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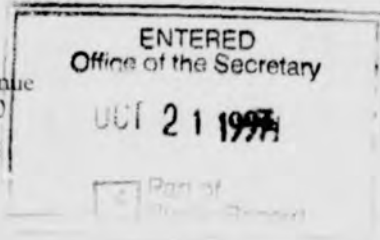
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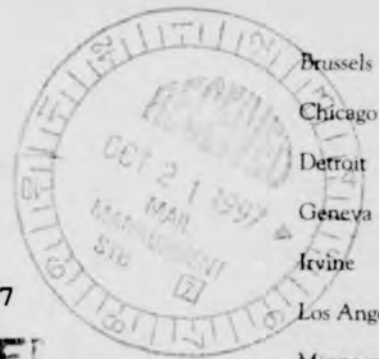
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**VIA HAND DELIVERY**

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

OCT 21 1997

SURFACE  
TRANSPORTATION BOARD

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

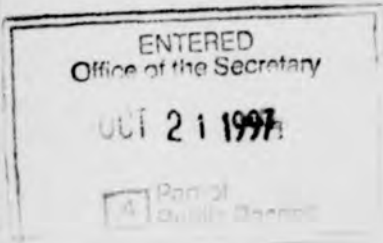
**Finance Docket No. 33388 (Sub-No. 61)**  
**Bessemer and Lake Erie Railroad Company --**  
**Trackage Rights -- Lines of CSX Transportation,**  
**Inc. and Pennsylvania Lines LLC**

Dear Secretary Williams:

Enclosed for filing with the Board in the above-captioned proceedings are an original and twenty-five copies of the **Responsive Application of Bessemer and Lake Erie Railroad Company (BLE-7)** and the **Comments and Requests for Conditions of Bessemer and Lake Erie Railroad Company (BLE-8)**, both dated October 21, 1997. A computer diskette containing the text of BLE-7, BLE-8 and the accompanying verified statements in WordPerfect 5.1 format and a check in the amount of \$4700, representing the appropriate fee for this filing, also are enclosed.

I have also enclosed herewith an extra copy of BLE-7, BLE-8 and this transmittal letter. I would request that you date-stamp those copies to show receipt of this filing and return them to me in the provided envelope.

Copies of BLE-7 have been served on the various governmental entities and personnel designated in 49 C.F.R. § 1180.4(c)(5). Copies of both BLE-7 and BLE-8 have been served on all designated parties of record in this proceeding, as shown on the certificate of service.

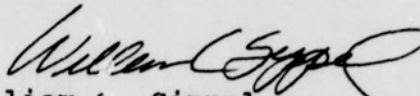


OPPENHEIMER WOLFF & DONNELLY

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

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

Respectfully submitted,



William C. Sippel  
Attorney for Bessemer and  
Lake Erie Railroad Company

WCS:tjl

Enclosures

cc: Parties on Certificates of Service

182934

ORIGINAL

BEFORE THE  
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388

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

FINANCE DOCKET NO. 33388 (SUB-NO. 61)

BESSEMER AND LAKE ERIE RAILROAD COMPANY  
-- TRACKAGE RIGHTS --  
LINES OF CSX TRANSPORTATION, INC.  
AND PENNSYLVANIA LINES LLC

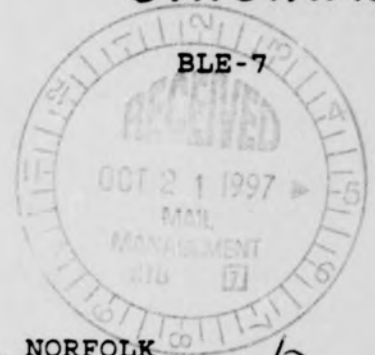
RESPONSIVE APPLICATION OF  
BESSEMER AND LAKE ERIE RAILROAD COMPANY

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**ATTORNEYS FOR BESSEMER AND  
LAKE ERIE RAILROAD COMPANY**

Dated: October 21, 1997



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OCT 21 1997

SURFACE  
TRANSPORTATION BOARD

**FILED**

OCT 21 1997

OFFICE  
SECRETARY

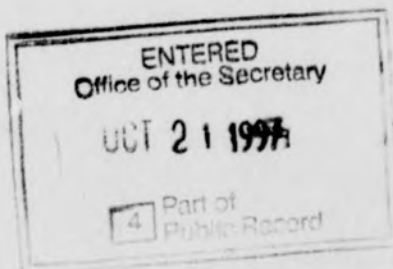


TABLE OF CONTENTS

	<u>Page</u>
Introduction .....	1
Statutory Framework .....	2
Identification of Applicants and Persons to Whom Correspondence with Respect to this Application Should be Addressed	
Section 1180.6(a) .....	5
Summary of the Proposed Transaction	
Section 1180.6(a)(1)(i) .....	8
Proposed Time Schedule for Consummation of Transaction	
Section 1180.6(a)(1)(ii) .....	11
Purposes Sought to Be Accomplished by the Proposed Transaction	
Section 1180.6(a)(1)(iii) .....	12
The Nature and Amount of New Securities and Other Financial Arrangements	
Section 1180.6(a)(1)(iv) .....	14
Public Interest Justifications	
Section 1180.6(a)(2) .....	14
(i) Effect of the Proposed Transaction on Competition .....	14
(ii) Financial Considerations .....	16
(iii) Effect of Increase in Total Fixed Charges Resulting From the Transaction .....	16
(iv) Effect of Transaction Upon the Adequacy of Transportation Service to the Public .....	16
(v) Effect of Transaction on Employees .....	17
(vi) Inclusion of Other Railroads in the Territory .....	17
Other Supporting Information	
Section 1180.6(a)(3) .....	18
Opinion of Counsel	
Section 1180.(a)(4) .....	18

	<u>Page</u>
States Where Applicants Own Property	
Section 1180.6(a)(5) .....	18
Maps - Exhibits 1A and 1B	
Section 1180.6(a)(6) .....	19
Description of the Transaction	
Section 1180.6(a)(7)(i) .....	19
Agreement - Exhibit 2	
Section 1180.6(a)(7)(ii) .....	20
Information Regarding the Consolidated Entity	
Section 1180.6(a)(7)(iii) .....	20
Court Order	
Section 1180.6(a)(7)(iv) .....	20
Property Involved in the Proposed Transaction	
Section 1180.6(a)(7)(v) .....	20
Principal Routes, Termini, Points of Interchange and Mileage of the Involved Lines	
Section 1180.6(a)(7)(vi) .....	21
Governmental Financial Assistance	
Section 1180.6(a)(7)(vii) .....	21
Environmental Data	
Section 1180.6(a)(8) .....	22
Operating Plan/Minor - Exhibit 15	
Section 1180.8(b) .....	22
Signatures, Oaths, and Certifications of Applicant's Executive Officers	
Section 1180.4(c)(2)(i) ..	24
Opinion of Counsel .....	29
 <b><u>Exhibits to Responsive Application</u></b>	
Maps	
Exhibits 1A and 1B .....	Tab 1
Agreement	
Exhibit 2 .....	Tab 2
Operating Plan/Minor	
Exhibit 15 .....	Tab 15



BEFORE THE  
SURFACE TRANSPORTATION BOARD

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FINANCE DOCKET NO. 33388

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

FINANCE DOCKET NO. 33388 (SUB-NO. 61)

BESSEMER AND LAKE ERIE RAILROAD COMPANY  
-- TRACKAGE RIGHTS --  
LINES OF CSX TRANSPORTATION, INC.  
AND PENNSYLVANIA LINES LLC

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**RESPONSIVE APPLICATION OF  
BESSEMER AND LAKE ERIE RAILROAD COMPANY**

Bessemer and Lake Erie Railroad Company ("BLE") hereby submits this Application, pursuant to 49 U.S.C. §§ 11323-11325 and the Railroad Consolidation Procedures, 49 C.F.R. Part 1180, Subpart A, for approval and authorization of BLE's acquisition of narrowly drawn overhead trackage rights on lines of railroad of Pennsylvania Lines LLC (now Consolidated Rail Corporation ("CRC")) and CSXT Transportation, Inc. ("CSXT") in southwestern Pennsylvania. This Application is responsive to the Primary Application filed herein by CSX Corporation ("CSXC"), CSXT, Norfolk Southern Corporation ("NSC"), Norfolk Southern Railway Company ("NSR"), Conrail, Inc. ("CRI") and CRC<sup>1</sup> seeking authority

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

for common control of Conrail by CSXC and NSC and the division of CRC's assets between CSXT and NSR. BLE hereby requests that the trackage rights sought by BLE herein, along with the additional competitive conditions described in BLE's Comments and Requests for Conditions submitted herewith, be imposed as conditions upon any approval of the Primary Application. These conditions are necessary to ameliorate anticompetitive effects of the proposed break-up of Conrail on the transportation of coal in the eastern United States. In particular, BLE's proposed trackage rights will ensure that customers are afforded a legitimate competitive alternative route for Great Lakes destined coal originating on the former Monongahela Railway Company ("MGA") in southwestern Pennsylvania and northern West Virginia. The additional conditions proposed will ensure that in the absence of the trackage rights requested in this Application customers will have available competitive interline rates and routings over the BLE to the P&C Dock at Conneaut, Ohio for B&O Origin District and MGA-origin coal destined for the Great Lakes. BLE's proposed conditions are narrowly crafted to allow for the provision of adequate service levels and meaningful competition in the transportation of certain Northern Appalachia coal to the Great Lakes. These conditions will not diminish the anticipated benefits of the transaction as contemplated by the Primary Applicants.

#### **STATUTORY FRAMEWORK**

The proposed acquisition of trackage rights is subject to prior review and authorization by the Board pursuant to 49



U.S.C. § 11323(a)(6). The statutory criteria for regulatory consideration of the proposed transaction are provided in 49 U.S.C. §§ 11323-11325.<sup>2</sup> Section 11324(d) states:

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

- (1) as a result of the transaction, there is likely to be substantial lessening of competition, creation of a monopoly or restraint of trade in freight surface transportation in any region of the United States; and
- (2) the anticompetitive effects of the transaction outweigh the public interest in meeting significant transportation needs.

The transaction contemplated by this Responsive Application does not involve the merger or control of two or more Class I railroads, and thus is subject to the provisions of 49 U.S.C. § 11324(d). 49 C.F.R. § 1180.2 further classifies transactions under 49 U.S.C. § 11324(d) as significant or minor. A significant transaction is of regional or national transportation significance. See 49 U.S.C. § 11325(a)(2), (c).

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<sup>2</sup> The Board has an existing class exemption for the acquisition of trackage rights, codified at 49 C.F.R. § 1180.2(d)(7). It is specifically inapplicable to trackage rights (such as those proposed here by BLE) "sought in responsive application in rail consolidation proceedings." The Board has also noted that it would be "difficult or improbable" to find that a condition sought in a responsive application was exempt. Decision No. 40, at 3, n.6.

A transaction is not significant if it "clearly will not have any anticompetitive effects." 49 C.F.R. § 1180.2(b)(1); see RR. Consol. Proced. -- Def. of Significant Transactions, 9 I.C.C.2d 1198 (1993).

In this Application, BLE seeks limited overhead trackage rights over approximately 54 miles of rail line (14 miles of CRC/Pennsylvania Lines LLC track and/or 40 miles of CSXT track) in a single, defined area of one state. As is explained more fully below and in the accompanying Verified Statement of BLE Director of Marketing Timothy R. Howerter, the requested trackage rights will become effective only in the event that NSR initiates or provides haulage service for CSXT to and from the current and future mines served by the former MGA. If activated, the proposed trackage rights will ensure and enhance adequate transportation service and competitive routing options for MGA-origin coal. They clearly will have no anticompetitive effect, and are properly classified as a minor transaction. This determination is consistent with prior decisions in this proceeding where the Board has found several roughly comparable trackage rights proposals to be minor transactions. E.g., Decision No. 28, at 1-3; see also Decision No. 40, at 2-3 (outlining bases for classifying responsive applications as minor or significant).

**SECTION 1180.6(a)**

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

Applicant BLE is a Class II common carrier by rail which owns and operates approximately 150 route miles of rail line between North Bessemer, Pennsylvania and Conneaut, Ohio on Lake Erie. It primarily handles bulk commodities, particularly coal, iron ore and limestone. Much of the traffic handled by BLE is transloaded to or from lake vessels at a rail/water dock facility on Lake Erie at Conneaut (hereinafter referred to as the "P&C Dock").

BLE is a wholly-owned subsidiary of Transtar, Inc. ("Transtar"), a non-carrier transportation holding company. In addition to BLE, Transtar controls seven Board-regulated rail carrier subsidiaries: (1) Birmingham Southern Railroad Company ("BS"), a Class III switching and terminal carrier in Birmingham, Ensley, Fairfield and Bessemer, Alabama; (2) Duluth, Missabe and Iron Range Railway Company ("DMIR"), a Class II carrier operating in northeastern Minnesota and northwestern Wisconsin; (3) Elgin, Joliet and Eastern Railway Company ("EJE"), a Class II carrier operating in and around Chicago in the states of Illinois and Indiana; (4) The Lake Terminal Railroad Company ("LT"), a Class III switching carrier operating in Lorain, Ohio; (5) McKeesport Connecting Railroad Company ("MKC"), a Class III switching operation in McKeesport, Pennsylvania; (6) Union Railroad Company ("URR"); and (7) The Pittsburgh & Conneaut Dock Company ("P&C"). See Transtar Holdings, L.P. -- Corporate Family Exemption --

Transtar, Inc., Finance Docket No. 32411 (ICC served December 29, 1993); Blackstone Capital Partners L.P., Blackstone Transportation Partners L.P. and USX Corporation -- Exemption from 49 U.S.C. 10746, 11321 and 11343, Finance Docket No. 31363 (ICC served December 23, 1988).

In its Petition for Clarification or Waiver (BLE-4) filed on August 22, 1997, BLE sought waiver or clarification of the definition of "applicant carrier" at 49 C.F.R. § 1180.3(b) to exclude BS, DMIR, EJE, LT and MKC. As BLE explained, none of those carriers connect with BLE,<sup>3</sup> each is operated independently of BLE, and none has any relation to the transaction proposed in this responsive application. In Decision No. 30, served September 11, 1997, the Board granted the requested waiver/clarification.<sup>4</sup>

Applicant carrier URR is a Class III carrier operating approximately 27 route miles of rail line from North Bessemer to Clairton Junction, Pennsylvania, and thence to Clairton and Mifflin Junction, Pennsylvania. URR connects with BLE at North Bessemer and provides BLE with access to (among other things) connections with other railroads south of Pittsburgh.

---

<sup>3</sup> MKC connects with URR, which in turn connects with BLE. MKC's switching operation in McKeesport, Pennsylvania are unrelated to the transaction proposed in this responsive application.

<sup>4</sup> Decision No. 30 actually excludes BS, DMIR, EJE, LT and MKC from the definition of "applicant," rather from that of "applicant carrier" as requested by BLE. The decision makes clear, however, that the referenced affiliates were to be excluded from the responsive application and would not be required to submit information in this proceeding. The decision plainly intended to grant BLE the relief it sought with respect to the definition of "applicant carriers," and BLE has crafted this responsive application accordingly.



Applicant carrier P&C operates the P&C Dock. P&C Dock is served solely by BLE, and serves as an important anchor to the north end of BLE's system. P&C was found to be a rail carrier subject to the former Interstate Commerce Act in Assoc. of P&C Dock Longshoremen v. Pitts. & C. Dock Co., 8 I.C.C. 2d 280 (1992); see also Blackstone Capital Partners L.P. and Blackstone Transportation Partners L.P. -- Control Exemption - The Pittsburgh and Conneaut Dock Company, Finance Docket No. 32028 (ICC served August 14, 1992).

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

Bessemer and Lake Erie  
Railroad Company  
135 Jamison Lane  
P.O. Box 68  
Monroeville, PA 15146  
(412) 829-6600

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

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General Counsel and Secretary  
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180 North Stetson Avenue  
Chicago, IL 60601-6710  
(312) 616-1800



**SECTION 1180.6(a)(1)(i)**  
**SUMMARY OF THE PROPOSED TRANSACTION**

In this Responsive Application, BLE seeks Board approval of limited overhead trackage rights for BLE over either of the following two lines of railroad:

(1) CRC's Mon Line between the connection with BLE (URR) at Pittsburgh (Duquesne), Pennsylvania and CRC's Shire Oaks Yard in Shire Oaks, Pennsylvania, a distance of approximately 14 miles. This CRC line has been assigned to NS in the division of CRC's assets, and upon consummation of the Primary Application, if approved, will be owned by Pennsylvania Lines LLP ("PRR").

(2) CSXT's line of railroad (formerly the Pittsburgh & Lake Erie Railroad Company) between the connection with BLE (URR) at Bessemer (Pittsburgh), Pennsylvania and CSXT's Newell Interchange Yard near Brownsville, Pennsylvania, a distance of approximately 40 miles.<sup>5</sup>

These overhead trackage rights would be restricted to the sole purpose of transporting coal originating at current or future mines on the former MGA lines and destined to the P&C Dock at Conneaut, Ohio for movement beyond. The trackage rights would function in conjunction with BLE haulage rights via NSR over the

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<sup>5</sup> The CSXT line is parallel to and across the Monongahela River from the CRC/PRR line. Both connect with the former MGA lines at Brownsville Junction, Pennsylvania. Should the trackage rights requested by BLE be imposed by the Board as a condition of approving the transaction contemplated by the Primary Applicants, as detailed in the Operating Plan included herein as Exhibit 15, URR will likely operate the service over CSXT or CRC/PRR lines in the account of BLE.

MGA lines for the movement of coal between MGA mines and Shire Oaks or Brownsville. Such haulage rights would be on the same terms and conditions as any haulage agreement between CSXT and NSR relating to coal traffic on the MGA lines. Both the trackage rights conditions sought herein and the haulage rights condition would be effective only if and when NSR and CSXT in fact entered into a haulage agreement providing for NSR's handling of coal traffic on the MGA lines in CSXT's account.

In the event CSXT opts to enter into a haulage agreement with NSR to move its coal traffic directly to the Ashtabula port, the marketplace is entitled to preservation of a competitive transportation alternative to NSR. Through its requested trackage rights and haulage conditions, BLE can provide that service through the P&C Dock for coal originating on the former MGA mines. The trackage rights to be acquired, together with the haulage rights proposed by BLE in this proceeding will give BLE direct access to MGA-origin coal and provide customers with continued true competition in the transportation marketplace. This will open up another port destination for MGA-origin coal and enable NSR and BLE to truly compete for this business, including the growing low sulfur coal production occurring in the Pittsburgh Seam.

However, should CSXT and NS enter a haulage agreement and the BLE's requested trackage and haulage rights not be available, the remaining option for MGA-origin coal customers desiring to use the Conneaut facility would be a noncompetitive three line route (NSR/CSXT/BLE) to the P&C Dock. Essentially,

there would be no real competition for MGA-origin coal destined for the Great Lakes leaving all of that traffic in the hands of NSR. The trackage rights sought herein (as well as the related haulage rights condition) are necessary in such circumstances to allow effective competition for movement of MGA-origin coal.

In its Comments and Requests for Conditions and supporting evidence, BLE also requests additional competitive conditions pertaining to coal movements originating in the B&O Origin Coal District and on lines of the former MGA. BLE seeks to preserve at competitive rates the joint line routing that currently exists for B&O Origin District coal destined for the P&C Dock. Today, the P&C Dock competes with CRC's dock facilities at Ashtabula, Ohio for coal business bound for vessel movement on the Great Lakes. As a competitive alternative to CRC's sources routed to Ashtabula, CSXT currently routes its B&O Origin District coal to Conneaut in interline movements over the Buffalo & Pittsburgh Railroad ("BPRR") and BLE. CSXT delivers the coal to New Castle, PA for interchange with BPRR, which then moves the coal to Butler, PA. At Butler, BLE takes over the movement for delivery to Conneaut.

If the transaction contemplated by the Primary Applicants is approved, CSXT will gain shared access to the CRC port facilities at Ashtabula, OH, thereby removing any incentive to interline this B&O Origin District coal over the BLE to Conneaut. Ontario Hydro, a major customer of BLE, relies on the P&C Dock, and absent conditions requiring long term, market based rates to protect interline movements to Conneaut, CSXT will

likely divert this B&O Origin District coal to Ashtabula. Protection of the existing interline rate structure will ensure competitive traffic routings for customers desiring to transload coal via the P&C Dock.

Similarly, BLE seeks a condition requiring NSR and CSXT to establish competitive interline routings for movement of MGA coal via BLE to the P&C Dock. These routings must be market based and long term to afford shippers the continued benefit of BLE's route to Lake Erie via the P&C Dock as effective competition with NSR or CSXT single line service between the MGA lines and Ashtabula. Otherwise, customers will have no competitive alternative but to route all of the MGA-origin coal to the already overburdened Ashtabula facility. Fewer service options and poorer service for the customer will surely take place. Moreover, in view of the legitimate questions surrounding the ability of NSR and CSXT to be true competitors on the shared but NSR controlled Ashtabula route, the trackage rights requested by BLE are necessary to afford the shipping public genuine competition for the transportation of MGA-origin coal to Great Lakes destinations. A viable route to Conneaut is essential to providing Northern Appalachia coal customers real competition in the marketplace.

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

**PROPOSED TIME SCHEDULE FOR  
CONSUMMATION OF TRANSACTION**

BLE will consummate the proposed transaction after the effective date of a final order of the Board approving the



Primary Application and this Application and Primary Applicants' consummation of the transaction proposed in the Primary Application, but in any event only upon the initiation of haulage service by NSR for CSXT for coal traffic over the former MGA lines in southwestern Pennsylvania and northern West Virginia.

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

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

The purposes for the trackage rights condition sought by BLE are to mitigate the adverse impact of the Primary Application on the adequacy of transportation service and competition for coal traffic moving from current and future origins on the former MGA in southwestern Pennsylvania and northern West Virginia, particularly with respect to coal destined for transloading to Great Lakes vessels for final delivery.

Under the proposed division of CRC's assets, NSR (through PRR) will acquire CRC's former MGA coal lines, CRC's rail line between Youngstown and Ashtabula, Ohio and CRC's Ashtabula Dock on Lake Erie.<sup>6</sup> NSR thus will obtain a single-line route from MGA coal mines to Lake Erie. NSR will grant trackage rights to CSXT over the former MGA lines to access MGA mines, will continue to grant CSXT trackage rights over the NSR/PRR/CRC line from Youngstown to Ashtabula, and will allocate 42% of the capacity of Ashtabula Dock to CSXT. In each instance, however,

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<sup>6</sup> CRC's Ashtabula Dock functions in a manner similar to the P&C Dock, although BLE believes Ashtabula to be an inferior facility. See Howerter V.S. at 15-16.



the rail lines and the Ashtabula Dock will be owned, controlled and dispatched by NSR.

The proposed routing of all MGA coal moving to the Great Lakes via the former CRC Youngstown-Ashtabula line and the Ashtabula Dock will not result in adequate transportation service to the public or effective competition for the traffic. Currently, Ashtabula Dock lacks adequate capacity to efficiently handle all of the traffic, and Conrail is forced to divert traffic from there more than 120 miles west to the ports of Sandusky and Toledo, Ohio. That is not efficient transportation service and over the long term it will also require that a higher price for service be extracted from the customers.

In addition, there are serious, unanswered questions regarding the ability of NSR and CSXT to effectively share and utilize CRC's Youngstown-Ashtabula line. CSXT's need to rely on its major competitor for its access to the mines, use of the Youngstown-Ashtabula line and use of Ashtabula Dock, all subject to NS direction and control, will seriously impede any effective competition for this important coal traffic.<sup>7</sup>

The proposed trackage rights condition, in conjunction with the related haulage rights, will assure the shipping public of needed competition for the movement of MGA-origin coal in the

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<sup>7</sup> That NSR and CSXT agreed to open MGA coal origins to rail service from both carriers is evidence of Primary Applicants' acknowledgment of the public need for effective competition on this traffic. The operating and service arrangements and facilities outlined in the Primary Application, however, are insufficient to provide such effective competition and to ensure adequate transportation facilities and resources for the movement of MGA-origin coal.

event CSXT and NSR enter into a haulage arrangement. If that is not the case, then as requested in the accompanying Comments, the availability of competitive joint line routes and rates via BLE's route to Conneaut, Ohio and the P&C Dock is essential to assuring adequate capacity and effective competition for MGA-origin coal moving to the Great Lakes. These conditions will assure customers of competitive routings on MGA coal to Lake Erie and will assure adequate transportation service and competition for that traffic. Absent such conditions, the lake coal customers will essentially be foreclosed from P&C Dock and essential rail to vessel transloading capacity and competition will be lost.

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

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

The trackage rights sought in this transaction will not involve the issuance of any new securities by BLE. BLE is willing and able to negotiate and take whatever steps are appropriate to establish reasonable compensation to CSXT and NSR/PRR for the use of the lines over which trackage rights are sought.

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

**PUBLIC INTEREST JUSTIFICATIONS**

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

BLE's proposed trackage rights are pro-competitive and clearly in the public interest. Together with the other conditions sought herein by BLE, the trackage rights will mitigate the adverse impact that the transaction proposed in the

Primary Application would otherwise have on the adequacy of transportation and competition for MGA-origin coal moving to Lake Erie for subsequent delivery by lake vessel. Without these conditions, port capacity on the Great Lakes will be significantly reduced and the users of vessel delivered coal will suffer. The P&C Dock is vital to the needs of the Great Lakes coal customers. Under the Primary Applicants' proposal, Northern Appalachia coal will be routed exclusively to an already overburdened Ashtabula or other lake ports west. Removing Conneaut as a viable alternative for this traffic will result in added customer inconvenience and transportation cost.

Customer access to both Ashtabula and Conneaut is essential to satisfying their current and future coal transfer, storage and ship-loading needs. The questionable shared access of one port facility as proposed by the Primary Applicants is deficient and will not provide the level of customer service that will be afforded if the P&C Dock is allowed to meaningfully compete with the shared Ashtabula facility.

The proposed trackage rights will not result in harm to the essential services of any carrier and will not result in a reduction in competition at any point. Rather, they will serve to markedly enhance the competition and service for lake coal customers. They will help fill the void of timely and efficient service for those customers forced to endure the delays and diversion of traffic at the Ashtabula Dock.

(ii) Financial Considerations.

The financial consideration for the proposed trackage rights involves payment of a trackage rights use charge as negotiated between BLE, CSXT and NSR/PRR (or, if necessary, as determined by the Board). In addition, the proposed trackage rights will confer financial benefits on customers resulting from the rate and service competition that BLE will provide.

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

BLE's acquisition of trackage rights over the CSXT and NSR/PRR lines is not expected to result in any increase in fixed charges on BLE.

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

The proposed transaction will substantially promote the adequacy of transportation service to the public by assuring the availability of adequate port facilities for lake coal customers. Ashtabula Dock is already operating at full capacity. Conrail has been forced to divert tonnage away from Ashtabula to Sandusky and Toledo in order to accommodate the existing traffic flow. That adds significant distance, expense and inconvenience to the movement of lake bound coal. The Primary Applicants' proposal to provide joint access to and use of the Ashtabula Dock will likely cause further problems in serving the needs of the customers. Properly coordinating and allocating resources at Ashtabula will not be easy, and the Primary Applicants have not commented on how this may be accomplished. Extremely effective management will be



required if the joint users are to even approach the volumes of coal handled solely by Conrail today. That is not likely to occur at this already overburdened port facility. There needs to be an alternative to handling the existing coal traffic and the growing market for coal produced from longwall mining techniques at the Pittsburgh Seam mines.

Conneaut is a state-of-the-art port with unused capacity that can immediately address the growing need of lake coal customers. Its coal terminal has been modernized and expanded over the years to provide a facility second to none. Conneaut offers two separate coal unloading and storage facilities which can operate either independently, on a stand alone basis, or in a coordinated mode to provide unparalleled flexibility. It has extensive unused capacity available to provide a true competitive alternative to the Ashtabula Dock. Competitive access to the P&C Dock is a necessity if the volumes of coal demanded through the lake coal market are to be efficiently handled for its end users. The lake coal market deserves no less than to have all port facilities available to it to meet its growing capacity and service demands.

(v) Effect of Transaction on Employees.

There is no anticipated adverse effect on employees of the BLE, URR or P&C.

(vi) Inclusion of Other Railroads in the Territory.

Inclusion is not a relevant consideration in this Application since the proposed transaction, which involves only a



request for trackage rights over certain lines of CSXT and NSR/PRR, does not involve the merger or control of at least two Class I railroads. See 49 U.S.C. § 11324(b)(2) and (d). Nonetheless, acquisition of the trackage rights sought herein will not result in harm to the essential services provided by any carrier. Since only positive competitive impacts are anticipated and essential services are not endangered, there is no legal or factual basis for ordering the inclusion of any carrier in this transaction.

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

**OTHER SUPPORTING INFORMATION**

The Verified Statements of Timothy R. Howerter and James E. Streett are included in BLE's Comments and Requests for Conditions (BLE-8) submitted with this Application. Verified Statements from customers supporting BLE's proposed trackage rights and the other competitive conditions sought by BLE are also included in BLE's Comments and Requests for Conditions.

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

**OPINION OF COUNSEL**

An opinion of counsel is attached to this Application.

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

**STATES WHERE APPLICANT CARRIERS OWN PROPERTY**

Applicant BLE owns and operates railroad property in the State of Ohio and the Commonwealth of Pennsylvania. Applicant carrier URR owns and operates railroad property entirely within the Commonwealth of Pennsylvania. Applicant

carrier P&C operates railroad property entirely within the State of Ohio.

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

**MAPS - EXHIBITS 1A and 1B**

A map depicting BLE's rail lines is submitted as Exhibit 1A to this Application. Maps showing the lines of CSXT, NSR and CRC in relation to one another, short line connections, other rail lines in the territory and the principal geographic points in the region traversed are included in the materials submitted by Primary Applicants and are incorporated herein by reference. A map showing the lines over which BLE proposes to acquire trackage rights is submitted with this Application as Exhibit 1B.

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

**DESCRIPTION OF THE TRANSACTION**

The nature of the transaction herein proposed is the acquisition of certain trackage rights by BLE over lines of CSXT and NSR/PRR (now CRC) as identified in the Summary of Proposed Transaction, pp. 8-11, supra. The proposed terms and conditions of the requested trackage rights are described in the proposed form of Trackage Rights Agreement submitted with this Application as Exhibit 2.

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

**AGREEMENT - EXHIBIT 2**

A proposed Trackage Rights Agreement containing the significant terms of the proposed trackage rights is submitted with this Application as Exhibit 2.

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

**INFORMATION REGARDING THE CONSOLIDATED ENTITY**

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

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

**COURT ORDER**

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

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

**PROPERTY INVOLVED IN THE PROPOSED TRANSACTION**

BLE seeks to acquire certain trackage rights over either CSXT or NSR/PRR (now CRC). The proposed transaction does not involve any property of BLE. The properties of CSXT and NSR/PRR involved in the proposed transaction are described in the Summary of the Proposed Transaction, pp. 8-11, supra, and depicted on Exhibit 1B. The properties involved in the proposed transaction do not include all of the property of CSXT or NSR/PRR.

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

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

BLE operates approximately 350 track miles, including 150 route miles of rail line from North Bessemer, PA north to Erie, PA and Conneaut, OH. There are branch lines to Kaylor and Annandale, PA. BLE interchanges or connects with Conrail at Conneaut and Shenango. It connects with NSR at Wallace Junction, PA. BLE also interchanges with the Buffalo and Pittsburgh Railroad at Butler, PA and with the Union Railroad at North Bessemer, PA. Through the Union Railroad, BLE interchanges with Conrail, CSXT, McKeesport Connecting Railroad and the Wheeling and Lake Erie Railroad.

BLE's principal shop facilities are located at Greenville, PA and its principal offices and headquarters are at Monroeville, PA. BLE primarily handles bulk commodities, particularly coal, iron ore and limestone. Much of the traffic handled by BLE is transloaded to or from lake vessels at a rail/water dock facility on Lake Erie at Conneaut.

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

**GOVERNMENT FINANCIAL ASSISTANCE**

This criterion is not applicable to this Application because no governmental financial assistance is involved in the proposed transaction.

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

**ENVIRONMENTAL DATA**

On October 1, 1997, after consultation with the Board's Section of Environmental Analysis, BLE filed a Verified Statement of No Significant Environmental Impact (BLE-6). As established therein, the proposed trackage rights will not result in reasonably foreseeable changes in carrier operations that will exceed the thresholds established in 49 C.F.R. § 1105.7(e)(4) or (5). See BLE-6 at 4. Under 49 C.F.R. § 1105.8(b)(1) and (3), the proposed transaction also is exempt from historic preservation reporting requirements. Accordingly, no energy or environmental documentation is necessary with respect to this Application.

**SECTION 1180.8(b)**

**OPERATING PLAN/MINOR - EXHIBIT 15**

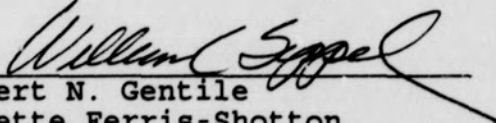
Operational data, prepared in accordance with 49 C.F.R. § 1180.8(b), is attached hereto as Exhibit 15.



WHEREFORE, Applicant BLE respectfully requests that the Board accept this Application for consideration and authorize the trackage rights proposed herein.

Respectfully submitted,

By:

  
Robert N. Gentile  
Colette Ferris-Shotton  
Transtar, Inc.  
135 Jamison Lane  
P.O. Box 68  
Monroeville, Pennsylvania 15146  
(412) 829-6890

William C. Sippel  
Kevin M. Sheys  
Thomas Lawrence, III  
Thomas J. Litwiler  
Oppenheimer Wolff & Donnelly  
Two Prudential Plaza, 45th Floor  
180 North Stetson Avenue  
Chicago, Illinois 60601  
(312) 616-1800

**ATTORNEYS FOR BESSEMER AND  
LAKE ERIE RAILROAD COMPANY**

Dated: October 21, 1997

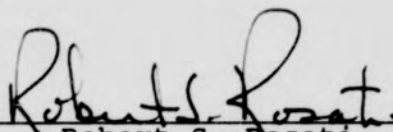
**SECTION 1180.4(c)(2)(i)**

**SIGNATURES, OATHS, AND CERTIFICATIONS  
OF APPLICANT'S EXECUTIVE OFFICERS**

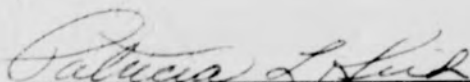
**VERIFICATION**

Commonwealth of Pennsylvania    )  
  )    SS:  
County of Allegheny                    )

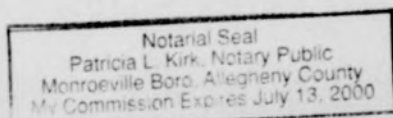
Robert S. Rosati, being duly sworn, deposes and says that he is President and Chief Executive Officer of Bessemer and Lake Erie Railroad Company, applicant herein; that he has been duly authorized and designated by Bessemer and Lake Erie Railroad Company to sign, verify and file the foregoing application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

  
\_\_\_\_\_  
Robert S. Rosati

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

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

My Commission expires:



**CERTIFICATION**

Commonwealth of Pennsylvania    )  
  )    SS:  
County of Allegheny                    )

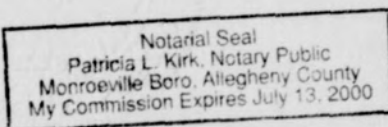
I, Colette Ferris-Shotton, am Assistant Secretary of Bessemer and Lake Erie Railroad Company, and I hereby certify that Robert S. Rosati is President and Chief Executive Officer of Bessemer and Lake Erie Railroad Company and is duly authorized and designated to sign, verify and file the foregoing Application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

*Colette Ferris Shotton*

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

*Patricia L. Kirk*  
Notary Public

My Commission expires:

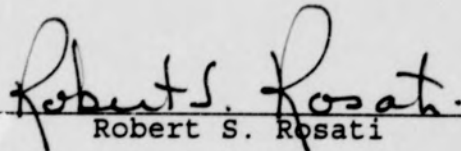




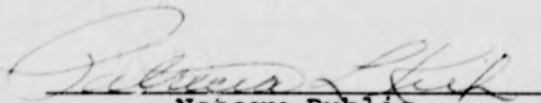
VERIFICATION

Commonwealth of Pennsylvania    )  
  )    SS:  
County of Allegeny                    )

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

  
Robert S. Rosati

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

  
Notary Public

My Commission expires:

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

CERTIFICATION

Commonwealth of Pennsylvania )  
County of Allegheny ) SS:

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

Colette Ferris Shotton

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

Patricia L. Kirk  
Notary Public

My Commission expires:

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



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

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

October 21, 1997

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

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

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To Whom It May Concern:

As counsel for Applicants Transtar, Inc. and Bessemer and Lake Erie Railroad Company, I have examined the accompanying Application for authority under 49 U.S.C. Section 11323, et seq. and 49 C.F.R. Section 1180.4(d)(4) for Bessemer and Lake Erie Railroad Company to acquire overhead trackage rights over a railroad line owned or operated by another rail carrier. I am of the opinion that the transaction described in that Application meets the requirements of the law, is within the corporate powers of Transtar, Inc. and Bessemer and Lake Erie Railroad Company and will be legally authorized and valid if approved by the Surface Transportation Board.

Respectfully submitted,

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

**COUNSEL FOR TRANSTAR,  
INC. AND BESSEMER AND  
LAKE ERIE RAILROAD COMPANY**

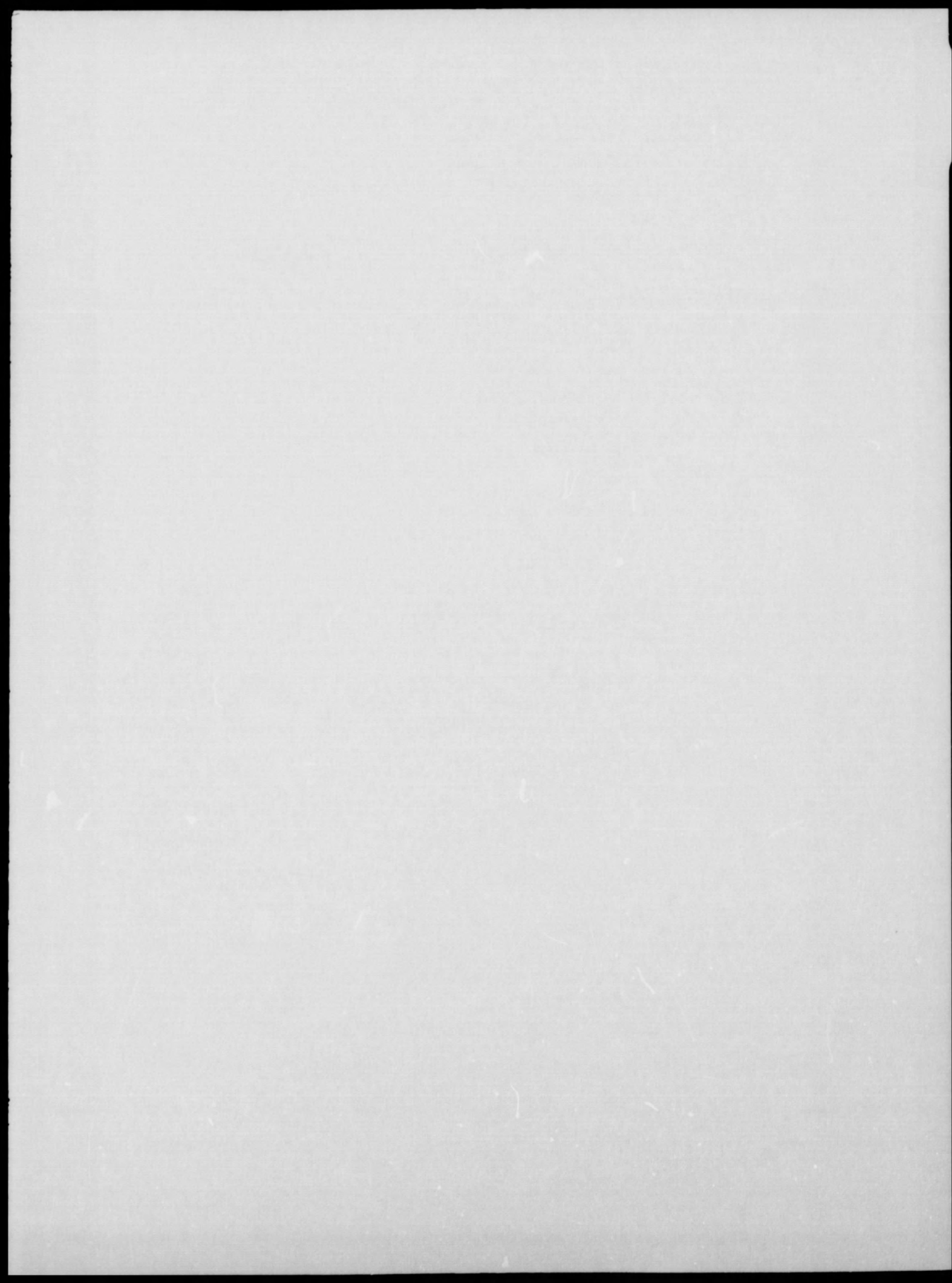
- 29 -

Operating Companies:

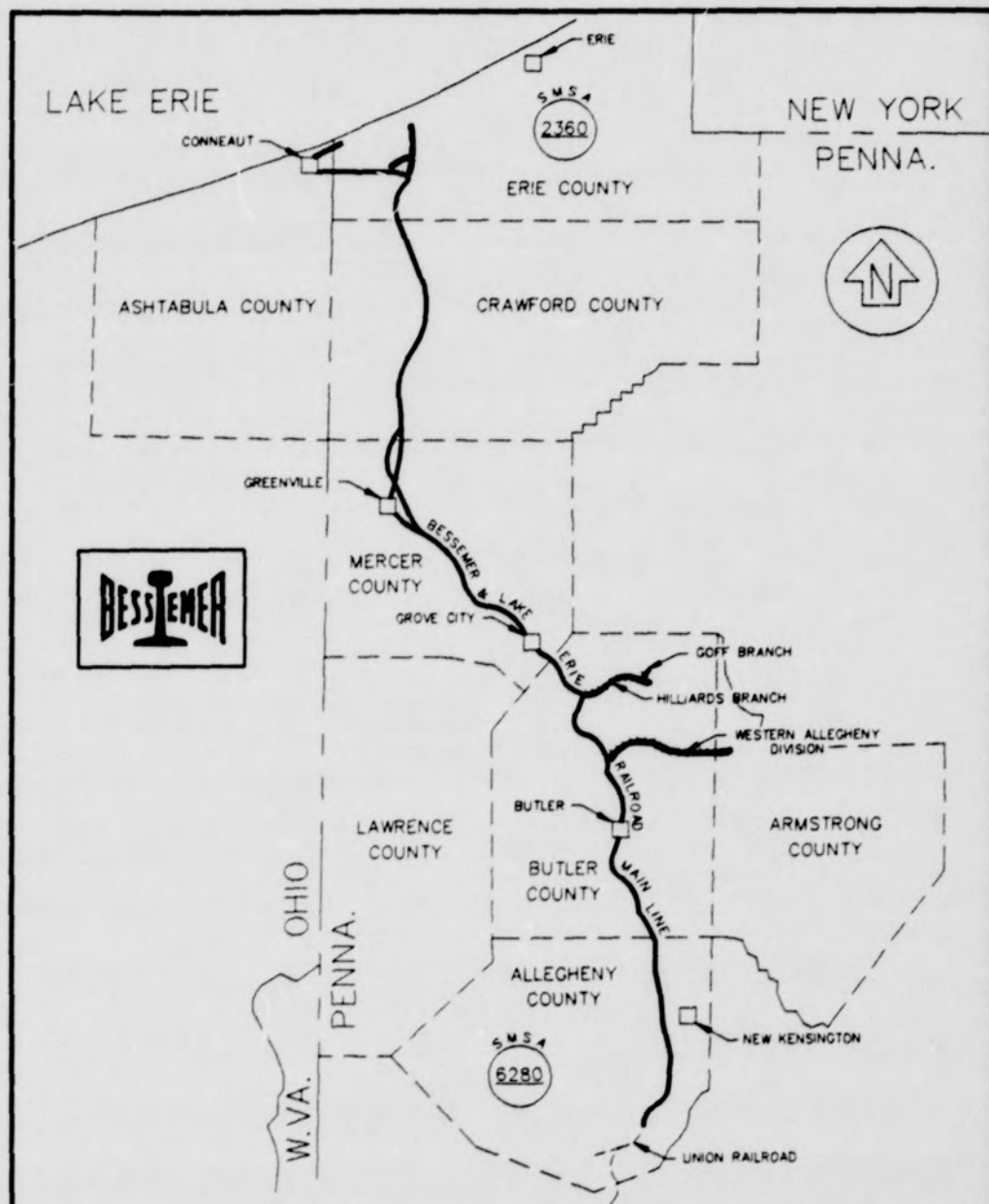
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Bessemer and Lake Erie Railroad Company • Birmingham Southern Railroad Company • Duluth Missabe and Iron Range Railway Company  
Elgin, Joliet and Eastern Railway Company • The Lake Terminal Railroad Company • McKeesport Connecting Railroad Company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

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# **BESSEMER & LAKE ERIE RAILROAD COMPANY**

**SCALE 1" = 20 MILES**

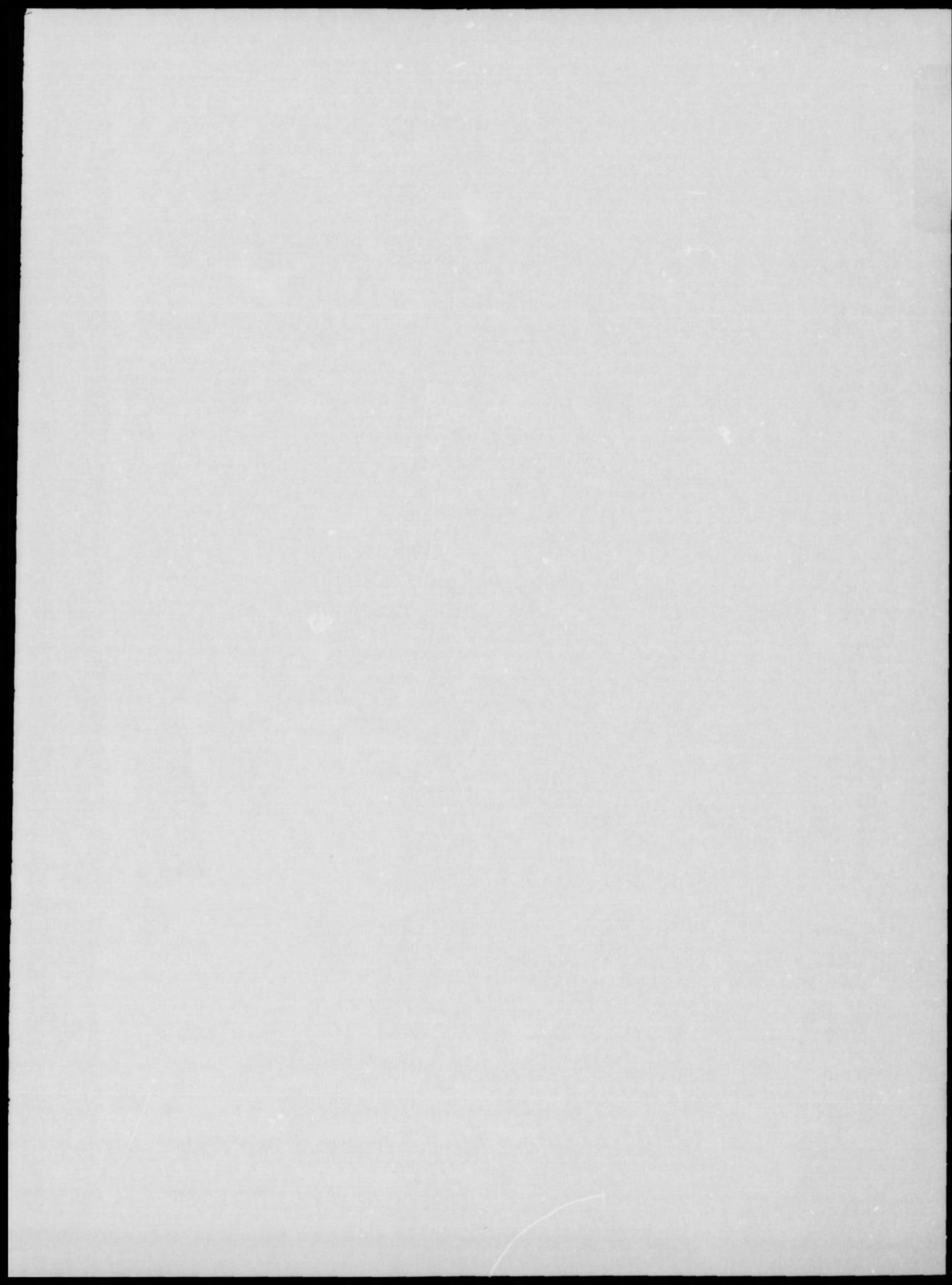
**S.M.S.A. 2360 & 6280**

**MONROEVILLE, PA.**

**DATE MARCH 1997**

**ENGINEERING SERVICES**





**DRAFT**  
**TRACKAGE RIGHTS AGREEMENT**

THIS AGREEMENT, entered into as of this \_\_\_\_ day of \_\_\_\_\_ 1998,  
by and among Bessemer and Lake Erie Railroad Company ("BLE") and CSX Transportation, Inc.  
("CSXT");

WITNESSETH:

WHEREAS, pursuant to the Order of the Surface Transportation Board, Decision  
Number \_\_, dated \_\_\_\_\_, 1998, and under the terms and conditions of the Order, CSXT has  
agreed to grant to B&LE certain trackage rights;

NOW, THEREFORE, the parties hereto, intending to be legally bound, agree as  
follows:

FIRST: CSXT hereby grants to B&LE, subject to the terms and conditions of this  
agreement, and as further governed herein below, the right to operate its trains, locomotives, cars  
and equipment with its own crews (hereinafter referred to as "Trackage Rights") over the  
following segment of railroad owned by CSXT (hereinafter referred to as the "Subject  
Trackage"):

CSXT's line of railroad (formerly the Pittsburgh & Lake Erie  
Railroad Company) between connection with B&LE (Union  
Railroad Company) at Bessemer (Pittsburgh), Pennsylvania and  
CSXT's Newell Interchange Yard near Brownsville, Pennsylvania,  
a distance of approximately 40 miles.

The Trackage Rights herein granted are granted for the sole purpose of B&LE  
using same for bridge traffic only between the terminals of Subject Trackage and B&LE shall not  
perform any local freight service whatsoever at any point located on Subject Trackage.

SECOND: BLE agrees to pay to CSXT as compensation for the use of the Trackage Right the sum of \_\_\_\_\_ per loaded freight car which it shall move over the Subject Trackage in the exercise of the permission and authority given to it in Section First of this Agreement to use the Subject Trackage for such purpose. BLE shall pay promptly bills rendered each month during the life of this Agreement for loaded freight cars moved over the Subject Trackage during the preceding calendar month.

THIRD: BLE shall have the right during normal business hours to examine the books and records of CSXT with respect to its movement of loaded cars over the Subject Trackage pursuant to this agreement.

FOURTH: Nothing in this agreement contained shall limit or abridge the right of CSXT to change, renew, repair, maintain, rearrange, reconstruct, enlarge or improve in any way the Subject Trackage as it may see fit and such may be done or caused to be done with its own or outside work forces without prior notice to or consent of BLE.

In the event of wreck or derailment suffered by locomotives, cars or trains operated by BLE on the Subject Trackage any wrecking derrick, other equipment, labor and material necessary to restore operations shall be supplied by CSXT unless it shall elect to permit such operation to be performed by BLE.

FIFTH: The maintenance, operation, repair and renewal of the Subject Trackage shall be under the sole charge and supervision and at the sole expense of CSXT.

The managing officers of the respective parties hereto or their duly authorized subordinates shall from time to time by mutual agreement make such rules, regulations and schedules as may be necessary or desirable for the safe and economical government of the various train movements of each party hereto on the Subject Trackage. The engines, trains and cars of



either party hereto shall be operated by its own employees while upon the Subject Trackage, subject, however, to said rules, regulations and schedules. Trains of each party shall have the right of way over all trains of the other party of an inferior class, but otherwise, as nearly as may be mutually practicable, equality of right shall be given to trains of the same class operated by either party. No discrimination shall be made by either party in favor of or against the other party in connection with the use of the Subject Trackage.

SIXTH: For the purpose of determining the liabilities of the parties hereto as provided in this Agreement, the terms "B&LE" and "CSXT" shall be deemed to include any tenants or licensees of said B&LE or said CSXT, as the case may be, now or at any time hereafter during the term hereof using the Subject Trackage with respect to which permission and authority is given in this Agreement.

All operators, dispatchers, agents and others (including train crews of work trains, but excluding train crews of other trains) engaged in the supervision, maintenance, repair, renewal or operation of the Subject Trackage by CSXT shall be deemed as between the parties hereto to be joint agents of the parties in respect of any liability for loss, damage or injury due to any act or omission to act pertaining to said supervision, maintenance, repair, renewal or operation, and they shall render to each party hereto such services as they may be called upon to render within the scope of their employment, and shall, upon cause shown, be removed from the service upon written request of the managing officer of either of the parties hereto, but any such persons engaged partly in said supervision, maintenance, repair, renewal or operation, and part in service not connected therewith, shall be regarded as joint agents only in respect to their actual engagement in the common service of the parties hereto.

SEVENTH: The liability of the parties hereto for loss or damage to the property of or injury to or death of any person or persons caused by, arising from, incident to, connected with or growing out of the maintenance, renewal, operation, defect in failure or use of the Subject Trackage or any part thereof, with respect to which permission and authority to use as given in this Agreement, shall be determined and borne as follows:

1. When due to the sole fault or negligence of a sole employee or employees of either of the parties hereto, shall be borne by such party;
2. When due to the concurring fault or negligence of any joint agent and a sole employee of either of the parties hereto, shall be borne by such party;
3. When due to:
  - a. The sole fault or negligence of any joint agent;
  - b. The concurring fault or negligence of any joint agent and of sole employees of both parties hereto;
  - c. The concurring fault or negligence of sole employees of both parties hereto;
  - d. The failure of or defect in any part of said lines of railroad;
  - e. Unknown causes;

shall be borne by each of the parties hereto, as to its own property or property in its custody, or on its engines, trains or cars, and as to persons upon its engines, trains or cars, and as to its own employees, while as to person (other than those specifically mentioned herein) and their property, and as to said lines of railroad and joint agents, the amount necessary to discharge such liability shall be borne equally by the parties hereto.

It is understood and agreed that notwithstanding any determination by a court or jury of negligence in an action against one of the parties to this Agreement or the compromise settlement of any claim of negligence liability as between the parties hereto shall be determined and borne in accordance with the foregoing provisions of this Section Seventh when the occurrence giving rise to any such determination or settlement shall have been caused by, incident to, connected with or

be the result of a violation either by B&LE or CSXT of any operating rule of the railroad owning the Subject Trackage upon which said occurrence took place.

EIGHTH: In every case of death or injury, due to fault occurring to employees upon the Joint Trackage of either party to this Agreement where, under the law, state or federal, compensation is required to be paid such compensation shall be distributed as in cases of liability provided for in Section Seventh of this Agreement.

In every case of death or injury occurring, without fault to a sole employee, the party hereto employing the individual so killed or injured shall be solely responsible for any compensation required by law to be paid by reason of such death or injury.

In every case of death or injury occurring, without fault to a joint agent, the compensation required by law to be paid on account thereof shall be distributed equally.

Where any such compensation shall be required to be paid in installments over a period of years, the future payments shall be distributed between the parties hereto in the same ratio as the first payment. Neither party shall be released from the payment of its share of any such future installments, for which it may have become liable, by the cancellation or termination of this Agreement.

NINTH: In case any suit shall be commenced against either party hereto, for or on account of any damage or injury, for whom the other party hereto is liable under this Agreement, the party so sued shall give to the other party notice in writing of the pendency of such suit, and thereupon such other party shall and will assume the defense of such suit and shall and will indemnify, save and hold harmless the party so sued, from all loss, cost and expense by reason thereof.

Neither party hereto shall be concluded by any judgment against the other party hereto, unless it shall have had reasonable notice that it was required to defend, and reasonable opportunity to make such defense. When such notice and opportunity shall have been given, the party notified shall be concluded by the judgment as to all matters which could have been litigated in such suit.

TENTH: Neither party shall have a claim for damages against the other party for any delay to or interruption of traffic from any cause (other than the willful act or default of the other party) or for damage or injury to person or property by reason of such delay or interruption of traffic.

ELEVENTH. The rights of each party under this Agreement shall be dependent upon the prompt payment of all monies payable by it hereunder and the faithful performance by it of all of its obligations hereunder. If either party hereto shall fail to pay when payable the sums herein required to be paid by it or shall fail to perform any of the covenants herein required to be performed by it and shall continue in default with respect thereto for a period of thirty (30) days, the other party may, at its option, at any time during the continuance of such default, give to the defaulting party written notice that if such default shall continue for a further period of thirty (30) days, this Agreement will be terminated and annulled, and if such default shall continue for such further period of thirty (30) days, this Agreement at the option of the party not so in default may then be terminated and annulled and such party then may exclude the defaulting party from any further use and enjoyment of any rights given or obtained pursuant to this Agreement. In the event, however, of the termination of this Agreement, as aforesaid, the party not so in default shall have the right notwithstanding such termination to enforce against the defaulting party any obligation or liability which shall have accrued pursuant to any provision of this Agreement.



TWELFTH: This Agreement shall become effective on the date first above written, and shall remain in effect until the 25th anniversary of such date, and shall continue in effect thereafter unless and until terminated by either party upon six (6) months written notice.

THIRTEENTH: In case any difference of opinion shall arise under this Agreement between the parties hereto, the same may be submitted to two arbitrators, one of whom shall be appointed by the President or a Vice President of B&LE and the other by the President or a Vice President of CSXT; and these two arbitrators shall select a third, who shall be a disinterested party. If either of the parties hereto shall fail to appoint an arbitrator within thirty (30) days after written request by the other party to make such appointment, the arbitrator appointed by the other party shall have the right to appoint the second arbitrator and the two arbitrators so chosen shall select a third, and in case the two arbitrators appointed by the parties hereto in the manner aforesaid shall fail within thirty (30) days after their appointment to select a third arbitrator, such third arbitrator, on the application of either party hereto, may be appointed by any judge of the District Court of the United States for the Western District of Pennsylvania.

The arbitrators so chosen shall hear and decide all questions of difference submitted to them in writing, and their decision, or that of a majority of them, shall be final and binding upon the parties hereto.

Each party hereto shall pay one-half of the cost and expenses of such arbitration.

FOURTEENTH: It is understood and agreed that any notice or demand in this Agreement provided shall be deemed to have been given or made properly if and when placed in the United States mail, registered and addressed to the B&LE at its offices in Monroeville, PA, or to CSXT at its offices in Jacksonville, Florida.



FIFTEENTH: All the covenants and stipulations herein contained and the rights given shall inure to the benefit of and be binding upon the successors and assigns of the respective parties hereto, provided, however, that no assignment, transfer, lease or sub-lease by either party of any of the rights hereby granted to it, otherwise than in connection with the assignment, transfer or lease of all of the railroad property of such party, shall be made without the written consent of the other party, and any such assignment, transfer, lease or sub-lease made without the consent of the other party shall be absolutely void.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective officers and their corporate seals to be hereunto affixed and attested by their respective secretaries, the day and year first above written.

BESSEMER AND LAKE ERIE RAILROAD COMPANY

By: \_\_\_\_\_

ATTEST:

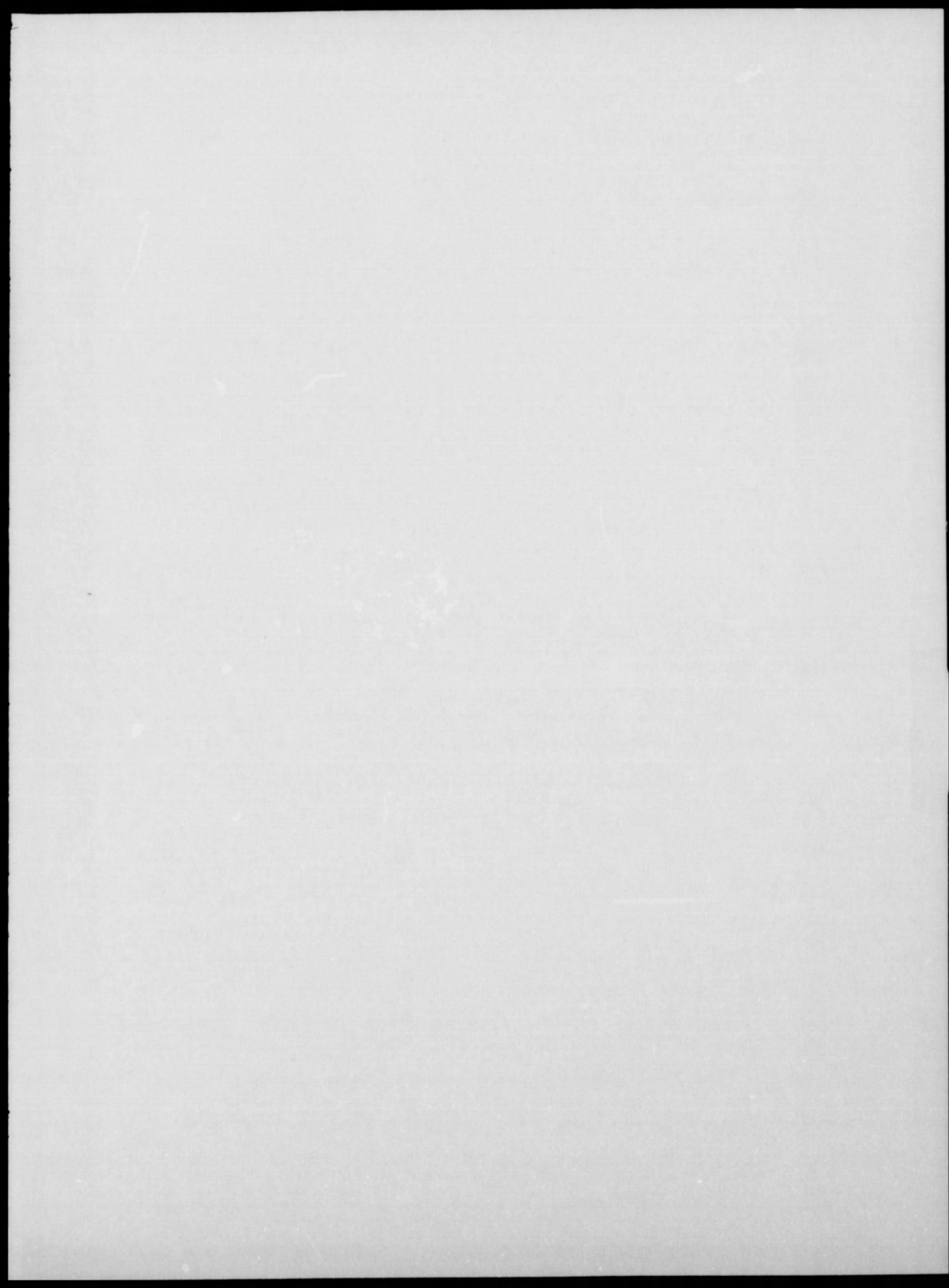
\_\_\_\_\_  
Secretary

CSX TRANSPORTATION, INC.

By: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Secretary



Section 1180.8(b)(1)-(4)

OPERATING PLAN

I. INTRODUCTION

Pursuant to the requirements of Section 1180.8(b)(1)-(4) of the Surface Transportation Board procedures, this Operating Plan describes the proposed operations of the Union ("URR") and Bessemer and Lake Erie ("B&LE") Railroads on each rail line segment of CSXT and Conrail over which the B&LE seeks certain trackage rights as conditions upon any approval of the transaction contemplated by the Primary Applicants. The Operating Plan is based in part on and should be read in conjunction with the Responsive Application and its other exhibits, attachments and verified statements submitted herewith, including the verified statement of James E. Streett (B&LE Superintendent Operations).

As described herein, the primary impact on B&LE's operations from the trackage rights sought is the extension of B&LE's operations from its current limits to CSXT's Newell Interchange Yard and/or Conrail's Shire Oaks Yard to gain access to coal originating from rail lines on the former Monongahela Railway ("MGA"). MGA-origin coal will move to Newell or Shire Oaks under a haulage arrangement with NSR. This coal would then be moved by URR and B&LE to B&LE's facilities at Conneaut, Ohio and transloaded into vessels traversing the Great Lakes to various destination.

Operational information relevant to each rail line segment over which the B&LE seeks trackage rights is set forth below.

## II. RELEVANT OPERATIONAL INFORMATION

### A. Description of Trackage Rights and Proposed Operations

The relevant rail line descriptions over which B&LE seeks limited overhead trackage rights are as described below:

(1) Conrail's Mon Line between the connection with B&LE (URR) at Pittsburgh (Duquesne), Pennsylvania and Conrail's Shire Oaks Yard in Shire Oaks, Pennsylvania, a distance of approximately 14 miles. This Conrail line has been assigned to NSR in the division of Conrail's assets, and upon consummation of the Primary Application, if approved, will be owned by Pennsylvania Lines LLP ("PRR").

(2) CSXT's line of railroad (formerly the Pittsburgh & Lake Erie Railroad Company, "PLE") between the connection with B&LE (URR) at Bessemer (Pittsburgh), Pennsylvania and CSXT's Newell Interchange Yard near Brownsville, Pennsylvania, a distance of approximately 40 miles.

It is anticipated that all movements over the trackage right lines would be conducted for B&LE by URR. URR would utilize its crews and B&LE power to handle movement of trains with cars in the account of B&LE, unless alternative operations would prove more efficient. B&LE trains would move from Shire Oaks or Newell

into and out of the MGA lines under a haulage arrangement with NSR.

In the event B&LE is granted trackage rights over the CSXT line described above, the B&LE/URR operation will be a southerly extension of the current interchange. B&LE now effects interchange with CSXT via URR at Dexter yard. This yard is owned by CSXT and dispatcher controlled by the URR in Duquesne. CSXT pulls cars from Dexter yard (interchange) and prepares cars for outbound movement in CSXT's Demler Yard. This yard is connected to CSXT's Riverton Yard (formerly part of the PLE). URR crews with authority from CSXT yardmaster at Glenwood, would move through Demler yard to Riverton yard to connect to CSXT trackage running between McKeesport and Newell. A distance of approximately 40 miles. This is single track, river route, non signaled, controlled by CSXT dispatcher in Jacksonville. It is anticipated that URR train activity would be able to move with minimum delay on this line with existing CSXT volume.

Should the Board grant B&LE trackage rights over the existing Conrail lines, B&LE (via URR) will gain access to Conrail's interlocking at Duquesne and move approximately 14 miles to Conrail's Shire Oaks Yard to deliver empty unit train sets and depart with loaded coal trains for movement via B&LE to Conneaut, Ohio. The B&LE (via URR) interchanges with Conrail at three different locations on the south side of the Monongahela River at Duquesne, Munhall and Clairton. Therefore, access to the Conrail line segment can be gained through Duquesne via existing trackage currently in service.



B&LE marketing forecasts indicate the availability of one to three million tons of MGA-origin coal that could move on B&LE via the trackage rights proposed in this proceeding. Assuming B&LE were to handle two million tons of such coal, it would require operation of approximately four trains per week over the trackage right lines with each train handling about 10,000 in coal tonnage. This service would require the addition of eight engine and train crews per week on each of the URR and B&LE.

The URR and B&LE operation would be turnaround service. URR crews would go on and off duty at the Mon Junction Hump Yard in Duquesne, PA and move empties from North Bessemer to Shire Oaks or Newell and loads in the opposite direction. The B&LE crews would go on duty at Greenville, PA and run empties to North Bessemer. There, the B&LE crew would meet and swap trains with the URR crew and return to Greenville with the loaded coal train for movement to the port at Conneaut by another B&LE crew. Operating conditions on the line will permit these crews to complete their service within Hours of Service Act requirements.

B. Existing Operations and Traffic Density

Existing operations are as described in the Applicants Primary Application. Traffic densities on these lines are not expected to change under B&LE's proposed operations. Depending on the demand for MGA-origin coal, traffic densities on these lines may experience typical market-driven incremental fluctuations. Essentially, the impact of the trackage rights will be that a portion of the MGA-origin coal now moved over the

lines by CSXT or Conrail will be moved by URR in the account of B&LE.

C. Commuter Operations

There are no commuter or other passenger operations or any of the rail lines over which B&LE seeks trackage rights.

D. Operating Economies

The operating economies to be gained are principally in enhanced utilization of the Lake Erie rail to vessel port facilities and better use of railroad equipment, with the more important end result being improved customer service. Currently, Ashtabula Dock is operating at full capacity. Its loading and storage capabilities are overburdened with existing traffic. Today, Conrail is forced to divert some of its Northern Appalachia coal destined for Ashtabula in excess of 120 miles west to the ports of Toledo and Sandusky, Ohio. That is clearly not efficient and over the long term it will require that a higher price be extracted from the customer for such service. With further increases in production projected from the Pittsburgh Seam longwall mines, the situation will likely get worse.

The Conneaut Dock facilities are underutilized and moving MGA-origin coal to that facility will alleviate the congestion and diversion of traffic occurring at Ashtabula. The Conneaut Dock coal terminal facilities are second to none on Lake Erie. Conneaut has more loading and storage capabilities than does Ashtabula, and it has two shiploaders as opposed to one at

Ashtabula. When used jointly these shiploaders can reduce shiploading time by three to four hours per vessel. Hence, moving MGA-origin coal through Conneaut will increase the overall efficiency of Lake Erie port facilities in transloading coal to vessels.

Moreover, by avoiding Ashtabula, the overall transit time for the MGA-origin coal traffic will improve. This will not only provide better customer service, but it will also improve utilization of railroad equipment. Coal hopper cars and locomotive power will be turned and placed back into service faster resulting in lower equipment needs. The mines should experience reduced waiting time for equipment and service and the ultimate end user will get the coal faster and more efficiently.

E. Abandonments or Discontinuances

There are no abandonments or discontinuances anticipated on any rail lines as a result of the trackage rights sought by B&LE.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of October, 1997, a copy of the foregoing **Responsive Application of Bessemer and Lake Erie Railroad Company (BLE-7)** was served by first class mail, postage prepaid, upon the following parties designated in 49 C.F.R. § 1180.4(c)(5):

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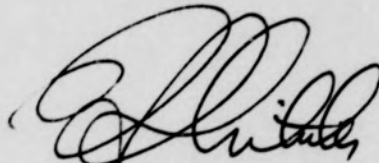
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and by first class mail, postage prepaid, upon all designated parties of record appearing on the Surface Transportation Board's official service list in this proceeding, served August 19, 1997 and revised on October 7, 1997.



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Thomas J. Litwiler