

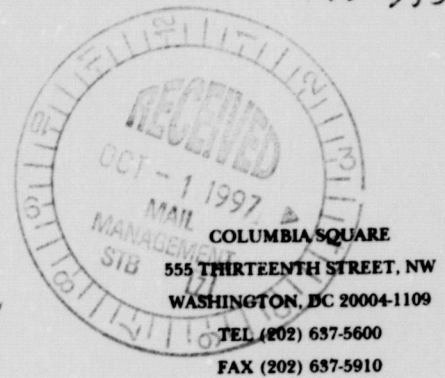
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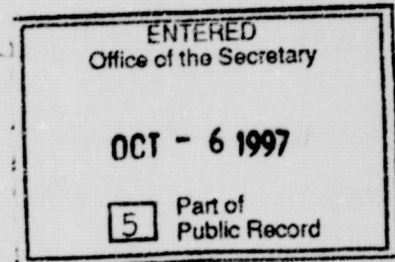
October 1, 1997

GEORGE W. MAYO, JR.
PARTNER
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BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary, Surface Transportation Board
Case Control Branch
ATTN: STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001



SUB85

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

Dear Secretary Williams:

Enclosed for filing in the above-referenced docket are an original and twenty-five copies of the Verified Statement of Paul D. Gilmore Concerning Environmental and Historic Reporting Requirements, submitted on behalf of the Delaware and Hudson Railway Company, Inc. and the other Canadian Pacific Parties. Also enclosed is a 3.5-inch diskette, formatted for WordPerfect 5.x for Windows, which can be converted to WordPerfect 7.0, containing the pleading.

Thank you for your assistance.

Sincerely,

George W. Mayo, Jr.
Attorney for Canadian Pacific
Railway Company, Delaware and
Hudson Railway Company, Inc.,
Soo Line Railroad Company, and
St. Lawrence & Hudson Railway
Company Limited

GWM:jms

BRUSSELS LONDON MOSCOW PARIS* PRAGUE WARSAW

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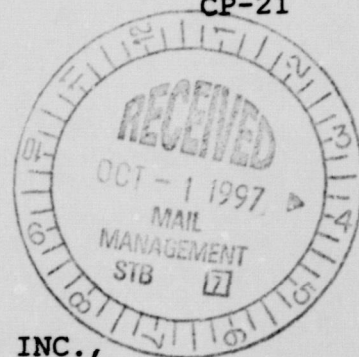
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*Affiliated Office

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



VERIFIED STATEMENT OF
PAUL D. GILMORE
CONCERNING ENVIRONMENTAL AND
HISTORIC REPORTING REQUIREMENTS

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October 1, 1997

BEFORE THE
SURFACE TRANSPORTATION BOARD

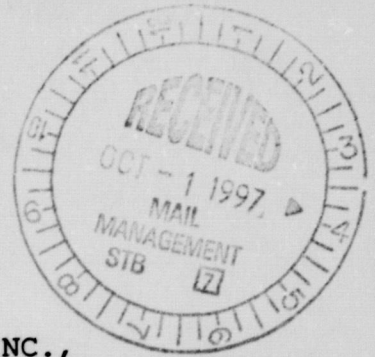
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CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
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-- CONTROL AND OPERATING LEASES/AGREEMENTS --
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

VERIFIED STATEMENT OF
PAUL D. GILMORE
CONCERNING ENVIRONMENTAL AND
HISTORIC REPORTING REQUIREMENTS

My name is Paul D. Gilmore. I am President of the Delaware and Hudson Railway Company, Inc. ("D&H").

I am submitting this Verified Statement pursuant to Decision No. 12 in this proceeding, which directs each party intending to submit a responsive application to either submit environmental documentation required under the Board's rules in regard to the transactions proposed in the responsive application, or to certify that under the Board's rules such transactions are exempt from any requirement of environmental documentation. Based on the information currently available to me, it is my judgment that the D&H responsive application falls into the latter category, and that the Board's rules do not require any environmental documentation regarding the transactions proposed under that application.



1. The D&H Responsive Application

The responsive application to be filed by D&H will seek the following relief:

(1) Reciprocal Switching. D&H will seek access through reciprocal switching rights (including without limitation intermediate switching rights) at non-discriminatory rates with respect to:

(a) North Jersey Shared Assets Area, including without limitation all existing and future customers, facilities, Port terminals, and shortline railroads within that area, which reciprocal switching rights will be utilized via appropriate Conrail shared assets facilities, which in turn will be accessed via D&H's Oak Island, NJ yard, and via D&H's trackage rights;

(b) South Jersey/Philadelphia Shared Assets Area, including without limitation all existing and future customers, facilities, Port terminals and shortline railroads within that area (which area includes without limitation the current Philadelphia switching district and north section of the Belt Line Railway), which reciprocal switching rights will be utilized via appropriate Conrail shared assets facilities, which in turn will be accessed via D&H's existing Philadelphia facilities;

(c) Buffalo-Niagara Frontier terminal area, including without limitation elimination of restrictions on current D&H reciprocal switching rights within that area; and

(d) Baltimore, MD terminal area, including without limitation all existing and future customers, facilities,

Port terminals and shortline railroads within the area. (To the extent that utilization of these reciprocal switching rights require agreement with Amtrak, D&H will pursue negotiation of the necessary Amtrak agreement; Conrail-related limitations on Amtrak's right to permit D&H to interchange traffic in connection with D&H's current trackage rights over Amtrak's lines would be eliminated under item 2 below).

(2) Elimination of Particular Restrictions in D&H's Existing Trackage Rights. D&H will seek elimination of particular restrictions contained in its existing trackage rights over Conrail lines, which restrictions are an outgrowth of ill-advised Final System Plan limitations on those rights. This will include elimination of the Amtrak-related restriction referenced in item 1(d) above, whether derived from the Final System Plan or contract. These restrictions serve to limit D&H's ability to carry particular types of traffic over certain Conrail (and Amtrak) lines and to interchange with particular carriers. In addition, D&H will seek certain de minimis trackage rights to make the elimination of the aforementioned restrictions effective.

(3) Trackage Rights. D&H will seek the following trackage rights:

(a) To provide a single-line competitive service to the shippers of New York and Long Island and provide an alternate competitive connection to the New York and Atlantic

Railroad at Fresh Ponds, NY, D&H will seek full service trackage rights at non-discriminatory rates over the following route:

- over Conrail (CSX) trackage between Schenectady, NY and Poughkeepsie, NY;
- over Metro-North trackage between Poughkeepsie, NY and New York City (to the extent necessary, D&H will negotiate these trackage rights with Metro-North; D&H seeks only removal of any Conrail restrictions that would limit grant of these trackage rights to D&H); and
- then on to Conrail (CSX) trackage to Fresh Ponds, NY.

(b) To provide a single-line competitive service to the shippers of the New York service area, D&H will seek overhead trackage rights at non-discriminatory rates over the following route:

- over Conrail (CSX) trackage between its junction with the D&H at Kenwood Yard in Albany, NY, including Selkirk, NY as an intermediate point, and D&H's Oak Island, NJ terminal and/or the appropriate shared assets terminal in the North Jersey Shared Assets Area, including the right to serve directly Port of New York and New Jersey facilities.

As to the trackage rights requests D&H proposes to operate one train a day each way over each of the two sets of lines that would be subject to those rights.

2. Applicability of the Board's Environmental and Historic Report Rules

Environmental Information. The Board's rules require an environmental assessment if an operational change proposed in

a responsive application would exceed any of the thresholds established in Sections 1105.7(e)(4) or (5). 1/ 49 C.F.R. § 1105.6(b)(4)(i). To the same effect, the rules provide that no environmental documentation would normally be required for any action proposed in a responsive application that does not result in significant changes in carrier operations, which are defined as changes that do not exceed the thresholds established in Sections 1105.7(e)(4) or (5). Id., § 1105.6(c)(2). The Board's rules also provide that no environmental documentation will normally be required for common use of rail terminals and trackage rights. Id., § 1105.6(c)(4).

As explained below, no environmental documentation is required for the D&H responsive application because it does not propose any operational changes that would exceed any of the relevant thresholds. In addition, no such documentation is required for the application because, in substance, it proposes common use of rail terminals (through reciprocal switching) and trackage rights, matters which are specifically exempted from environmental requirements.

In regard to the thresholds established under the Board's rules, the D&H responsive application would not effect any operational changes that would exceed those thresholds:

1/ All section references are to Title 49 of the Code of Federal Regulations.

- It would not cause diversions from rail to motor carriage of more than 1,000 carloads per year. 49 C.F.R. § 1105.7(e)(iv)(A).

- It would not cause diversions from rail to motor carriage of more than an average of 50 rail carloads per mile per year for any part of the affected lines. Id., § 1105.7(e)(iv)(B).

- It would not result in an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase in 8 trains a day on any segment of rail line affected by the proposal. Id., § 1105.7(e)(5)(i)(B).

- It would not result in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment. Id., § 1105.7(e)(5)(i)(c).

Similarly, as to the lower thresholds established by the Board's rules for nonattainment areas under the Clean Air Act, the D&H responsive application would not effect any operational changes that would exceed those thresholds:

- It would not cause an increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least 3 trains a day on any segment of rail line. 49 C.F.R. § 1105.7(e)(5)(ii)(A).

- It would not result in an increase in rail yard activity of at least 20 percent (measured by carload activity). 49 C.F.R. § 1105.7(e)(5)(ii)(A).

• It would not result in an average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on a given road segment. Id., § 1105.7(e)(5)(ii)(C).

As to those elements of D&H's responsive application relating to reciprocal switching and the elimination of certain restrictions on existing D&H operating rights, I reach the conclusions set forth above based on the fact that generally speaking, the proposed relief will result in D&H retaining essentially the same volume of traffic as it is currently moving; no material shifts of traffic away from existing routings would occur as a result of this requested relief. This will be made clear in the operating plan and supporting operating testimony that D&H will be filing in this proceeding on October 21, 1997.

With respect to the trackage rights D&H is seeking over Conrail lines on both the East and West sides of the Hudson River, D&H proposes to run only one train a day (each way) over each line. Applicants' traffic data shows that the line on the East side of the Hudson handled between 21 and 146 trains per day, and between 6 and 34 million gross tons, in 1995. Application, Vol. 3A of 8, at 411, 469. As for the line on the West side of the Hudson, it handled between 22.2 and 23.6 trains per day, and between 41 and 42 million gross tons, in 1995. Id. at 448, 470. With these existing train densities and traffic tonnages, D&H's proposed trackage rights will not trigger any of

the potentially applicable thresholds. D&H will elaborate on this in its October 21 operating plan and testimony.

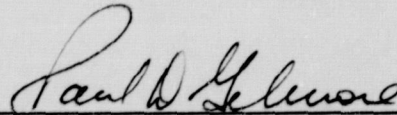
Historic Report. As for the Board's Historic Report requirements, D&H's responsive application does not require any historic documentation. First, because the application will not trigger any of the above-described environmental documentation thresholds, it does not propose an action identified in Sections 1105.6(a) or (b), and hence no Historic Report documentation is required. 49 C.F.R. § 1105.8(a). Second, the application does propose an action in Section 1105.6(c) that will result "in the lease, transfer, or sale of a railroad's line, sites or structures." Id., § 1105.8(a). Finally, the application will propose "[t]rackage rights, common use of rail terminals, common control through stock ownership or similar action which will not substantially change the level of maintenance of railroad property," actions which are specifically excepted from historic reporting requirements. Id., § 1105.8(b)(3).

* * * *

For the reasons set forth above, based on the facts currently known to me, it is my judgment that under the applicable Board rules no environmental or historic documentation is required for D&H's responsive application.

VERIFICATION

I, Paul D. Gilmore, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Further, I certify that I am qualified and authorized to file this verified statement. Executed on September 29, 1997.



Paul D. Gilmore

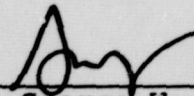
CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of October, 1997,
I served by the means indicated below a copy of the foregoing
Verified Statement of Paul D. Gilmore Concerning Environmental
and Historic Reporting Requirements on the following:

The Honorable Jacob Leventhal
Administrative Law Judge
Federal Energy Regulatory Commission
888 First Street, NE, Suite 11F
Washington, DC 20426
(by hand)

Counsel for Applicants
(by hand or first-class mail)

Counsel for all parties of record
(by first-class mail)



George W. Mayo, Jr.