures, such as the use of water or dust suppression chemicals, to prevent fugitive dust from becoming airborne.

### **3.7 NOISE**

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

The proposed connection is located in an area of Sidney that contains residential and municipal 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 results in a  $L_{dn}$  65 dBA noise contour (see Figure 5) which affects approximately 50 residences in neighborhoods to the north and southwest of the proposed connection.





**KEY:**

▲ = POTENTIAL HISTORIC SITE  
 — = EXISTING 65 Ldn CONTOUR

▨ = PROPOSED CONNECTION CONTOUR

▩ = ALTERNATIVE CONNECTION CONTOUR  
 SITE IS NOT IN A DESIGNATED FLOOD ZONE.  
 NO WETLANDS ARE LOCATED WITHIN  
 500 FEET OF THE PROPOSED PROJECT



QUADRANGLE LOCATION

**Figure 5**  
**NOISE CONTOURS**

**CSX/Conrail Connection**  
**Sidney, Ohio**



SCALE 1" = 500'

### **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**

There are no known archeological sites in the project area. Site visits by SEA's third-party consultant indicated a potential for undisturbed archeological remains on the ridge overlooking the Great Miami River, at the western end of the Conrail bridge which spans the river. The ridge area was systematically surveyed for archeological sites in August 1997. No significant cultural resources were identified within the project area.

#### **3.8.2 Historic Resources**

Three potentially historic railroad bridges are located near the proposed connection:

- The "Big Four" bridge located at the eastern terminus of the connection carries rail traffic over Main Street and the Great Miami River.
- Bridge Number 965 over the Great Miami River at the southern terminus of the connection.
- Bridge Number 966 over the Miami and Erie Feeder Canal located to the north of Bridge Number 965.

All three bridges appear to be potentially eligible for listing in the National Register of Historic Places.

### **3.9 ENERGY**

Current sources of energy consumption in the project area are associated with existing railroad operations and include locomotives and railroad maintenance equipment. 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 connection between the CSX and Conrail lines in Sidney, Ohio. This connection would involve the construction of a new rail line segment in new right-of-way to connect the existing rail lines. As with any construction of new railroad tracks, the steps required to build a new connection include site preparation and grading, railbed 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 rail line.

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 proposed rail line construction and operation were consistent with existing land uses and future land use plans. Determination as to whether the proposed rail line construction 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 that 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 would cause long-term changes that:

- 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 American Indian reservation or tribal lands.

### **Potential Effects**

No adverse land use effects are expected from the construction of the proposed connection. It is compatible with surrounding land uses, complies with applicable zoning ordinances, and is consistent with community plans for the area. A total of 2.6 acres of property adjacent to the existing rail lines would be acquired for new right-of-way. This land is currently a mix of undeveloped area, Cemetery maintenance buildings, and the police firing range. No residents would be displaced. Approximately 1.6 acres of prime farmland soils not currently in agricultural use would be converted to railroad use as a result of the proposed connection. Construction activities would not disrupt a designated coastal zone. No known American Indian reservations or tribal lands would be affected.

### **4.1.2 Socioeconomics and Environmental Justice**

#### **Assessment Methods and Evaluation Criteria**

SEA analyzed the effects of the proposed construction 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 with that of the City of Sidney and Shelby 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 connection. There is a lower proportion of minorities in the vicinity of the proposed connection site (3.4 percent) than the City Sidney as a whole (4.9 percent). The share of low-income residents (below the federal poverty level) in the area of the proposed connection is about the same as for the City of Sidney (9.5 percent vs. 10.7 percent), but slightly

larger than for Shelby County as a whole (7.8 percent). SEA does not expect construction of the proposed connection to result in any significant adverse effects to any residents, regardless of race or income. Therefore, minority or low-income communities would not be disproportionately affected by the proposed project.

#### **4.1.3 Transportation and Safety**

##### **Assessment Methods and Evaluation Criteria**

SEA examined the existing local and regional rail systems that could be affected by the proposed construction of the rail line connection. 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 significant 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 connection would improve rail access through Sidney and enhance the efficiency of CSX operations. No new at-grade crossings would result from the proposed connection.

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.

**Transport of Hazardous Materials.** The transportation of hazardous materials is not expected to be affected by the proposed connection. Both the CSX and Conrail lines would remain Key Routes for 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-mph train speed through the connection. 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 project area. The probability of a spill of hazardous or toxic materials during construction is small. In the unlikely event that a spill or contamination occurs, CSX has policies and procedures to deal with clean-up and remediation. Overall, the proposed construction project is 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 connection.

##### **Potential Effects**

SEA concluded that the proposed construction would not have adverse effects on surface water resources or wetlands. No wetlands are located within 500 feet of the proposed connection. Alteration of river embankments or flows is not expected as a result of constructing the proposed connection. No flooding concerns are associated with the project area, which is located approximately 50 vertical feet above the Great Miami River. Construction activities would potentially cause a temporary increase in sediment loads entering adjacent water bodies. Because the planned area of construction is greater than five acres, CSX will be required to implement a storm water pollution prevention plan. The construction specification for the new connection 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.



#### **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 connection:

- 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.** An area of approximately 2.6 acres would be cleared to accommodate the proposed connection. Trees, shrubs, and non-woody vegetation in this area would be removed. In addition, vegetation within construction staging areas along the right-of-way would be temporarily affected by the operation of heavy equipment and storage of materials. Following completion of the connection, it is expected that opportunistic species would re-vegetate these areas.

**Wildlife.** The area (2.6 acres) cleared for construction of the connection 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. It is possible that wildlife would temporarily avoid habitat near the connection site during the construction period, though it is anticipated that any temporarily displaced wildlife would subsequently return to the area.

**Threatened and Endangered Species.** Although the habitat in the construction area does have some of the characteristics of the habitat of the federally endangered Indiana bat (*Myotis sodalis*), the Ohio DNR has no records of the Indiana bat in Shelby County and the presence of this species has not been documented in the project area.

**Parks, Forests Preserves, Refuges, and Sanctuaries.** No parks, forest preserves, refuges, or sanctuaries are located within 500 feet of the proposed connection. Construction of the



connection would not affect the three local parks located within 1 mile of the proposed connection.

#### **4.1.6 Air Quality**

##### **Assessment Methods and Evaluation Criteria**

Potential air quality effects associated with construction of the proposed connection 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 the proposed construction 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 connection, to the extent they meet the Board's thresholds for analysis, will be analyzed in the EIS being prepared in connection with the CSX application for acquisition of control of Conrail. 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 construction would lead to long-term increases in pollutant emissions or excessive fugitive dust emissions.

##### **Potential Effects**

During construction of the proposed connection, 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<sub>x</sub>) 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 construction project would not be sufficient to change Shelby County's attainment with the NAAQS. Increases in fugitive dust could occur due to grading and other earthwork necessary for rail bed 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 connection for effects from both short-term construction activities and long-term operations over the connection. 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 connection were determined using the post-connection volumes on the main line and connection tracks. SEA then identified the number of noise-sensitive receptors (residences, schools, hospitals, and libraries) within these contours. Noise levels from rail traffic on the existing mainline tracks is generally greater than noise from operations over connections. Noise effects from the operation of the main line 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 connection 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 Sidney connection would be for a limited duration and would not cause any permanent noise effects. Construction activities would last for only a few months; most noise generated during that period would be similar to that caused by normal track maintenance.

An average of 9.3 trains per day would use the proposed connection. The construction of the new connection and the operation of trains over the connection would result in a  $L_{dn}$  65 dBA contour which is within the existing noise contour for mainline track operations (see Figure 5). No new or additional sensitive receptors would be affected by the proposed connection. In general, the noise from train operations on the main lines far exceeds the noise from train operations over the connection. Since there are no new or modified at-grade crossings associated with this connection, no additional horn noise would affect noise-sensitive receptors due to railroad operations over the connection.

### **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**

Three railroad bridges in the that are potentially eligible for the National Register are in the immediate vicinity of the proposed construction site. The Ohio SHPO indicated that the proposed connection would not affect the historic significance of these bridges. No effects to archeological resources are expected because the area has been previously disturbed.

#### **4.1.9 Energy Resources**

##### **Assessment Methods and Evaluation Criteria**

SEA assessed the effect of the proposed connection 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 site, prepare the site, and construct the connection. SEA considers this minimal consumption of energy resources insignificant.

The amount of energy resources and recyclable commodities that would be transported over the proposed connection is not known. However, the construction and operation of the proposed connection and the resulting improvement in operating efficiencies is expected to benefit the transportation of energy resources and recyclable commodities. The connection also would enhance system-wide freight transportation, thereby reducing energy consumption. Construction and operation of the proposed connection is 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 connection. Consultations with federal, state, and local agencies identified no other planned or on-going construction projects in the vicinity of the proposed connection. Therefore, the effects

outline above represent the cumulative effects of the proposed construction project. 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.



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## **CHAPTER 5**

### **Agency Comments and Mitigation**

This chapter summarizes comments received from federal, state and local agencies or officials about the proposed construction, 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 connection 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 project are summarized below:

- The NRCS indicated that there may be flooding issues associated with the project site and stated that the City of Sidney Engineering Department was addressing these concerns. Follow-up telephone consultation with the City of Sidney Engineering Department established that flooding at the site was not an issue.
- The Ohio SHPO stated that surveys and documentation of historic properties may be required.
- The U.S. Army Corps of Engineers, Louisville District, advised that if the project involved crossing the Erie Feeder Canal, the connection would be authorized under Nationwide General Permit 14.
- The Ohio DNR indicated that it had no records of rare, threatened or endangered species in the project area and that no nature preserves or scenic rivers were in the project area.
- The City of Sidney Planning Department stated that the proposed connection was consistent with the City's land use plan and map.

#### **5.2 AGENCY SUGGESTED MITIGATION**

No mitigation measures were suggested for the proposed rail line connection construction 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 connection in Sidney, 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 and minimize 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 connection.
- 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 site.
- 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 its 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**

SEA recommends no specific mitigation measures for the construction of the proposed rail connection in Sidney, Ohio.

#### 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"),<sup>1</sup>  
Conrail Inc. ("CRI") and Consolidated Rail Corporation ("CRC"),<sup>2</sup> 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

<sup>1</sup> CSXC and CSXT are referred to collectively as "CSX."

<sup>2</sup> 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"<sup>3</sup> between them.

Under the terms of the Letter Agreement of April 8, 1997, between CSX and Norfolk Southern Corporation ("NSC"),<sup>4</sup> 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

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<sup>3</sup> 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.

<sup>4</sup> 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).<sup>5</sup> 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.<sup>6</sup> 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

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<sup>5</sup> 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.

<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup> If CSXT could not

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

<sup>8</sup> 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." Hastings Indus. Link R.R. - Constr. and Operation Exemption - Hastings, 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.

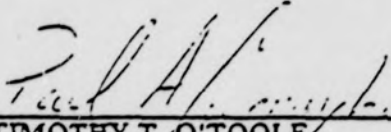
IV. NO ISSUE OF PREMATURE CONTROL IS PRESENTED

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.

  
TIMOTHY T. O'TOOLE  
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2001 Market Street  
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(215) 209-4000

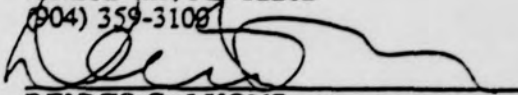
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Respectfully submitted,

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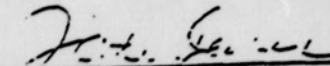
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May 2, 1997

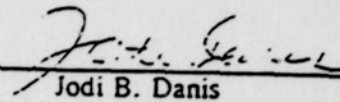
CERTIFICATE OF SERVICE

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

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

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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 projects<sup>1</sup> related to the proposed "CSX-NS-Conrail" primary

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<sup>1</sup>Notice 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);<sup>2</sup> the Norfolk Southern Corporation and the Norfolk Southern Railway Company;<sup>3</sup> and Conrail Inc. and the Consolidated Rail Corporation<sup>4</sup> (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

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

<sup>2</sup>Collectively referred to as "CSX".

<sup>3</sup>Collectively referred to as "NS".

<sup>4</sup>Collectively 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.<sup>5</sup> 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.<sup>6</sup>

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

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<sup>5</sup>CSX 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**.

<sup>6</sup>As 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*,<sup>7</sup> 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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<sup>7</sup>Decision 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. 9<sup>1</sup>

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)<sup>2</sup> 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

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<sup>1</sup> This decision also embraces the following proceedings: STB Finance Docket No. 33388 (Sub-No. 1), *CSX Transportation, Inc., and Consolidated Rail Corporation--Construction--Crestline, 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*.

<sup>2</sup> 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.<sup>3</sup> 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,<sup>4</sup> 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.

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<sup>3</sup> 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).

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



The connection would extend approximately 1,507 feet<sup>5</sup> 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

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<sup>5</sup> 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,<sup>6</sup> 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,<sup>7</sup> 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.

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

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

STB    FD    33388    (Sub 4)    10-7-97    K    28332    2/2

**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)<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup>

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<sup>8</sup> 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.

<sup>9</sup> 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.

<sup>10</sup> SDI did not address the merits of CSXT's waiver petition.

<sup>11</sup> 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

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<sup>11</sup>(... 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.<sup>12</sup> 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

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<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> 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.

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<sup>13</sup> 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.

<sup>14</sup> 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.

<sup>15</sup> 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—Louisville District, Louisville, Kentucky  
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:**

Shelby County Board of Commissioners, Sidney, Ohio.  
Sidney County Engineer, Sidney, Ohio.  
Shelby County Planning Commission, Sidney, Ohio.



DEPARTMENT OF THE ARMY  
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE  
CORPS OF ENGINEERS  
P.O. BOX 59  
LOUISVILLE, KENTUCKY 40201-0059  
FAX: (502) 582-5072  
June 11, 1997

Operations Division  
Regulatory Branch (North)  
ID No. 199700782-bkc

Mr. Gary S. Cipriano  
Project Hydrogeologist  
Dames & Moore  
One Continental Towers  
1701 Golf Road, Suite 1000  
Rolling Meadows, Illinois 60008

Dear Mr. Cipriano:

This is in response to your letter dated May 22, 1997, concerning a proposal by the CSX Corporation to construct a connection between two rail lines in Sidney, Shelby County, Ohio.

The submitted information does not indicate whether or not the proposed project would impact Feeder Canal. However, if the proposed connection would require a crossing over the canal, the work may be authorized under the provisions of Nationwide General Permit 33 CFR 330 (14), Road Crossings, as published in the Federal Register, December 13, 1996. Under the provisions of this authorization, you must comply with the enclosed Terms for Nationwide Permit No. 14 and the Nationwide Permit Conditions.

This decision is valid for 2 years from the date of this letter. The enclosed Compliance Certification should be signed and returned when the project is completed. If your project is not completed within this 2-year period or if your project is modified, you must contact us for another permit determination.

Our comments on this project are limited to only those effects which may fall within our area of jurisdiction. Lack of comments on other environmental aspects should not be construed as either concurrence or nonconcurrence with stated environmental effects.

If you have any questions, please contact me by writing to the above address, ATTN: CEORL-OP-FN, or by calling (502) 582-5607. Any correspondence on this matter should refer to our ID No. 199700782-bkc.

Sincerely,

Brenda Carter  
Regulatory Specialist  
Regulatory Branch

Enclosures

## FAX TRANSMITTAL

# of pages 1

To	Linda Killian	From	NRCSS-
Dept./Agency	DAMES + MOORE	Phone #	(614) 469-6932
Fax #	(614) 228-7156	Fax #	(614) 469-2083
NIN 7540-01-317-7386		5086-101	
GENERAL SERVICES ADMINISTRATION			

DAMES & MOORE  
 One Continental Towers  
 1701 Golf Road, Suite 1000  
 Rolling Meadows, Illinois 60008

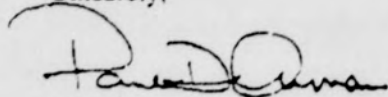
Dear Mr. Cipriano:

The Natural Resources Conservation Service has reviewed your proposal for construction of a rail line in Sidney, Ohio. We are aware of a flooding issue in the proposed construction area. The city of Sidney engineering department is working to address this concern.

The Erie Canal Feeder, an historical resource, is also adjacent to the construction site. We encourage you to be cognizant of this resource when completing your planning and engineering.

Thank you for including the Natural Resources Conservation Service in your environmental assessment of this proposed project.

Sincerely,



Paul DeArman  
 Assistant State Conservationist; Technology



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



OHIO  
HISTORICAL  
SOCIETY  
SINCE 1885

June 16, 1997

Gary S. Cipriano  
Dames & Moore  
One Continental Towers  
1701 Golf Road, Suite 1000  
Rolling Meadows, Illinois 60008

Dear Mr. Cipriano:

Re: Proposed CSX Corporation Construction Project, Sidney, Ohio

This is in response to your letter of May 22, 1997 concerning the proposed project. I have reviewed the information you provided and have the following comments, submitted in accordance with the provisions of Section 106 of the National Historic Preservation Act of 1966, as amended (36 CFR 800).

The project involves constructing a rail connection between two existing lines in Sidney. A check of our records shows that no surveys have encompassed the project area and no sites are known. Sites have been recorded nearby suggesting that similar sites might be located in the project area. It is our recommendation that a preliminary archaeological survey be done in order to identify any sites which may be effected by the project.

We also need front and rear elevation photographs of any building over fifty years old which will be effected by the proposed construction. We are also concerned about buildings which will be indirectly effected.

We have previously commented that in order to provide effective comments we need to review the entire Conrail acquisition rather than separate segments (see enclosure). This recommendation for coordination stands.

If you have any questions please contact me at (614) 297-2470 or through e-mail at [jquinlan@freenet.columbus.oh.us](mailto:jquinlan@freenet.columbus.oh.us). My hours are from 8:30 a.m.-3 p.m. Thank you for your cooperation.

Sincerely,

Julie Quinlan, Program Coordinator  
Technical and Review Services

enclosures: consultants list

March 11, 1997 letter to Ms. Julie Sanford

**City of Sidney**Sent Via Facsimile

August 26, 1997

**received**

Mr. Carmen Gilotte  
DeLeuw, Cather & Company  
1133 15th Street, N.W.  
Washington, DC 20005

Dear Mr. Gilotte:

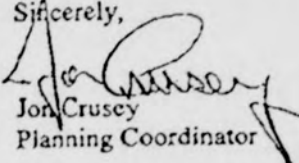
I have reviewed the maps and project description of the proposed rail line construction in Sidney. My review of this proposed project finds the following:

- 1a. The future-land use plan classification for the area of new construction projects public/semi-public land uses.
- 1b. The area adjacent to the proposed construction project is the City's cemetery and police shooting range. The shooting range will be relocated to accommodate this project. While there are residential uses to west, they are buffered from the construction project by the former Miami-Erie Feeder Canal.
2. The proposed project site is presently occupied by the City's police shooting range. I am not aware of any potential effect the proposed rail line would have on prime agricultural lands.
3. This proposed project site is not located within a designated coastal zone.

It is therefore my opinion that the proposed rail line segment construction is consistent with the City of Sidney future land-use plan and map.

I hope this information is useful. Should you have any questions or need additional information, please contact me at (937) 498-8131.

Sincerely,

  
Jon Crusey

Planning Coordinator

APPENDIX C

## APPENDIX C REFERENCES

### **General:**

- CSX Transportation Inc. *Preliminary Draft Environmental Assessment. Sidney, 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.
- De Leuw, Cather and Company. *Conrail Acquisition Site Assessment Summary—Sidney, 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:**

- City of Sidney Zoning Department. Personal communication and correspondence from John Crosey. May 8 and August 26, 1997.
- City of Sidney Engineering Department. Personal communication with Landon Scott. August 18, 1997.
- Ohio Department of Natural Resources, Coastal Management Program. Personal communication with Don Povolny. March 3, 1997.
- Ohio Department of Natural Resources, Division of Real Estate Management. Personal communication with Bob Stewart. June 23 and July 14, 1997.
- Ohio Environmental Protection Agency, Southwest District. Personal communication with Hugh Trumble. June 9, 1997.
- Ohio State Clearinghouse. Personal communication with Linda Wise. May 22, 1997.
- Shelby County Board of Commissioners. Personal communication with Gary Van Fossen. June 9, 1997.
- Shelby County Engineering Department. Personal communication with Stephen Hubbell. June 6, 1997.
- Shelby County Planning Department. Personal communication with David Waltz. June 10, 1997.
- U.S. Department of Agriculture, National Resources Conservation Service. Correspondence and personal communication with Paul DeArman. June 8 and 9, 1997.
- U.S. Department of Agriculture, Soil Conservation Service. *Soil Survey of Shelby County, Ohio.* April 1980.
- U.S. Department of the Interior, Bureau of Indian Affairs. Personal communication with Diane Rosen. May 27, 1997.

- U.S. Department of the Interior, National Park Service. Personal communication with Jim Grasso, June 10, 1997.
- U.S. Department of the Interior, U.S. Geological Survey. Topographical Map—Sidney, Ohio Quadrangle. 1982 (Revised).
- U.S. Environmental Protection Agency, Columbus, Ohio. Personal communication with Judy Bore, June 6, 1997.
- U.S. Environmental Protection Agency, Region 5. Personal communication with Mike MacMullen, June 11, 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.
- 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:**

- CSX Real Estate Department. Personal communication with Jim Barker. August 4, 1997.
- City of Sidney Engineering Department. Personal communication with Scott Landon. August 18, 1997.
- City of Sidney, Graceland Cemetery. Personal communication with Jim Vondenhuevel. August 19, 1997.
- E Data Resources, Inc. *EDR-Radius Map with GeoCheck—Crestline, Ohio*. May 20, 1997.
- Ohio Public Utilities Commission. Personal communication with Joseph Reinhardt. July 24, 1997.
- 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, City of Sidney, Shelby County, Ohio. Community Panel Nos. 390507 0003B and 390507 0004B. November 1982.
- City of Sidney Engineering Department. Personal communication with Scott Landon. August 18, 1997.
- Planning Resources Inc. Personal communication with Juli Crane. August 11, 1997.
- Planning Resources Inc. *Wetland Report for CSX Railroad Activities at Sidney, Ohio*. September 1997.
- U.S. Army Corps of Engineers, Louisville District. Personal communication and correspondence from Brenda Carter. June 4 and June 11, 1997.



U.S. Department of Agriculture. Natural Resources Conservation Service. Correspondence from Paul DeArman. June 8, 1997.

U.S. Department of the Interior, U.S. Fish and Wildlife Service, National Wetlands Inventory Map, Sidney, Ohio. 1989.

#### **Biological Resources:**

Burt, W.H. and R.P. Grossenheider. *A Field Guide to Mammals*. Houghton Mifflin Co., Boston, 1964.

Fuller, G.D. and E.E. Nuuttila. *Forest Trees of Illinois*. Illinois Department of Conservation, Division of Forestry, Springfield, 1955.

Ohio Department of Natural Resources, Division of Natural 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.

Peterson, R.T. and M. McKenny, 1968. *A Field Guide to Wildflowers of Northeastern and North-Central North America*. Houghton Mifflin Co., Boston, 1968.

U.S. Department of Agriculture, Soil Conservation Service. *Soil Survey of Shelby County, Ohio*. April 1980.

U.S. Department of the Interior, U.S. Fish and Wildlife Service—Reynoldsburg, Ohio Field Office. Personal communication with Lyn MacLean. June 6, 1997.

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

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

U.S. Department of the Interior, U.S. Fish and Wildlife Service, National Wetlands Inventory Map, Sidney, Ohio. 1989.

U.S. Department of the Interior, U.S. Geological Survey. Topographical Map—Sidney, Ohio Quadrangle. 1982 (Revised).

#### **Air Quality:**

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

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.

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 & Hansor, Inc. Correspondence and personal communications with Hugh Saurenman. May through August 1997.

**Cultural Resources:**

GAI Consultants. Correspondence from Karen Orrence. August 12, 1997.

Myra L. Frank & Associates. Personal communications with Richard Starzak. September 5, 1997.

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

Ohio State Historical Society. Personal communication with Franco Ruffini and David Snyder. July 18, 1997.

Ohio State Historical Society. Personal communication with Dave Snyder. June 3, 1997.

Sherman, David. *Notes on Shelby County History.* 1981

U.S. Department of the Interior, Bureau of Indian Affairs. Personal communication with Terry Virdon. May 30, 1997.

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  
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Federal Agencies

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National Oceanic and Atmospheric Administration  
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U.S. Fish and Wildlife Service  
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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. 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  
U.S. Department of Interior  
Bureau of Indian Affairs  
Eastern Area Office  
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Arlington, VA 22203

Law Firm

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Slover & Loftus  
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Washington, DC 20036

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City Manager  
City of Sidney, Ohio  
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c/o Covington & Burling  
Union Pacific Corporation and Union Pacific Railroad Company  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, DC 20044-7566

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Supervisor Fish & Wildlife Biologist  
U.S. Fish and Wildlife Service  
Ecological Services  
Reynoldsburg Field Office  
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Reynoldsburg, OH 43068

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U.S. Department of Agriculture  
National Forest Service  
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Milwaukee, WI 53203

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Board Of Commissioners President  
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Sidney, OH 45365-3060

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Ms. L. Pat Wynns  
Allied Rail Unions  
c/o Highsaw, Mahoney & Clarke, P.C.  
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Regional Planner  
Shelby County Regional Planning Commission  
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Shipper

Mr. Christopher C. O'Hara  
Steel Dynamics, Inc.  
c/o Brickfield, Burchette & Ritts, P.C.  
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Chief, Division of Real Estate and Land Management  
Coastal Management Program  
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Mr. Craig A. Glazer  
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180 East Broad Street  
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Ohio Historical Society  
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