

STB

FD-33388 (SUB 91)

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Public Record

The Columbus & Ohio River Rail Road Company
Mahoning Valley Railway Company
Ohio Central Railroad, Incorporated
Warren & Trumbull Railroad Company
Aliquippa & Ohio River Railroad Company

Youngstown Belt Railroad Company
Ohio and Pennsylvania Railroad Company
Ohio Southern Railroad, Incorporated
Youngstown & Austintown Railroad Company
Pittsburgh & Ohio Central Railroad Company

William A. Strawn II, President

47849 Paper Mill Road
Coshocton, OH 43812
Phone (740)-622-8092 * FAX (740)-623-4529



April 15, 2004

The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

210623

Re: STB Finance Docket No. 33388 (Sub-No. 91)
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 (General Oversight)

Dear Secretary Williams:

This is the Ohio Central Railroad, Incorporated's notice to the Surface Transportation Board that the Ohio Central Railroad, Incorporated, intends to appear and speak at the public hearing scheduled for May 3, 2004, in Washington, D.C. William A. Strawn, II, President, will speak on behalf of CSX Transportation, Inc. The Ohio Central Railroad, Incorporated, requests a total of five minutes to speak. The Ohio Central Railroad, Incorporated, does not plan to file a written statement prior to the hearing.

Yours truly,

William A. Strawn, II

William A. Strawn, II
President

STB

FD-33388 (SUB 91)

04/16/04

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210631

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VIA FEDERAL EXPRESS

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, DC 20006

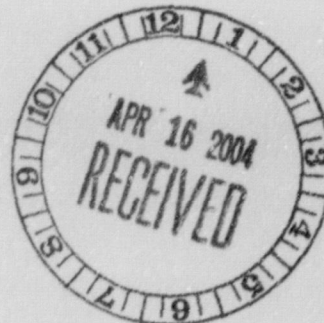
21063)
April 15, 2004

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ENTERED
Office of Proceedings

APR 19 2004

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Public Record



Re: **Finance Docket No. 33388 (Sub-No. 91)**
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 (General Oversight)

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of Wheeling & Lake Erie Railway Company's Notice of Intent to Speak at May 3, 2004 Public Hearing, dated April 14, 2004.

One extra copy of this transmittal letter and the Notice of Intent to Speak are included as well. I would request that you date-stamp those copies to show receipt of this filing and return them to me in the provided envelope.

Please contact me if you have any questions.

Respectfully submitted,

William C. Sippel
Attorney for Wheeling & Lake Erie
Railway Company

WCS/pj

Enclosures

cc: Parties on Certificate of Service

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388 (SUB-NO. 91)

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

(GENERAL OVERSIGHT)

**WHEELING & LAKE ERIE RAILWAY COMPANY'S
NOTICE OF INTENT TO SPEAK AT MAY 3, 2004 PUBLIC HEARING**

William A. Callison
Vice President Law & Government Affairs
Wheeling & Lake Erie Railway Company
100 East First Street
Brewster, Ohio 44613
(330) 767-3401

William C. Sippel
Thomas J. Litwiler
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

**ATTORNEYS FOR WHEELING & LAKE ERIE
RAILWAY COMPANY**

Dated: April 15, 2004



BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE MARKET NO. 33388 (SUB-NO. 91)

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

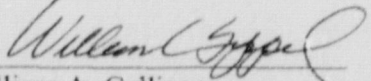
(GENERAL OVERSIGHT)

**WHEELING & LAKE ERIE RAILWAY COMPANY'S
NOTICE OF INTENT TO SPEAK AT MAY 3, 2004 PUBLIC HEARING**

Pursuant to the Board's Decision No. 12 served February 12, 2004, Wheeling & Lake Erie Railway Company ("W&LE") hereby notifies the Board of its intent to speak at the May 3, 2004 public hearing in this proceeding. Larry Parsons, Chairman and Chief Executive Officer of W&LE, will speak on behalf of W&LE and requests ten (10) minutes to speak.

Respectfully submitted,

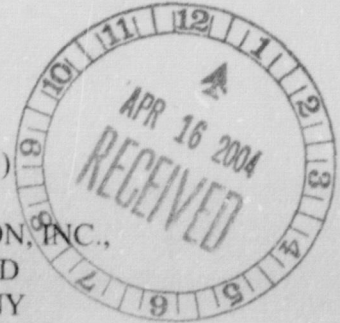
By:


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Fletcher & Sippel LLC
29 North Wacker Drive, Suite 920
Chicago, Illinois 60606-2832
(312) 252-1500

**ATTORNEYS FOR WHEELING & LAKE ERIE
RAILWAY COMPANY**

Dated: April 15, 2004

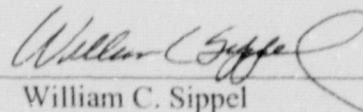


CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of April, 2004, a copy of **Wheeling & Lake Erie Railway Company's Notice of Intent to Speak at May 3, 2040 Public Hearing** was served by overnight delivery upon:

Dennis G. Lyons
Arnold & Porter
555 12th Street, N.W.
Washington, DC 20004-1202

Richard A. Allen
Zuckert, Scoutt & Rasenberger, LLP
888 Seventeenth Street, N.W.
Suite 600
Washington, DC 20006-3939


William C. Sippel

STB FD-33388 (SUB 91) 04/16/04 D 210625

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Hon. Vernon A. Williams
Secretary
Surface Transportation Board
Mercury Building, #711
1925 K Street, N.W.
Washington, DC 20423-0001

Re: STB Finance Docket No. 33388 (Sub-No. 91)
CSX Corporation et al. - Control and Operating Leases /
Agreements - Conrail Inc. et al. (General Oversight)

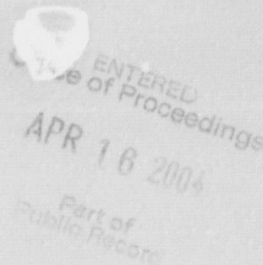
Dear Secretary Williams:

Pursuant to Decision No. 12 issued in the above-referenced proceeding on February 12, 2004, please be advised that the following shippers each wish to speak at the May 3, 2004 hearing at the Board in Washington, D.C. as indicated:

PA Distribution	Tim Rickenbaugh	5 minutes
Clark's Feed Mill	Rob Clark or Dennis Reitz	5 minutes

At the current time, the undersigned plans to attend with the shippers in the event the Board has legal issues it wants to have addressed.

Both shippers are located on lines served by the railroads controlled by Richard Robey in the area serviced by the SEDA-COG Joint Rail Authority ("JRA"). The shippers are part of the shippers group that has previously filed statements in support of the JRA's filings in the previous rounds of the oversight proceeding, but they handle different types of commodities, [largely] from different locations. The shippers understand that JRA will also be requesting the opportunity to speak. The shippers will attempt to coordinate their presentations with each other and with JRA to avoid undue repetition.



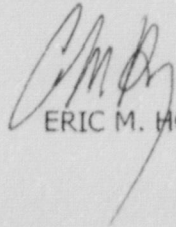
April 15, 2004
VIA: UPS Overnight



Vernon Williams
April 15, 2004
Page 2

An original and ten (10) copies of this letter are enclosed for filing of record in this proceeding. Please time stamp the extra copy of this letter to indicate receipt, and return it to me in the stamped self-addressed envelope provided for your convenience.

Respectfully,



ERIC M. HOCKY

Enclosures

STB

FD-33388

(SUB 91)

04/16/04

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210620



U.S. Department of
Transportation

Office of the Secretary
of Transportation

General Counsel

400 Seventh St., S.W.
Washington, D.C. 20590

210620

April 16, 2004

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

Re: Finance Docket No. 33388 (Sub-No. 91)

Dear Secretary Williams:

Pursuant to Decision No. 12 in the above-referenced proceeding, the United States Department of Transportation hereby gives Notice of its intention to participate in the public hearing to be held May 3, 2004. The undersigned will appear on behalf of the Department, and requests an allotment of five (5) minutes' time.

Thank you for your assistance in this matter.

Respectfully submitted,

Paul Samuel Smith
Senior Trial Attorney
(202) 366-9280

Other Submissions

In order to process your filing, please fill out the following information. If you do not know the docket number, please leave it blank and we will fill it out for you.

Please fill out the following information to help us complete your filing:

Docket #: FD -33388 -(Sub-No. 91)

Subject: *	Notice of Intent
First Name: *	Paul
Middle Name:	Samuel
Last Name: *	Smith
Address: *	400 Seventh Street, S.W. C-30
City: *	Washington
State: *	D.C.
Zip Code: *	20590-
Email Address: *	Paul.smith@ost.dot.gov
Group/Affiliation:	U.S. Department of Transportation
Message:	Attached hereto is the U.S. Department of Transportation's Notice of Intent to participate in the oral hearing in the above-referenced proceeding, scheduled for May 3, 2004.

STB

FD-33388

(SUB 91)

04/16/04

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Pennsylvania Department of Community and Economic Development
Office of Chief Counsel

John M. Whitlock
Deputy Chief Counsel

April 16, 2004

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Room 711
Washington, D.C. 20423-0001

Re: STB Finance Docket No. 33388 (Sub-No. 91),
CSX Corporation, et al. -- Control and
Operating Leases/Agreements -- Conrail Inc. et al.
(General Oversight)

Dear Secretary Williams:

Enclosed for electronic filing in the referenced proceeding, please find a Notice of Intent of the Commonwealth of Pennsylvania and a certificate of service, in both Microsoft Word and Portable Document Format versions.

Very truly yours,

John M. Whitlock

Enclosure

BEFORE THE
SURFACE TRANSPORTATION BOARD

CSX CORPORATION AND CSX)	
TRANSPORTATION, INC., NORFOLK)	
SOUTHERN CORPORATION AND)	
NORFOLK SOUTHERN RAILWAY)	Finance No. 33388 (Sub- No. 91)
COMPANY -- CONTROL AND)	(General Oversight)
OPERATING LEASES/AGREEMENTS)	
CONRAIL INC. AND CONSOLIDATED)	
RAIL CORPORATION)	

NOTICE OF INTENT

The Commonwealth of Pennsylvania, acting by and through its undersigned counsel ("Pennsylvania"), hereby submits this Notice of its intent to appear and speak at the general oversight hearing scheduled for May 3, 2004. Pennsylvania requests that it be allotted ten (10) minutes to make its presentation. Pennsylvania will advise the Board of the identity of its speaker in advance of the hearing.

Respectfully submitted this 16th day of April 2004

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
OFFICE OF CHIEF COUNSEL
400 North Street, Fourth Floor
Harrisburg, PA 17120
(717) 783-8452
FAX (717) 772-3103

By: _____
John M. Whitlock
Deputy Chief Counsel
PA. Bar. I.D. No. 35961

BEFORE THE
SURFACE TRANSPORTATION BOARD

CSX CORPORATION AND CSX)	
TRANSPORTATION, INC., NORFOLK)	
SOUTHERN CORPORATION AND)	
NORFOLK SOUTHERN RAILWAY)	Finance No. 33388 (Sub- No. 91)
COMPANY -- CONTROL AND OPERATING)	(General Oversight)
LEASES/AGREEMENTS -- CONRAIL INC.)	
AND CONSOLIDATION RAIL CORPORATION)	
)	
)	

CERTIFICATE OF SERVICE

This is to certify that on the 16th day of April, 2004, the undersigned caused the Notice of Intent of the Commonwealth of Pennsylvania to be served on the parties in the above-captioned proceeding, by electronic mail on those parties for whom a valid electronic mail address is listed in the service list for this matter, and by United States Mail, first class postage pre-paid, on the remaining parties:

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Walter E. Zullig Jr.
Metro-North Commuter Railroad Company
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New York, NY 10017-3706

Date: April 16, 2004

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Edward Wytkind
Executive Director
Transportation Trades Department
AFL-CIO
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Washington, DC 20006

David F. Zoll
Chemical Manufacturers Association
Commonwealth Tower
1300 Wilson Blvd
Arlington, VA 22209

John M. Whitlock, Esquire
Attorney No. 35961

STB

FD-33388

(SUB 91)

04/16/04

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ORIGINAL

PPL Coal Supply, LLC

Two North Ninth Street, GENPL7

Allentown, PA 18101

B.M. Scanlan, Mgr Coal Transportation

Tel. 610-774-5368; Fax. 610-774-5141

mscanlan@pplweb.com

ppl

April 16, 2004

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



Re: STB Finance Docket No. 33388 (Sub-N0. 91) 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 (General Oversight)

Dear Secretary Williams:

This is PPL Energy Plus's notice to the Surface Transportation Board, that PPL EnergyPlus intends to appear and speak at the public hearing, scheduled for May 3, 2004, in Washington D.C. Michael Scanlan will speak on behalf of PPL EnergyPlus. PPL EnergyPlus requests a total of five minutes to speak. PPL does not plan to file a written statement prior to the hearing.

Yours truly,

B. Michael Scanlan
Coal Transportation Manager
PPL EnergyPlus

ENTERED
Office of Proceedings

APR 16 2004

Part of
Public Record

STB

FD-33388 (SUB 91)

04/16/04

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Office of Proceedings

KINDER MORGAN
LIQUIDS TERMINALS

APR 16 2004

Part of
Public Record
April 15, 2004



ORIGINAL AND 10 COPIES

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Re: STB Finance Docket No. 33388 (Sub-No. 91)
Conrail Oversight Hearing

Dear Secretary Williams:

Kinder Morgan Liquids Terminals LLC intends to speak at the public hearing scheduled for May 3, 2004, in Washington. John C. Gallaher will speak on behalf of Kinder Morgan. We respectfully request a total of 10 minutes to speak about the benefits that Kinder Morgan and its customers have derived from the Conrail Transaction. Kinder Morgan Liquids Terminals LLC does not plan to file a written statement before the hearing.

Yours truly,

Kinder Morgan Liquids Terminals LLC

John W. Schlosser
Vice President, Sales & Business Development

STB

FD-33388

(SUB 91)

04/15/04

D

210611

210611

SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036-3003

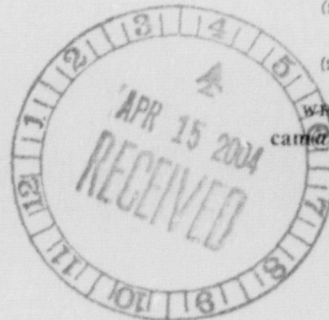
WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PFOHL
DANIEL M. JAFFE
KAREN HASSELL HERREN
KENDRA A. ERICSON

TELEPHONE:
(202) 347-7170

FAX:
(202) 347-3619

WRITER'S E-MAIL:
cam@sloverandloftus.com

April 15, 2004



BY HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board - Case Control Unit
1925 K Street, N.W.
Washington, D. C. 20423

Re: Finance Docket No. 33388 (Sub-No. 91)
CSX Corporation and CSX Transportation, Inc., Norfolk Southern
Corporation and Norfolk Southern Railway Company, et al. -
Control and Operating Leases/Agreements - Conrail Inc., et al.

Dear Secretary Williams:

Enclosed for filing are the original and ten copies of the Notice of Intent to
Speak at the May 3, 2004 hearing in Washington, D.C. of the Cities of East Chicago,
Gary, Hammond and Whiting, Indiana (collectively the "Four City Consortium").

Please date-stamp the enclosed extra copy of this filing and return it to our
messenger. Thank you for your attention to this matter.

Sincerely,

Christopher A. Mills

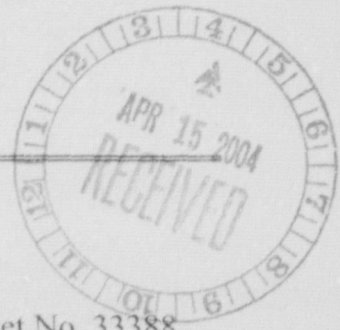
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**BEFORE THE
SURFACE TRANSPORTATION BOARD**



CSX CORPORATION AND CSX)	
TRANSPORTATION, INC., NORFOLK)	
SOUTHERN CORPORATION AND)	
NORFOLK SOUTHERN RAILWAY)	
COMPANY -- CONTROL AND OPERATING)	Finance Docket No. 33388
LEASES/AGREEMENTS -- CONRAIL INC.)	(Sub-No. 91)
AND CONSOLIDATED RAIL)	(General Oversight)
CORPORATION (GENERAL OVERSIGHT))	
)	

NOTICE OF INTENT

The Cities of East Chicago, Hammond, Gary and Whiting, Indiana (the "Four City Consortium") hereby notify the Board that The Honorable Scott L. King, Mayor of the City of Gary, intends to speak on behalf of the Four City Consortium at the hearing in this proceeding scheduled for May 3, 2004, in Washington, D.C. The Four City Consortium requests that Mr. King be allotted fifteen minutes to make his presentation.

Respectfully submitted,

THE CITIES OF EAST CHICAGO,
HAMMOND, GARY AND WHITING,
INDIANA (COLLECTIVELY, THE
FOUR CITY CONSORTIUM)

By: C. Michael Loftus
Christopher A. Mills
Peter A. Pfohl
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

OF COUNSEL:

Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Dated: April 15, 2004

Attorneys for The Four City Consortium

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CERTIFICATE OF SERVICE

I hereby certify that I have this 15th day of April, 2004, caused copies of the foregoing Notice of Intent to be served by hand upon Applicants' counsel, as follows:

Dennis G. Lyons, Esq.
Arnold & Porter
555 Twelfth Street, N.W.
Washington, D.C. 20004-1202

Richard A. Allen, Esq.
Zuckert, Scouff & Rasenberger, L.L.P.
Suite 600
888 Seventeenth Street, N.W.
Washington, D.C. 20006-3939



Christopher A. Mills

STB

FD-33388

(SUB 91)

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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 33388 (SUB-NO. 91)

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
(GENERAL OVERSIGHT)



JOINT NOTICE OF INTENT TO SPEAK

CSX Corporation and CSX Transportation, Inc. (collectively, "CSX"), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively "NS") hereby notify the Board of their intent to speak at the public hearing scheduled for May 3, 2004, in Washington, D.C. Michael J. Ward will speak on behalf of CSX, and David R. Goode will speak on behalf of NS. CSX and NS request a total of 45 minutes to speak.

Respectfully submitted,

Mary Gabrielle Sprague

Mary Gabrielle Sprague
ARNOLD & PORTER LLP
555 12th Street, N.W.
Washington, D.C. 20004
(202) 942-5773

Richard A. Allen

Richard A. Allen
ZUCKERT, SCOUTT & RASENBERGER, LLP
888 Seventeenth Street, N.W.
Suite 600
Washington, D.C. 20006
(202) 298-8660

Peter J. Shudtz
CSX CORPORATION
1331 Pennsylvania Avenue, N.W.
Suite 560
Washington, D.C. 20004
(202) 783-8124

John V. Edwards
NORFOLK SOUTHERN CORPORATION
Three Commercial Place
Norfolk, VA 23510
(757) 629-2838

Dated: April 15, 2004

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(SUB 91)

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LAW OFFICES

REA, CROSS & AUCHINCLOSS

SUITE 570

1707 L STREET, N.W.

WASHINGTON, D. C. 20036

(202) 785-3700

FACSIMILE: (202) 659-4934

THOMAS M. AUCHINCLOSS, JR.
LEO C. FRANEY
KEITH G. O'BRIEN
BRYCE REA, JR.
BRIAN L. TROIANO

DONALD E. CROSS (1923-1986)

April 15, 2004



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

Re: STB Finance Docket No. 33388 (Sub-No. 91)
CSX Corporation et al, and Norfolk Southern
Et al, - Control and Operating Leases/Agreements
Conrail, Inc. and Consolidated Rail Corporation
[General Oversight]

Dear Secretary Williams:

In accordance with the Notice of Public Hearing set forth in Decision No. 12 the SEDA-COG Joint Rail Authority (JRA) respectfully requests the opportunity to appear at the forthcoming hearing in the above matter to be held May 3rd in Washington. Speaking for the JRA will be its Executive Director, Jeffery K. Stover. An allocation of 10 minutes to accommodate the presentation will be appreciated.

Sincerely,

Keith G. O'Brien
Counsel for SEDA-COG Joint
Rail Authority

cc: Jeffery K. Stover

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FD-33388

(SUB 91)

04/15/04

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April 15, 2004

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



Re: STB Finance Docket No. 33388 (Sub-No. 91)

Dear Secretary Williams:

Enclosed are the original and 10 copies of the Notice of Intent To Speak of the American Chemistry Council ("ACC"). As the representative of the leading companies engaged in the business of chemistry in the United States, ACC requests 10 minutes in which to speak at the Surface Transportation Board's hearing in Washington, D.C., on May 3, 2004.

At a time closer to the date of the hearing, I will inform your office who will speak on behalf of the Council.

I have enclosed a copy of this letter and an extra copy of the Council's Notice of Intent To Speak. I would appreciate having those documents date-stamped by your office. If you have any questions concerning this matter, please contact me at 703-741-5172.

Sincerely,

Thomas E. Schick
Assistant General Counsel

cc: Julia M. Farr

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BEFORE THE SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 33388 (SUB-NO. 91)

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

[GENERAL OVERSIGHT]

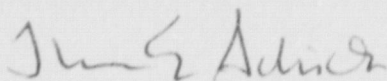
NOTICE OF INTENT TO SPEAK
OF THE
AMERICAN CHEMISTRY COUNCIL

American Chemistry Council ("ACC") appreciates the opportunity to address the Surface Transportation Board ("the Board") as part of its fifth year of Conrail General Oversight.

Because they ship substantial quantities of raw materials and finished products by rail, ACC's member companies have a strong interest in safe and efficient rail service throughout the United States. ACC (formerly the Chemical Manufacturers Association) was an active party-of-record during the Board's original consideration of the "Conrail Transaction." In addition, ACC was among the shipper associations that participated on the Conrail Transaction Council. ACC has also commented during some of the Board's previous Conrail General Oversight proceedings.

ACC requests 10 minutes in which to speak at the Board's hearing in Washington, D.C., on May 3, 2004.

Respectfully submitted,



Thomas E. Schick
Assistant General Counsel
American Chemistry Council
1300 Wilson Boulevard
Arlington, Virginia 22209
Phone – 703-741-5172
Fax – 703-741-6172
Tom_Schick@americanchemistry.com



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SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036-3003

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
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April 12, 2004

TELEPHONE:
(202) 347-7170

FAX:
(202) 347-3619

WRITER'S E-MAIL:
kjd@sloverandloftus.com

VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Room 711
Washington, D.C. 20423-0001



Re: STB Finance Docket No. 33388 (Sub-No. 91),
CSX Corporation, et al. -- Control and
Operating Leases/Agreements -- Conrail Inc. et al.
(General Oversight)

Dear Secretary Williams:

Enclosed for filing in the referenced proceeding, please find an original and 10 copies of the Notice of Intent of the State of New York.

An additional copy of the Notice of Intent also is enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it to the bearer of this letter.

Thank you for your consideration in this matter.

Sincerely,

Kelvin J. Dowd
An Attorney for
The State of New York

KJD:dmb
Enclosure

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



CSX CORPORATION AND CSX)	
TRANSPORTATION, INC., NORFOLK)	
SOUTHERN CORPORATION AND)	
NORFOLK SOUTHERN RAILWAY)	Finance No. 33388 (Sub- No. 91)
COMPANY--CONTROL AND OPERATING)	(General Oversight)
LEASES/AGREEMENTS--CONRAIL INC.)	
AND CONSOLIDATED RAIL CORPORATION)	

NOTICE OF INTENT

The State of New York, acting by and through the New York State Department of Transportation ("New York"), hereby submits this Notice of its intent to appear and speak at the general oversight hearing scheduled for May 3, 2004. New York requests that it be allotted twenty (20) minutes to make its presentation. New York will advise the Board of the identity of its speaker in advance of the hearing.


Respectfully submitted,

THE STATE OF NEW YORK

OF COUNSEL:

Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Date: April 12, 2004


By: William L. Slover
Kelvin J. Dowd 
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170
Attorneys & Practitioners

CERTIFICATE OF SERVICE

I hereby certify that on April 12, 2004, I caused three (3) copies of the foregoing Notice of Intent to be served by hand upon:

Richard A. Allen
Scott M. Zimmerman
Zuckert Scoutt &
Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, D.C. 20006-3309

Dennis G. Lyons
Mary Gabrielle Sprague
Sharon L. Taylor
Arnold & Porter
555 Twelfth Street, N.W.
Washington, D.C. 20004-1202


Kelvin J. Dowd

STB

FD-33388 (SUB 91)

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APR 05 2004

To Correct Some Faults of the Conrail Sale
Presented Before the STB at Trenton, NJ April 2, 2004

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Conrail was sold hurriedly without concern to repay the Federal Government for the monies invested to overcome past subsidies to railroad's competitors which created the need to create Conrail in the first place. The sale of Conrail now paves the way for two transcontinental class one's to try to compete against road and air which are still heavily subsidized in the form of free infrastructure given on land free from real estate taxes. This hidden subsidy to rail's competition must be addressed before any meaningful solution to the railroad problem can take place.

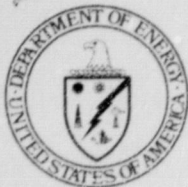
The Fatal flaw in the Conrail firesale was the creation of Conrail Shared Assets, primarily in New Jersey. Shared Assets has no sales or industrial development department. In addition, Shared Assets very existence is anticompetitive as it favors both CSX and NS to locate shippers on their lines rather than Shared Assets. This has lead to abandoned sites and encouragement to offload freight cars in Pennsylvania and truck goods into and thru New Jersey at a ratio of as much as five trucks per carload. This also hurts our existing short line railroads as both class ones prefer to encourage this on line freight to the detriment of eveyone in the northeast with higher operating costs for industries.

A glaring example is the recent report of NS downgrading the former Erie line from Port Jervis to Binghamton reducing it to a 10-mph line. This will dry up NS business but also hurt regional NYSW which uses this line to link their New York and New Jersey segments. This will also hurt future passenger service as sought by New York to revitalize Delaware River towns. The general downgrading of Shared Assets will hurt other potential passenger operations. Oil is not forever and we must seek to restore lost passenger services as well.

In addition, NS, by word and deed has sought to abandon northern New Jersey, New York City and Long Island by making it the outer end of a branch line while seeking to entice all shipments into Pennsylvania with trucking beyond at higher costs and lack of industrial development so vital to the region.

One solution would be to create a full terminal operation from Shared Assets with marketing and industrial developments. There isn't a real way to totally divorce this terminal from CSX or NS. The only other equitable way would be to allow the existing shortlines full operations on their nearby portion of Shared Assets and transit agencies. They would then be allowed to connect at key points with both class one's so neither would control the inbound shipments. While there may be a cry of usurping the class one's rights. We must remember the class one's did not fulfill their role in repairing Shared Assets, using too much money to acquire Conrail.

Prepared by William R. Wright, 34 Beech St., Cranford, NJ, 07016
member of state, regional and county transportation advisory
boards and retired from a lifetime of railroad marketing.



Department of Energy

Washington, DC 20585

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March 31, 2004

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Chairman Roger Nober
Office of Chairman
Surface Transportation Board
1925 K Street, NW, Suite 820
Washington, D.C. 20423-0001

RE: Docket Nos. 38302S and 38376S
Investigation and Suspension Docket No. 9205

RECEIVED
SURFACE TRANSPORTATION
BOARD
2004 MAR 32 A 9:41
OFFICE OF CHAIRMAN
NOBER

Dear Chairman Nober:

In a letter dated January 30, 2004, we proposed to update our report by the end of March 2004 on the status of the settlement negotiations between Union Pacific and the government parties. We have previously reported that, subject to final approvals, Union Pacific and the government parties had reached agreement to settle the above-captioned cases and dismiss Union Pacific as a defendant. We are pleased to report that this review process has now been successfully concluded. Accordingly, the parties plan shortly to submit the Settlement Agreement to the Surface Transportation Board via a joint motion with explanatory supporting memoranda from the parties, and a proposed order.

Sincerely,

Jane P. Schlaifer / by JPS

Jane P. Schlaifer,
Counsel for the
United States Department of Energy

Michael L. Rosenthal / by JPS

Michael L. Rosenthal,
Counsel for the Railroad
Defendants

Robert N. Kittel / by JPS

Robert N. Kittel,
Counsel for the United States
Department of Defense

Stephen C. Skubel

Stephen C. Skubel,
Assistant General Counsel
For Federal Litigation

cc: Nancy Wilson, AAR



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STB

FD-33388 (SUB 91)

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Conrail

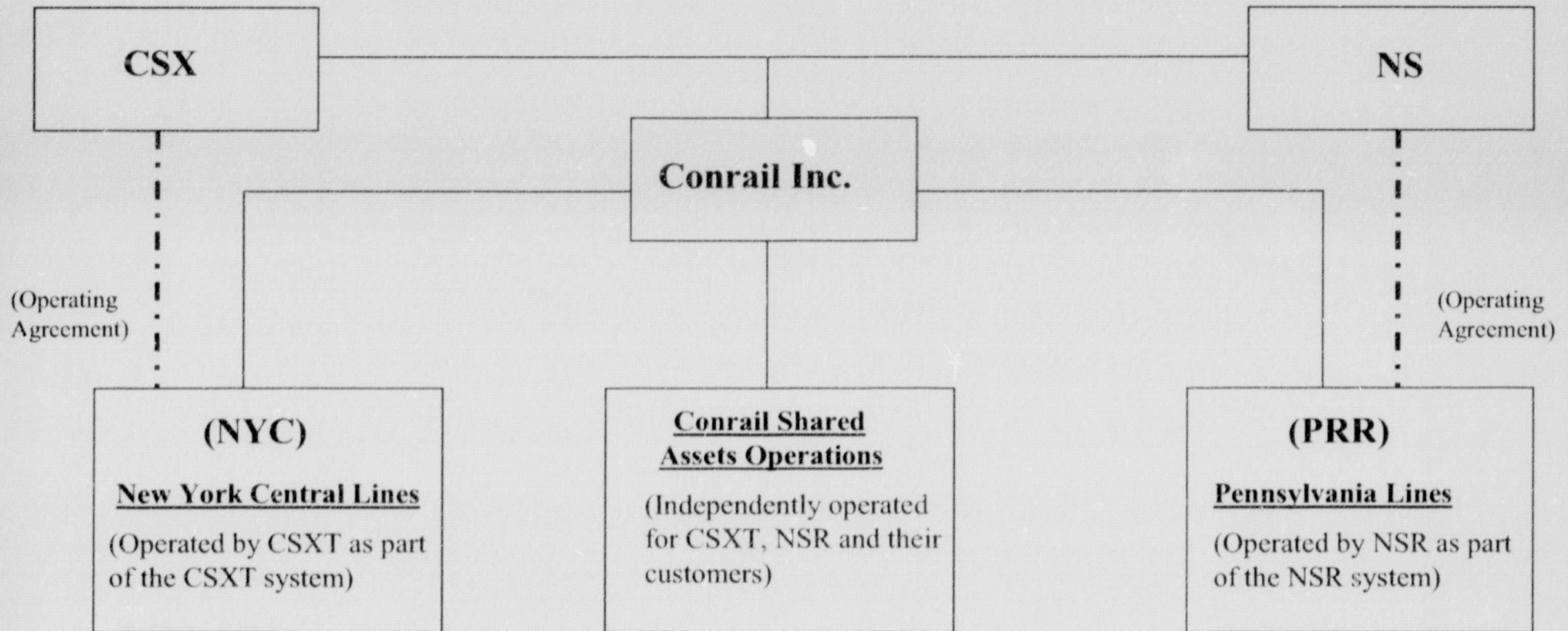
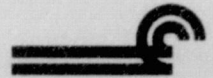
STB Oversight Hearing Conrail Shared Assets Operations


**Trenton, New Jersey
April 2, 2004**

**Jonathan M. Broder
Gregory R. Weber
Ronald L. Batory**

Background

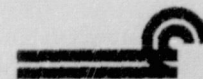
Since the acquisition by CSX and Norfolk Southern, Conrail assets have been operated in three segments.



The geographical depiction of post-acquisition Conrail reflects the three major areas – PRR, NYC, and Conrail Shared Asset Operations (CSAO) 



The STB has approved Conrail's "spin-off" of NYC and PRR to CSX and NS



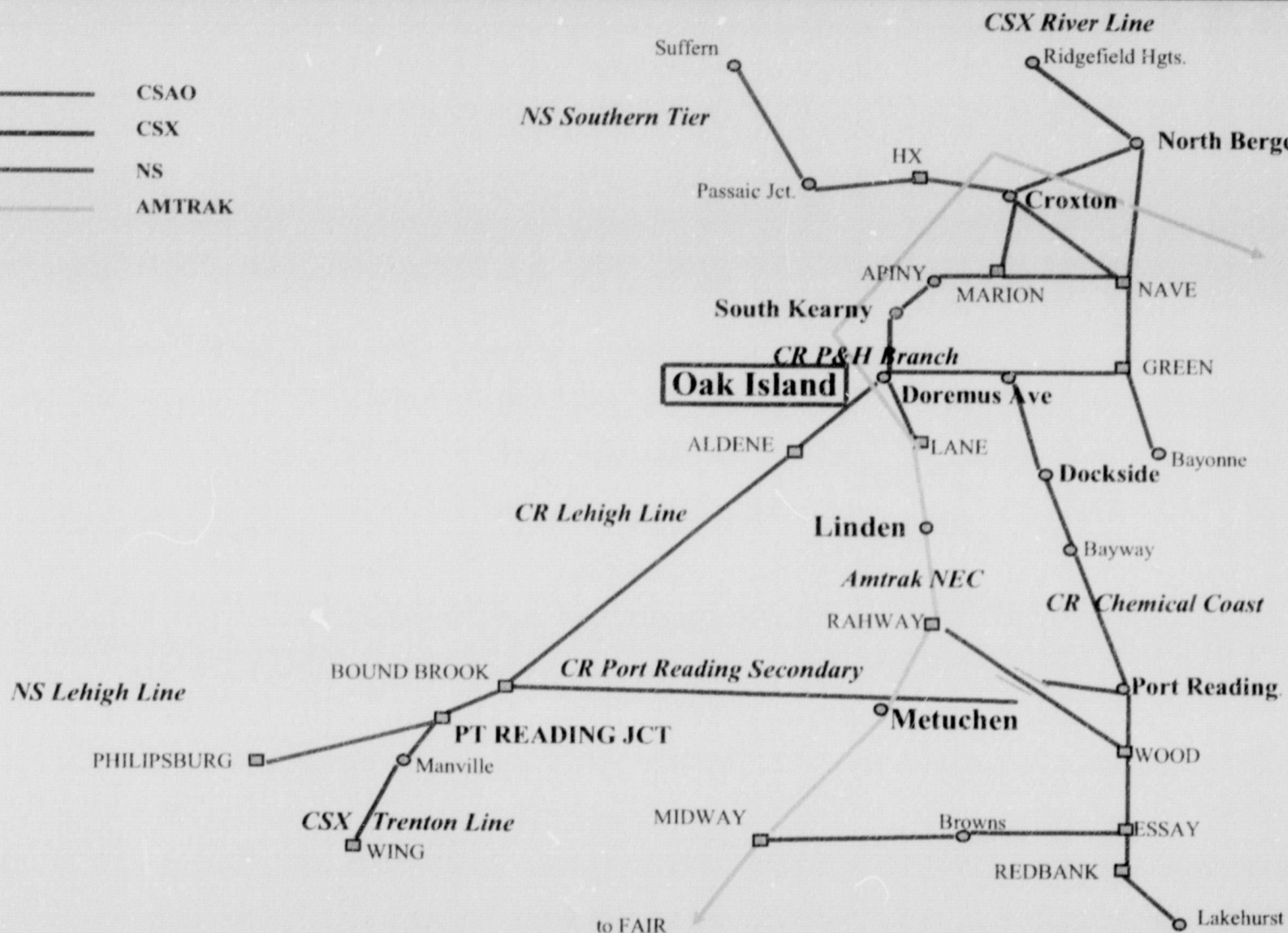
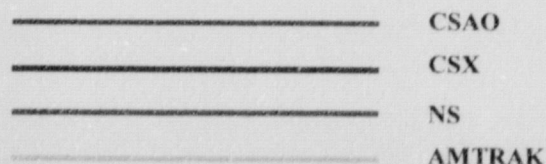
- ◆ CSXT and NSR are already operating NYC and PRR assets
- ◆ Transfer of ownership interests only
- ◆ No change in CSAO ownership or operations

The quantitative profile of CSAO breaks down as follows:

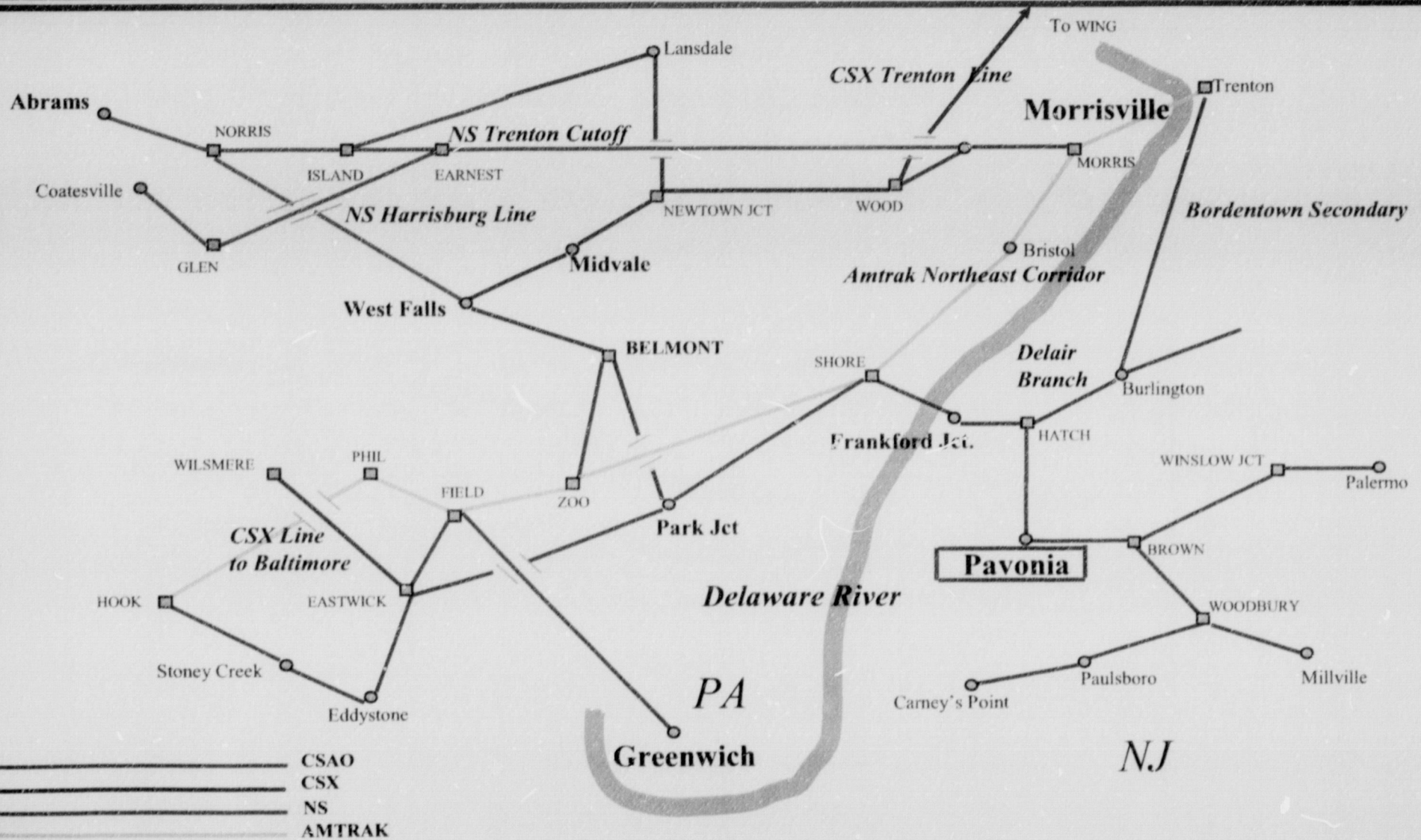


- ◆ 1,350 total employees
- ◆ 1,200 miles of track
- ◆ 3 major classification yards and 25 support yards
- ◆ 100 locomotives

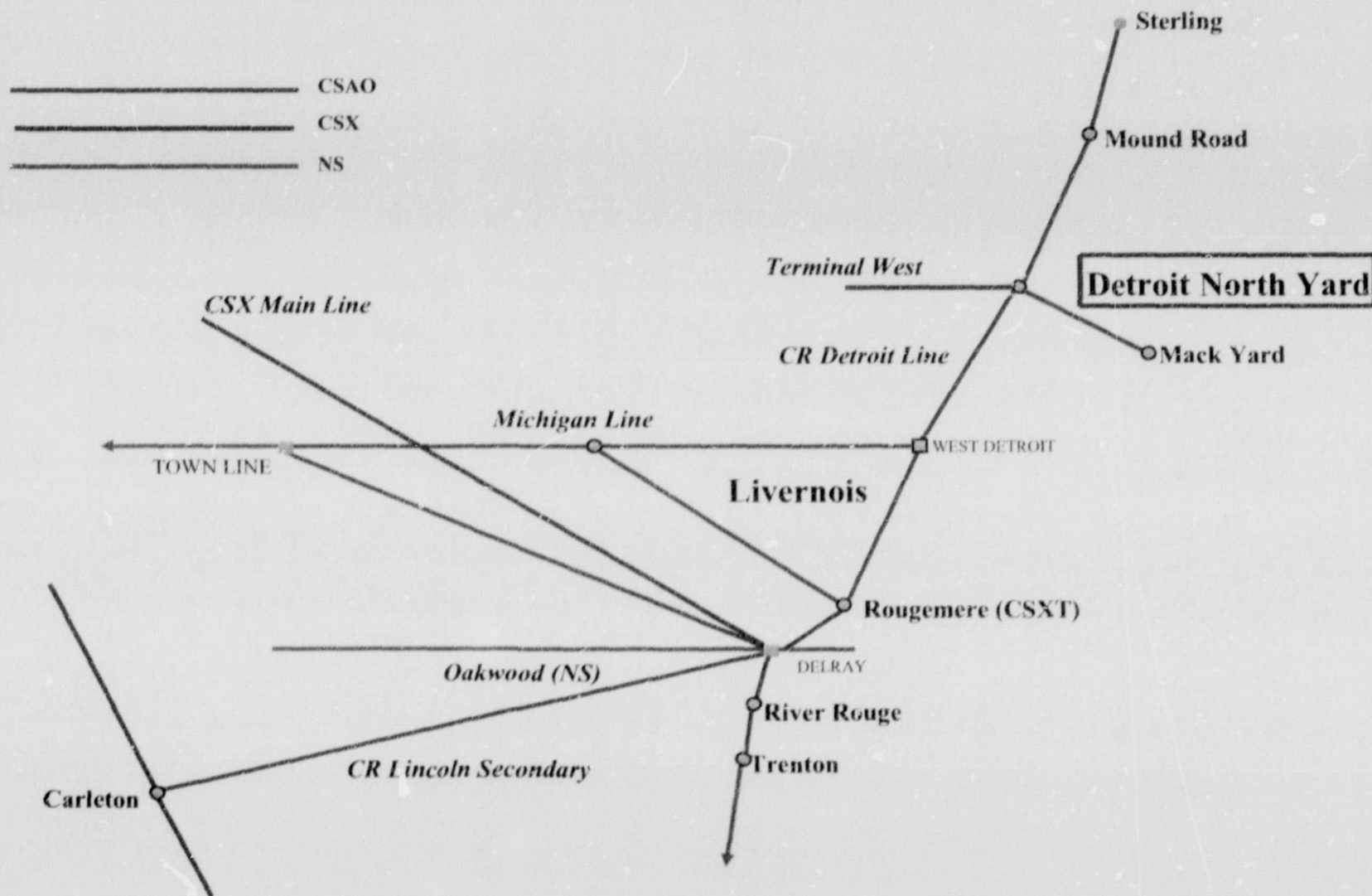
North Jersey is the largest of the three CSAO areas



South Jersey/Philadelphia is a critical point for North/South and East/West traffic



Detroit is the gateway to heavy automotive traffic

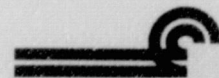


Despite challenging economic conditions, CSAO has experienced substantial traffic growth

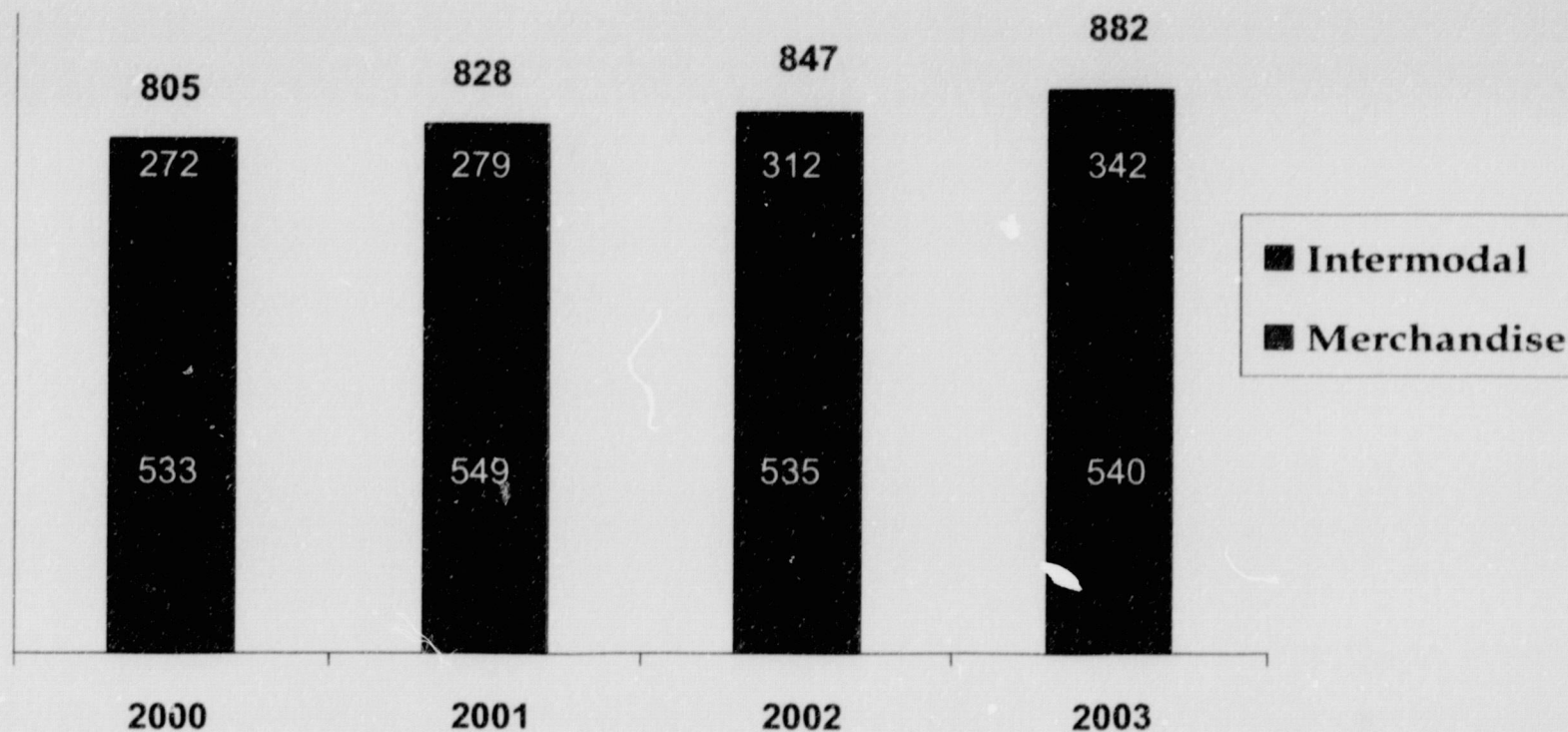


<i>(Carloads in Thousands)</i>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	2000-2003 % Change
North Jersey	429	423	449	457	6.5%
South Jersey/Phila.	163	167	163	175	7.4%
Detroit	<u>213</u>	<u>237</u>	<u>235</u>	<u>250</u>	<u>17.4%</u>
CSAO Total	<u>805</u>	<u>827</u>	<u>847</u>	<u>882</u>	<u>9.6%</u>

As projected, intermodal traffic through the CSAO territories is growing rapidly

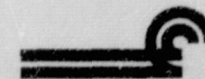


(Carloads in Thousands)



Operations

Since 2000, CSAO has delivered solid operating results in all three major categories



◆ **Safety**

- ~ Received E. H. Harriman safety awards every year since 2000
- ~ Reduced FRA reportable injuries by 13%
- ~ Reduced derailments by 30%

◆ **Service**

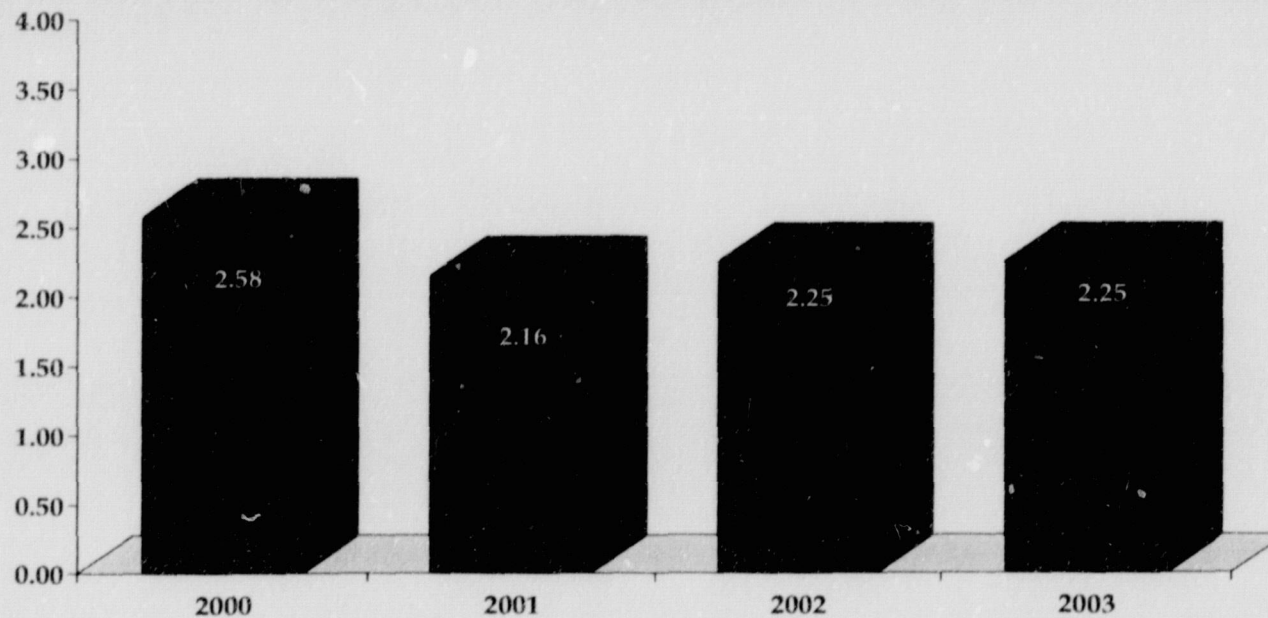
- ~ Improved on-time train departures by 56%
- ~ Maintained 90+% performance in customer switching service
- ~ Reduced yard dwell hours by 19%

◆ **Efficiency**

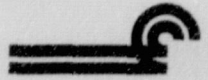
- ~ Enhanced locomotive fleet efficiency by 30%
- ~ Improved crew efficiency by 4%
- ~ Reduced cost per car handled by 20%

Conrail's safety-first focus continues to be our highest priority

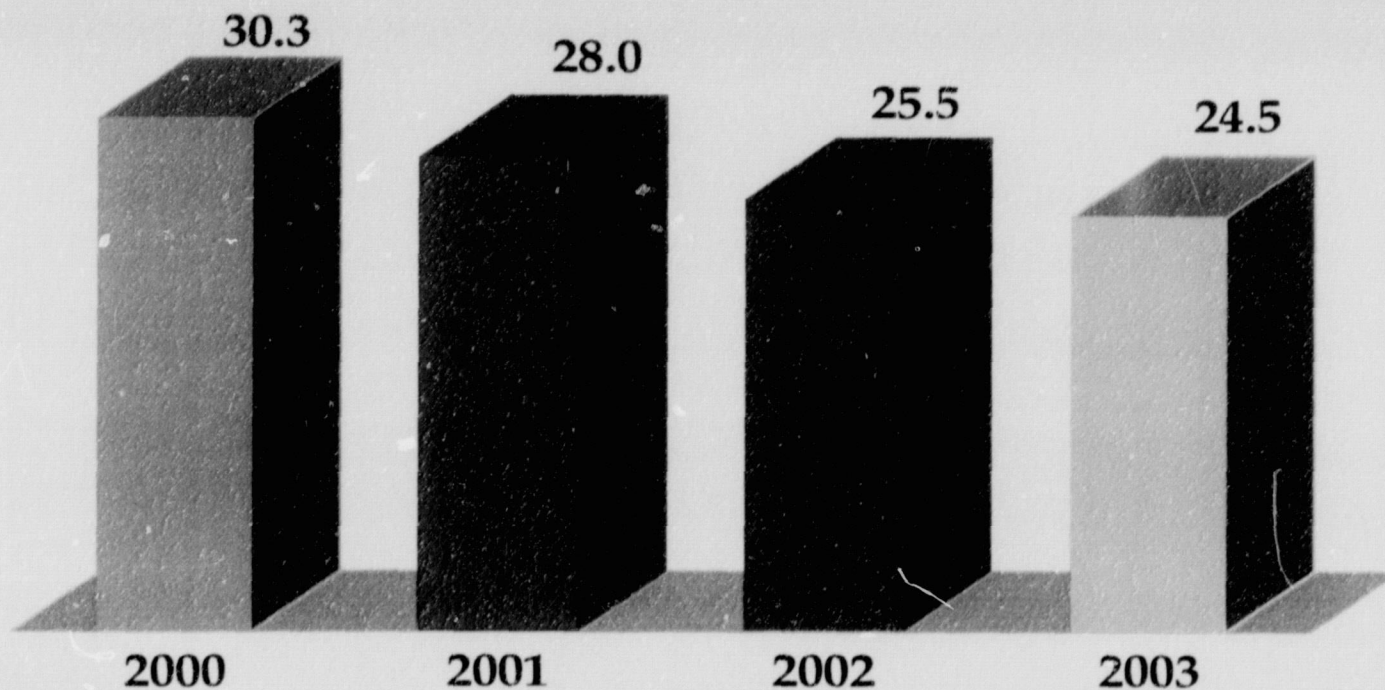
Conrail Shared Assets Operation
**Average Injuries per Month
2000 through 2003**



Reducing average elapsed hours between arrival in and departure from major classification yards maintains system fluidity

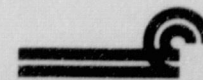


Yard Dwell Time *

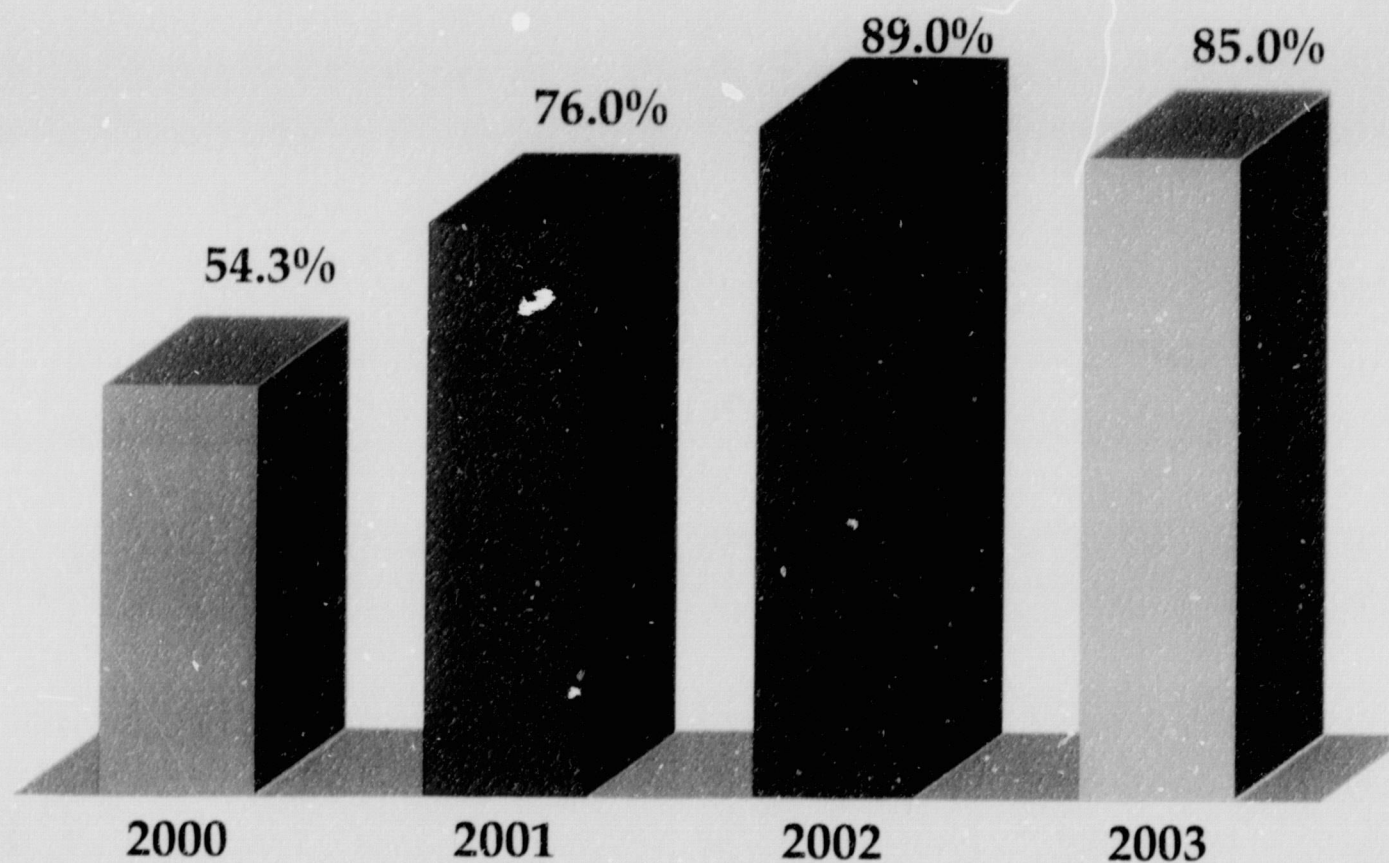


* Measured in hours

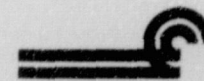
Despite some 2003 slippage, on-time train departures have remained well above the 2000 level



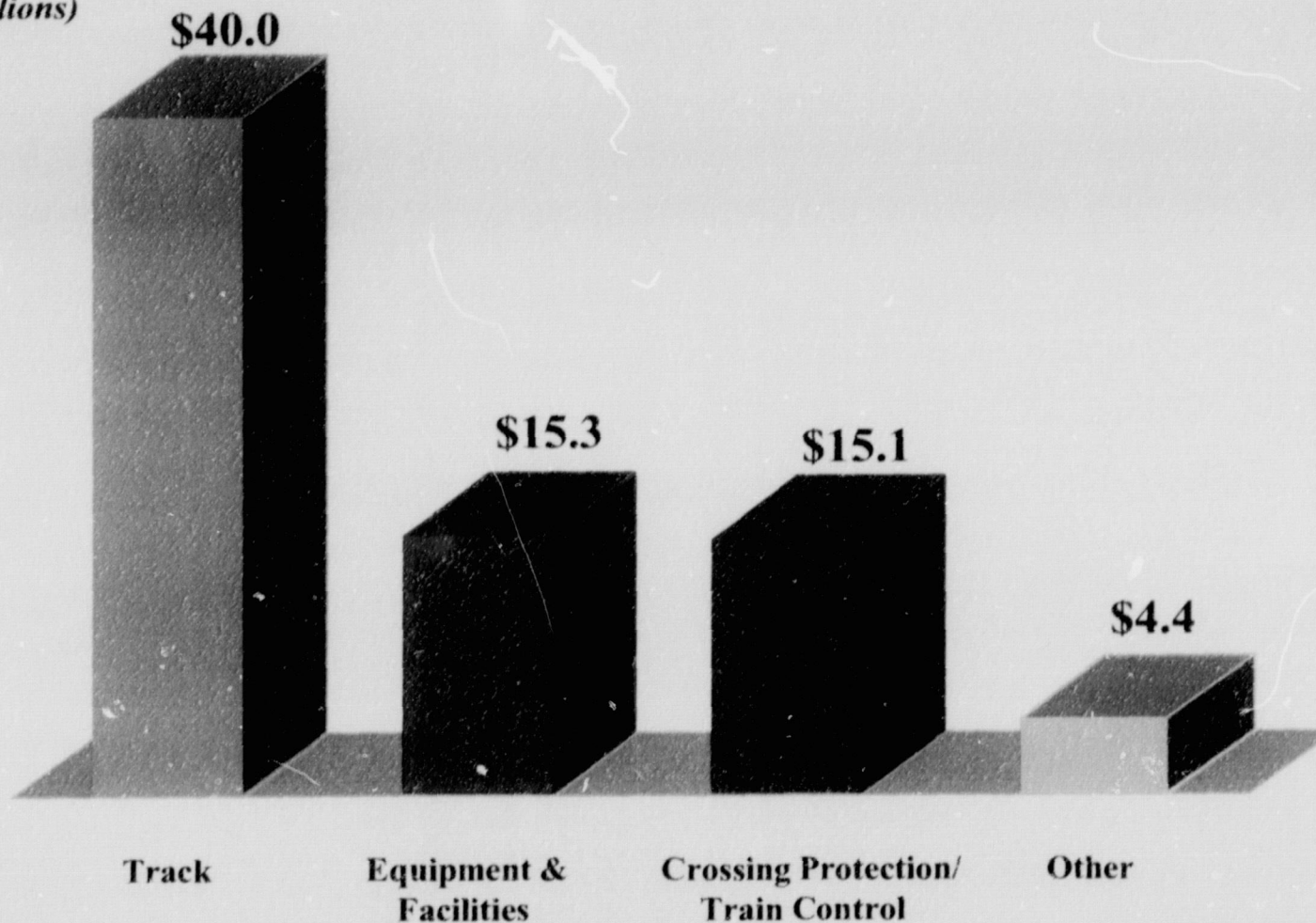
Train Departures vs. Schedule



To maintain, enhance and upgrade its infrastructure, CSAO has invested \$75 million in the 2000-2003 period

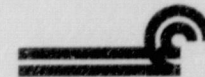


(Dollars in Millions)



Other Initiatives

Conrail has partnered with public transportation agencies, jointly investing in a number of major projects



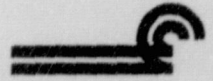
-
- | | | |
|---------------------------|---|------------------|
| ◆ Conrail/NJT: | Northern Branch Double Track | - \$18 million |
| ◆ Conrail/NJDOT/PANYNJ: | North Jersey Infrastructure | - \$50 million |
| ◆ Conrail/MDOT: | Detroit Livernois Intermodal Expansion | - \$10.5 million |
| ◆ Conrail/Municipalities: | Various projects in Detroit, Lincoln Park,
P. Amboy, S. Amboy, Sayreville, Bayonne | - Various |

CSAO coordinates an active industrial development function with NS and CSX



- ◆ New side track applications have increased 30% since 2000
- ◆ The current inventory of new customer projects includes 25-30 proposals
- ◆ Project proposals include:
 - ~ expansion of existing capacity
 - ~ reactivation of dormant industrial sites
 - ~ provision of transportation solutions to emerging growth industries

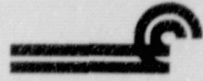
CSAO continues Conrail's long tradition of working with short lines to expand its rail business



- ◆ CSAO, CSXT and NS meet regularly to address short line initiatives
- ◆ Since split date, CSAO has processed approximately 20 such initiatives
- ◆ The shortline initiatives have included sales, new shortline start ups, and enhancement of existing shortline arrangements
- ◆ The great majority of shortline initiatives have been favorably implemented
- ◆ CSAO remains open to new initiatives

Conclusion

The rationale for the 1997 acquisition of Conrail remains valid today and the CSAO entity is performing well



- ◆ Expanded access to Northern New Jersey/New York, the largest freight market in the U.S.
- ◆ Created single line economies east of the Mississippi
- ◆ Expanded high growth intermodal line of business
- ◆ Provided economies of scale/synergies
- ◆ Partnered with governmental agencies

STB

FD-33388 (SUB 91)

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April 1, 2004

By Messenger

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K St. N.W.
Washington, D.C. 20043

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RE: STB Finance Docket No. 33388 (Sub-No. 91), *CSX Transportation Corporation, et al and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc. and Consolidated Rail Corporation* [General Oversight]

Dear Secretary Williams:

By letter dated March 25, 2004, the National Industrial Transportation League (League) requested permission to appear at the hearing of the Surface Transportation Board in the above-noted proceeding, to be held on Friday, April 2, 2004. By letter dated March 26, 2004, the League informed the Board that the League is requesting time to appear at the hearing for Mr. R. Jerry Reynolds, Global Logistics and Process Manager, E.I. Dupont de Nemours and Company. Mr. Reynolds will be unable to attend the hearing because of urgent company matters, and his place will be taken by Mr. Kevin G. Acker, Rail Procurement and Services, E.I. Dupont de Nemours and Company.

Sincerely,

Nicholas J. DiMichael
Counsel for The National Industrial Transportation League

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(SUB 91)

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Surface Transportation Board Conrail Shared Asset Area Public Hearing

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Speaking Points
Donald S. Shanis, Ph.D.
Director of Transportation
Delaware Valley Regional Planning Commission
April 2, 2004

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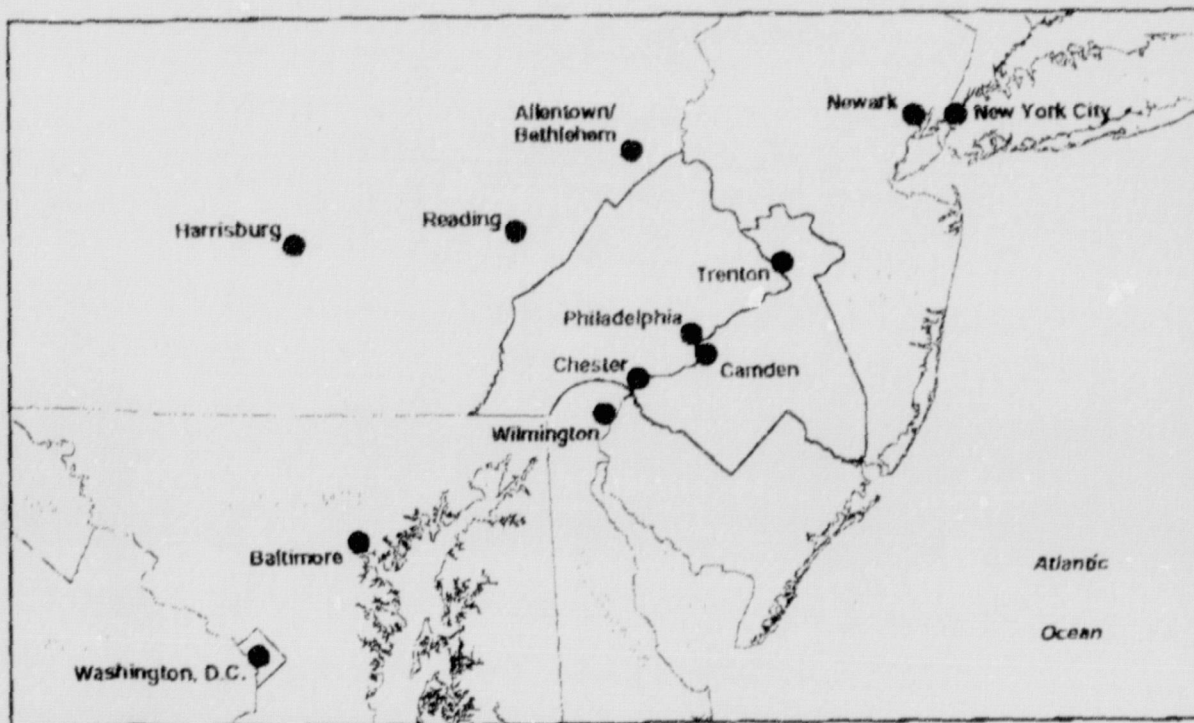


STB Finance Docket No. 33388
Sub-No. 91

Introduction

Good afternoon, Chairman Nober, and ladies and gentlemen. My name is Donald Shanis and I am the Director of Transportation for the Delaware Valley Regional Planning Commission (DVRPC). DVRPC is the Metropolitan Planning Organization for the South Jersey-Philadelphia region, and it guides transportation planning in the nation's sixth largest region to improve the quality of life for its 5.4 million residents.

The Delaware Valley has a great railroad tradition. Today, the hallmarks of the rail freight network are three Class I railroads, a set of vigorous short lines, a high and wide clearance route, and modern intermodal and bulk facilities. These assets are a key to combating congestion and sprawl, re-building the central core, and improving air quality.



The South Jersey/Philadelphia Shared Asset Area

The South Jersey/Philadelphia Shared Asset Area covers or directly impacts much of the Delaware Valley's rail freight network. At the time of the filing, the shared area consisted of 240 route miles and 16 rail yards.

The Transaction and Stakeholder Outreach

From the outset, DVRPC has been actively involved in the Conrail transaction. Our agency supported technical efforts prior to the split, and we filed official comments with the Surface Transportation Board.

Last month, we held a special meeting to discuss the Conrail Shared Asset Area. The meeting attracted over 40 representatives of the region's rail freight community such as shippers and receivers, the ports, and warehousing operators.

Concerns of Delaware Valley Stakeholders

Based on DVRPC's ongoing outreach efforts, I would like to bring to the Board's attention five local concerns regarding the Shared Asset Area.

Our first concern is **transaction commitments**. During the transaction negotiations, CSX and Norfolk Southern committed to undertake a number of initiatives in the Delaware Valley. The commitments took on heightened importance because of the closure of the Conrail headquarters and the loss of 1,800 direct jobs.

As of now, it is uncertain if the railroads have fulfilled all of their commitments in the areas of:

- economic development
- job creation
- capital expenditures
- passenger rail
- civic/charitable/corporate citizenship

Our second concern is **transaction benefits**. The anticipated benefits of the Conrail transaction were greater competition for shipper business, better service, reduced rates, and the removal of trucks from the highway. However, it is uncertain if these benefits have been realized in the Shared Asset Areas.

One view is that the benefits have not occurred in South Jersey and Philadelphia and that, in fact, the area is de-emphasized and rail traffic is diverted by creating intermodal facilities and locating captive shippers outside the shared area.

Surface Transportation Board Public Hearing: April 2, 2004

Page 3

Concern number three is **infrastructure investment**. Rail infrastructure requires continuous investment. For example, 286,000 pound cars are becoming the industry standard and this may necessitate strengthened track and bridges. While the public sector is increasing funding for rail freight, the two parent railroads must not let competition prevent them from making improvements that maintain the viability of the shared area.

The fourth concern is **real estate holdings**. Within South Jersey and Philadelphia, Conrail possesses extensive land holdings, some of which are not in active use. With the potential to commit some parcels to redevelopment (such as at waterfront locations), local officials desire more cooperation from Shared Asset Area real estate personnel.

Our fifth and final concern is **the future of Conrail**. In the Shared Asset Areas, Conrail has no commercial presence. This institutional arrangement may stifle new or expanded business.

Moving forward, greater utilization of the Shared Asset Area should be fostered. One possible approach would be to create sales and economic development staff positions at Conrail so that they can attempt to attract and develop business in the shared areas.

Requests to the Surface Transportation Board

Based on our constituent concerns relating to commitments, projected benefits, lack of investment, real estate underutilization, and the future of Conrail, DVRPC staff recommends that the STB **undertake a review of the transaction commitments and projected benefits** to assure their fulfillment and achievement within the South Jersey/Philadelphia Shared Asset Area. These items formed the basis for the initial approval of the transaction and they are, therefore, worthy of review. We believe that the reviews will verify the positive strides made by the railroads since 1999, and that they will also highlight opportunities for additional gains.

Conclusion

In concluding, the Delaware Valley has a great stake in the Conrail transaction. All of us should now be promoting cooperation and steps to make the fullest utilization of our vital rail freight assets.

Thank you very much for your time and for the opportunity to discuss our concerns in South Jersey and Philadelphia.

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MORRISTOWN & ERIE RAILWAY INC.

OFFICE ADDRESS:
49 ABBETT AVENUE
MORRISTOWN, NJ 07960

MAILING ADDRESS:
P.O. Box 2206
MORRISTOWN, NJ 07962-2206

March 30, 2004



Vernon A. Williams
Office of the Secretary
Surface Transportation Board
1925 K Street, N. W.
Washington, DC 20423

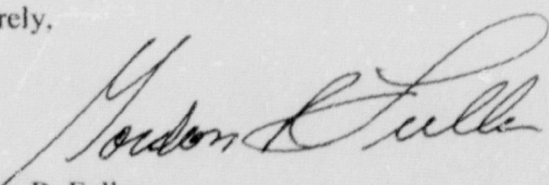
Re: STB Finance Docket No. 33388 (Sub - No. 9)
CSX Corporation and CSX Transportation Inc.
Norfolk Southern Corporation and Norfolk Southern Railway Company
Control and Operating Leases/Agreements
Conrail Inc. and Consolidated Rail Corporation (General Oversight)

Dear Mr. Williams:

Morristown & Erie Railway, Inc. hereby notifies the Surface Transportation Board of its intent to speak at the public hearing scheduled for May 3, 2004 in Washington, DC. Gordon R. Fuller, Chief Operating Officer requests a total of 10 minutes to speak about the implementation of the Conrail transaction as it regards Norfolk Southern Railway's services involving its direct connection with Morristown & Erie.

M&E will provide a written statement to the Board prior to the April 26, 2004 deadline.

Sincerely,


Gordon R. Fuller
Chief Operating Officer

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03/29/04

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DAIMLERCHRYSLER



The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423

Re.: STB Finance Docket Number 33388 (Sub-No. 91)
Fifth Annual Round of the Conrail "General Oversight" Proceeding

Dear Secretary Williams,

Please consider this letter as the DaimlerChrysler Corporation - P&S Corporate Logistics' written statement for inclusion in the above-captioned proceeding and sub-docket, specifically relating to the 3 Shared Services Areas (SAA).

In the past year, DaimlerChrysler has experienced significant operational delays in the SAAs, particularly train service into and out of the North Jersey SAA, and railcar assignment and allocation with the Detroit SAA. The greater concern is that operational and customer service levels may not be of a temporary nature and that certain commodities may be unfairly impacted by network capacity constraints. Those capacity constraints have directly resulted in the significant delay of hundreds of railcars throughout the last 9 months, impacting DaimlerChrysler's customers and jeopardizing sales. More importantly was the apparent ineffective cooperation between SAA, NS, & CSX operations in their attempts to address DaimlerChrysler's concerns.

DaimlerChrysler recommends the extension of the Conrail "General Oversight" proceeding beyond the current 5-year mandate, and at least through the next period of sustained strong level of rail activity in the SAAs, in order to provide a public forum to more clearly and openly address shipper concerns. Additionally, DaimlerChrysler feels that the extension can potentially protect shippers against:

- Further deterioration of the SAA operations and cooperation between the NS and the CSX
- Reduce the potential for operational and commercial practices abuse on behalf of the NS and the CSX
- Reduce operational plausible deniability on behalf of the NS and the CSX
- And protect against any substantive changes to the SAAs service mandate

I would be happy to make myself available to discuss our concerns in more detail and, if you have any questions, please don't hesitate to contact me.

Thank you in advance for your consideration.

Sincerely,

Edward P. Sprock
Director - Corporate Logistics
DaimlerChrysler Corporation
248.576.8743
ets@dcx.com
cc:

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MAR 29 2004

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DAIMLERCHRYSLER



FACSIMILE TRANSMITTAL SHEET

TO:	The Honorable Vernon A. Williams	FROM:	Marc Brazeau
COMPANY:	Secretary - Surface Transportation Board	DATE:	3/26/2004
FAX NUMBER:	703.565.9002	TOTAL NO. OF PAGES INCLUDING COVER:	12
PHONE NUMBER:	202.565.1655	SENDER'S REFERENCE NUMBER:	STB Docket 33338 (Sub-No 91)
RE:	Conrail "General Oversight" Proceeding	YOUR REFERENCE NUMBER:	STB Docket 33388 (Sub-No 91)

☒ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Dear Secretary Williams,

Please find attached DaimlerChrysler's written statement regarding the above-captioned proceeding and sub-docket. Please include our statement in April 2nd's Public Hearing.

Original, and 10 hardcopies, will be couriered under separate cover.

Sincerely,

Marc A. Brazeau

Manager - Logistics Strategy & Integration

248.576.8929

[CLICK HERE AND TYPE RETURN ADDRESS]

STB

FD-33388 (SUB 91)

03/29/04

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JOHN D. HEFFNER, PLLC

1920 N St., N.W.

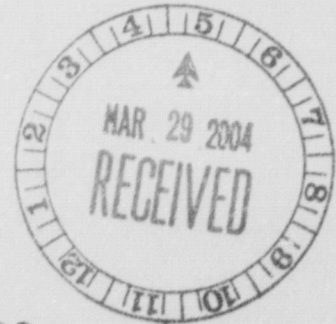
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WASHINGTON, D.C. 20036

(202) 263-4180

FAX (202) 296-3939

j.heffner@verizon.net



March 29, 2004

210420

The Honorable Vernon W. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

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RE: STB Finance Docket No. 33388 (Sub-No. 91)
CSX Corporation and CSX Transportation, Inc.,
Norfolk Southern Corporation et. al – Control and
Operating Leases/Agreements – Conrail Inc., et al.
[General Oversight]

ORIGINAL

Dear Mr. Williams:

I am submitting in the above-captioned proceeding, an original and 10 copies of the comments of James Daley, Director of Economic Development for the County of Union, New Jersey.

Please date stamp and return one copy for our files. If you have any questions feel free to contact me at the above number.

Sincerely yours,

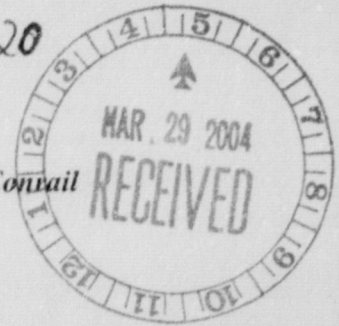
A handwritten signature in cursive script, appearing to read 'John D. Heffner'.

John D. Heffner

cc: Mr. James Daley

210420

*Testimony before the Surface Transportation Board
April 2, 2004 Hearing
Shared Assets Area and the Oversight of the split up and merger of Conrail*



Introduction

My name is James Daley. I am Director of Economic Development for the County of Union, New Jersey. Thank you for providing me the opportunity to address the Board on this critical issue.

I wish to speak today on the impact of the Conrail Shared Assets Organization on Union County and Northern New Jersey. First, I wish to give you a brief overview of the County and why it has an interest in the successful functioning of rail freight service within its borders in the northern New Jersey metropolitan area.

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Overview

The County is located approximately 15 miles to the southeast of midtown Manhattan. A population of 512,000 resides in an area of 103 square miles. The County of Union is one of the most densely populated counties in a state that is the most densely populated in the United States. Within the County's borders lies some of the most heavily used transportation facilities in the nation, including The Port Newark/Elizabeth container terminals, Newark Liberty International Airport, the Amtrak Northeast Corridor Line, the Garden State Parkway and the New Jersey Turnpike, and the Lehigh and Chemical Coast Main line freight routes of CSX, NS and CP railroads.

In addition to these facilities, there are 5 NJ Transit passenger rail lines as well as several Conrail Shared Assets Organization secondary and industrial branches. Interstate routes 1&9, 22 and 78 are heavily traveled truck routes traversing the County. Several petroleum and petro chemical port facilities can be found along the County's eastern border along the Arthur Kill. A recently upgraded general aviation airport in Linden serves as a reliever for the region.

A large component of this transportation activity is the movement of freight and goods. The County of Union has taken an active and leading role in ensuring that the transportation infrastructure within the County is able to sustain a viable economy both now and in the future, in addition to contributing to the quality of life of its citizens and visitors. With Union County at the epicenter of the entire New Jersey / New York Metropolitan Area's transportation network, we are uniquely impacted by the movement of all goods and people within and through this area.

The state of Union County's freight infrastructure is critical to the local, regional, and national economy. Thus, Union County has taken a proactive role in ensuring that its

facilities will meet the demands of a changing and growing economy while simultaneously addressing quality of life issues.

The economy is changing in this important respect: heavy manufacturing and related support industries have decreased in importance. However, these industries have been replaced by robust expansion in the importing, exporting, distribution and processing industries. Much of this activity has been fueled by a major change and increase in port activity. The Port of New York/New Jersey is the largest port on the East Coast, and the third largest in the nation. The port is projected to double in volume by 2010. In 2002 2.3 million TEU's were handled, which will increase to over 5 million by 2010.

These driving forces together with the general trend for businesses to serve the largest consumer market in the United States from closer in facilities has had a dramatic impact on surface transportation logistics, particularly on how rail freight transportation needs to function if it is going to serve as a significant component in the regional goods movement network.

Union County has a comprehensive economic development and transportation infrastructure improvement program that assures it's economic and jobs base is maintained and expanded accordingly. A major effort has to be made to make rail service relevant to that effort. We can no longer be as truck dependent as in the past if the environmental, congestion mitigation and quality of life goals of the region are to be met.

There exists a serious capacity and compatibility issue on the area's road network. Host to the largest seaport on the east coast of North America combined with being located at the center of the world's richest consumer market, the County of Union has actively pursued alternates to the truck-only transportation of goods. Fundamental to that effort are the following major projects initiated by and under the oversight of Union County:

- The County and the State of New Jersey worked together to preserve the former Rahway Valley and Staten Island railroad corridors. The County has contracted with the Morristown and Erie Railway to rehabilitate and operate these rail lines. The County is working with the railroad to attract new rail-oriented businesses to this primarily industrial corridor and to offer rail and intermodal services to businesses already located there.
- The County In Partnership with New Jersey Department of Transportation, NJ Transit and Washington Group International is advancing the state's first Private/Public Partnership to build and operate a 5.8-mile light rail line between Newark International Airport, the port Area and midtown Elizabeth, and eventually extending west to Cranford.
- The county initiated a major port access improvement project known as the Kapkowski Road Improvement / North Avenue Corridor Improvement Plan

which will provide an exclusive Port access road to Port Newark/Elizabeth. This project is a Congressionally designated TEA-21 initiative under the oversight of the County and a major component of the proposed Liberty Corridor program recently announced by Congressman Menendez. The Liberty Corridor program will contain a series of linked transportation improvements which will enhance the movement of goods to, from and within a corridor stretching roughly from the Hudson County Hudson River waterfront in Northern New Jersey to the Camden County waterfront in South Jersey on the Delaware River.

- The county has identified a 400-acre plus area in Linden along the Arthur Kill to become a global freight village. This concept is the clustering of industries and businesses that have a symbiotic relationship and can share services and facilities to increase efficiencies. The County conducted a study which identified the suitability of implementing this concept in a brownfield area that would support an industrial and warehousing complex focusing on international trade. This project cannot succeed without appropriate levels of rail and truck service. It also lies within the recently announced Liberty Corridor.

A logical component for the movements of goods is the rail system. It is the opinion of the County of Union that the Class I operators serving the area, both past and present, have fallen far short in making rail freight play a significant role in the improvement of existing condition both in the area of vehicles on the road and contributing to the quality of life in our region.

We would like this opportunity to point out the following areas where the lack of initiative and action by the Class I's has negatively impacted our County. We recognize that today's hearing is focused on the specific issues related to the split up and acquisition of Conrail at the time of the Board's approval of the transaction. However, a number of problems have emerged pursuant to the creation of the Conrail Shared Assets Organization related to the overall movement of freight in the region which we feel need to be addressed. They are intertwined with the Conrail split-up and acquisition are included in the written testimony below. However, this hearing presents broader policy issues which should be the subject of a separate proceeding the STB should initiate.

Issues

The Split-up and Acquisition of Conrail into NS and CSX and the creation of the Conrail Shared Assets Organization was intended to achieve two major goals in Northern New Jersey: (1) Competition and service options would make rail service more competitive with truck and other modes and thus attract goods back to rail movement; and (2) An extensive and well executed marketing and industrial development effort would emerge in this new competitive atmosphere bringing in new businesses into this area. These actions would result in reducing the estimated 90% truck market share of interstate goods movements into and out of Northern New Jersey.

In order to achieve these goals, the rail freight infrastructure would be altered by (1) creating a Shared Assets Area whereby a jointly-owned neutral Conrail would handle all switching and local service to the Port facilities and local businesses; (2) dividing up between NS and CSX major serving yards in the Shared Assets Area; (3) identifying the major routes into the core area to be used jointly by the two carriers to reach their separate main lines outside with the Shared Assets Area and (4) fostering competition by ensuring short lines with access to both Class I carriers. All of this was to be achieved without denigrating NJ Transit and Amtrak Service on lines hosting both freight and passenger service.

To date, we believe that these goals have fallen far short. While the extensive environmental impact analysis conducted as part of this transactions may have correctly identified increased traffic flows and while there has been an increase in rail traffic particularly on intermodal movements to and from Port facilities transaction has not addressed the changed and changing market place. Rail traffic is up, but truck haulage is up even more. We believe that there are endemic problems that need to be addressed before this region experiences the kind of rail renaissance that will have a significant impact on goods movement.

I wish to elaborate on five key themes to describe the shortcomings of the transaction and what corrective actions need to be considered in an extensive and intensive dialogue among the key agencies in the region. I note that:

The Conrail Shared Assets Area has inherent structural problems that need to be addressed-

The establishment of the Conrail Shared Assets Area has resulted in the creation of primarily an invisible rail operator that primarily functions to provide neutral switching and local freight service for CSX and NS. Thus rail customers located in the Shared Assets Area have access to both railroads, effectively ending Conrail's 22-year monopoly on rail freight service in Northern New Jersey.

Conrail Shared Assets Organization is not a jointly owned terminal railroad with its own marketing and sales force and does not quote rates. It is an operating entity only. While it has successfully provided that service, it has fallen short in several respects.

Evidence indicates that it is a cost center and not a profit center for the joint owners; thus, the tendency is to keep its service to a minimum. In fact there is some corroborating evidence to show that there is actually a hidden surcharge for freight into the Conrail shared Asset Area to offset higher operating costs.

The routings and interchange in and into the Shared Asset Area appear to maintain arcane patterns. We have heard of freight moving from one part of the Shared Asset Area to another by first going to and returning from Pennsylvania. It would be more appropriate to elaborate on this issue in a follow-up submission, which details this and other post transaction issues.

While Conrail routinely provides local services over a defined set of lines, because of its cost structure and non marketing function, it has to provide service over routes that are not necessarily going to return a profit. They are low density and may be less prone to develop into large volume customers sought out by the Class I carriers. Thus, service remains static and freight development is non-existent.

Short Haul Goods Movement to and from Port Areas

There is a significant opportunity for the use of rail to move goods to and from the port areas to distributions centers within the metropolitan area. To date the Class I's have made no attempt to play a role in this area. This is a major emerging issue, which the county feels needs to be addressed in greater detail outside of this proceeding.

Consideration needs to be given to implementing The Port Inland Distribution Network as proposed by the Port Authority of New York and New Jersey.

In Union County, rail lines without the density or marketing thrust of the Class I's should be turned over or subcontracted to short line operators. This is the only way which rail alternatives can be made available to small and medium sized businesses that are located on the variously owned lines in Union County and are related to port activity.

The changing manufacturing base and distribution needs now demand a closer look at short haulage of goods. Manufacturing and distribution businesses are moving closer to their market places. Supplies need to come into this region by rail once again.

A major plastics production facility recently opened in Union County. Distribution within Union County and to surrounding counties where small plastics manufacturers are located in abundance can occur by rail. We want to set up a regional distribution system by rail, but can't. The tracks are there, but the institutional issues and structure of the Shared Assets Area prevent this from being implemented.

Aggressive Marketing Effort to Develop New Rail Customers

Although a significant amount of heavy industry has left the region, the need for the transportation of goods has increased dramatically. We see a strong commitment is needed to market rail services in this area. The lack of this effort is evidenced by the absence of a sales presence that is neither located within New Jersey or has a rudimentary knowledge of the state. Also, outreach to government and industry groups is non-existent. These are the various organizations that can assist the Class I's in the development of a customer base. This has not taken place.

While certain heavy industrial businesses have diminished, other industrial activities have taken their place. I already mentioned Plastics, but food preparation and distribution is another area of expansion. We are currently working with a food purveyor who would consider locating in Union County to package and distribute soybean oils in the New York Metropolitan area. Rail service is a must. This is a small business, but rail

dependent. At full production, 50 new jobs are anticipated. We learned of this new business and rail customer by accident.

Realtors, government agencies and economic development personnel are in the dark about rail service. This has to change if railroads are to have an impact on the way development personnel on the local level think about the railroad in their town. Industrial sites and brown fields abound in Northern New Jersey but it takes work and commitment to make rail relevant to the economic development process.

Utilizing Short Line Operations for Medium & Small Rail Users

We believe that the short line railroads can play a significant role in the transportation of goods in the metropolitan area. Short Lines are uniquely suited to address this market and it is strategically important that they become an integral part of the network of goods movement. A full, open and fluid relationship between the Class I's and the Short Lines is essential to having rail transportation as a viable alternative to the trucking of goods.

Union County has large landmasses on its eastern sides. These are conducive to attracting large volume rail customers. Smaller properties abound in the middle and western sides of the county. These are more conducive to small and medium size companies. Short lines would better serve these properties.

If our industrial base is to be preserved in these more suburban locations and quality of life issues such as congestion mitigation and reduction in truck movements is to be addressed, then short line service on what are essentially light density lines needs to occur.

We recognize there is a fear of diversion of traffic by the Class I railroads when short lines are created as an alternative rail service. However, in a practical sense, this should be a win-win situation for all parties. We are ready to work with the Class I railroads on this issue.

Sighting of Intermodal Facilities Close to Market

For the most part, the Class I's have located their intermodal facilities based on expedience rather locations that are strategically located in close proximity to their markets. This course of action has continued to exacerbate the increasing number of trucks utilizing the road network instead of contributing to a reduction.

Recently we learned of a bulk transfer operation that was set up in Pennsylvania. Its customer base is in New Jersey. Additional truck trips are now in the offing for the state and the county. Before this decision was made, Union County, at very least, if not the New Jersey State Economic Development Authority should have been contacted to see if we could have accommodated him since it was a Union County business operation located on a Shared Asset Rail line. Now he is located on one of the Class I's in Pennsylvania.

Thus, there appears to be an effort, to relocate customers and facilities outside the region away from the Shared Assets Region. While these may be legitimate business decisions on the part of the railroads to capture as much traffic on their home lines, there is little or no competitive or countervailing offer that can be made by local or regional agencies unless there are rail alternatives.

Recommendations

The Split up and Acquisition of Conrail has not significantly moved toward meeting the challenges of the new economy of the region, one based more on short haul movements to, from and within the region and related to importing and exporting activities. Unless a major change in the way rail freight responds in this new market place, the county, the region and the state will be less attractive to the kinds of rail based economic development it is seeking, particularly the redevelopment of brownfields and underutilized industrial properties within rail corridors.

This brings us to the crux of the hearing today: Should the Surface Transportation Board continue the oversight of the Split up and Acquisition of Conrail into CSX and NS? It is our opinion that the oversight should be continued and expanded to address issues raised in our presentation, namely:

- The Conrail Shared Assets area needs to be reevaluated. The Shared Assets area should be reduced in size. A larger role for switching and local services should be given to short line operators with the Shared Assets Area confined to a core terminal area. The primary function of Conrail Shared Assets would be to interline rail traffic between NS and CSX and to serve the larger customers within the Class I's marketing parameters. This new Entity could be given a marketing function and perhaps be operated as a for profit independent terminal railroad.
- Within the restructured core terminal area, The Shared Assets Organization must not become a third carrier between short lines and the Class I carriers. To this end, short lines should be able to access directly Class I yards and interchange points.
- A regional and interregional approach needs to be developed for short haul intrastate and interstate movement of freight by rail. A greater role must be given to providing opportunities for short lines and short haul arrangements over a core system. A starting point would be the Port Authority Port Inland Distribution System as well as concepts put forth in recently completed New Jersey Department of Transportation Partway Extensions Study.

- The Class I's should redefine their marketing parameters. If the small to medium size customer and short haul markets are outside of their business goals, then a core freight system should be developed to serve that market place. In this restructuring, the lighter density and underutilized lines, especially those lines owned by NJ Transit and served by Conrail Shared Assets would be given over to class III rail operators.
- The STB in conjunction with the State of New Jersey should be evaluating the primary and secondary main lines into the core Northern New Jersey terminal area with the goal of redefining the core mainlines for current and future growth of rail freight. While there is currently a two-phased plan for improvements to remove bottlenecks, this does not address the negative impact this could have on communities. Serious consideration should be given to building new routes into the core area to mitigate the impact on commuter rail and grade crossings.
- As part of reevaluation of the Shared Assets Area, consideration must be given to how the New York Metropolitan Area rail system is integrated into the anti-terrorist and homeland security plans for the region.

Federal support would be needed to fulfill these goals. Much like the Mid-Atlantic Rail Corridor project identified the bottlenecks in the Route 81 and 95 corridors, Establishing a core Shared Assets Area and the mainlines to feed it must be part of a major plan for this region. The goal should be to create a rail infrastructure that can serve a variety of marketing functions, which supports the goals of the Liberty Corridor and the Metropolitan Planning Organization.

A bold approach needs to be taken. It requires an understanding of the New York Metropolitan Area freight market. We urge the Surface Transportation Board to encourage the development and implementation of such a plan among the railroads and agencies in the region.

This concludes my remarks. Thank you again Mr. Chairman for allowing me to have this opportunity to address the Board. I will be happy to answer any questions you may have at this time.

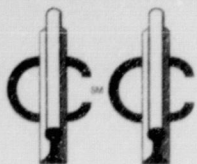
STB

FD-33388 (SUB 91)

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**Rail Cents
Enterprises, Inc.**

P.O. Box 235
Wallingford, PA
19086

phone: 610/565-8458
fax: 610/565-3617
E-mail: tom.erickson@railcents.com

March 23, 2004

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

2/04/14



Re: FINANCE DOCKET NO. 33388 (Sub-No. 91), 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:

Please find enclosed for filing in response to your Decision No. 12 regarding
the above-referenced proceeding an original and eleven copies of a written statement
by Rail Cents Enterprises, Inc. We request that you date-stamp the enclosed extra
copy of the pleading and return it in the enclosed self-addressed and stamped
envelop. If you have any questions, you may contact me at the telephone numbers
below.

Respectfully submitted,

Thomas F. Erickson, Jr.

Thomas F. Erickson, Jr.
Proprietor
office: 610-565-8458
cell: 215-915-1988

Enclosures as stated

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MAR 29 2004

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BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388 (SUB-NO. 91)

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

COMMENTS OF:
RAIL CENTS ENTERPRISES, INC.
TO BE FILED ON OR BEFORE MARCH 26, 2004



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INTRODUCTION

Rail Cents Enterprises, Inc. (RCE) has conducted a railroad consultation business, headquartered in Delaware County, Pennsylvania, since March, 1999. The Proprietor of RCE previously worked for fifteen years at Conrail in various marketing and terminal operating positions, and prior to that worked for seven years at CSX and its predecessors in various sales, transportation, and budgeting positions.

In the course of its consultation activities over the past five years, RCE has observed the inner workings of two of Conrail's three Shared Asset Areas: North Jersey and South Jersey/Philadelphia. As a proponent of railroad growth in general and railroad viability in the Middle Atlantic Region in particular, RCE would like to point out three fatal flaws in Conrail's current organizational structure.

OBSERVATIONS

1. The accounting rules for apportioning Conrail's expenses between CSX and Norfolk Southern (NS) discourage an ever-increasing volume of profitable business. More specifically, because CSX and NS apportion the common pot of Conrail's carload expenses between themselves simply by the ratio of carloads in their respective accounts, each carload is effectively charged back to CSX and NS at the average cost for all Conrail carloads. This discourages carloads occasioning less than average cost, since the rate necessary to cover charged-cost is artificially raised for below-average out-of-pocket-cost moves, often above what the traffic will bear. As cost-efficient or low-cost movements are eliminated, average cost moves ever higher, discouraging in successive iterations more and more potentially profitable business.

As an example of this problem, Camden Iron & Metal currently ships about 20,000 truckloads of scrap metal per year between their subsidiary in Philadelphia and Camden waterfront locations. Conrail's out-of-pocket cost for this short-haul traffic would be substantially less than current truck cost, which is, in turn, less than Conrail's average carload cost. Therefore, neither CSX nor NS can benefit by bidding on the Camden Iron & Metal traffic with a truck-competitive rate, since under Conrail's accounting rules this traffic would necessarily inflate Conrail expenses charged to the bidding railroad by more than the revenue it could derive from the customer.

2. The lack of commercial responsibility at Conrail preempts most industrial development. Conrail does not proactively solicit industrial development on line. It

relies on CSX and NS to develop new rail infrastructure, both of whom have a vested interest in locating industries on non-Conrail lines served exclusively by themselves, or even in moving traffic through intermodal distribution terminals with subsequent drayage into Conrail territory. There is no negative consequence within the Conrail organization when industrial development opportunities are ignored.

For example, in August of 2003, Penn Eastern Rail Lines identified potential rail traffic on an abandoned Conrail industrial track in Philadelphia and contacted Conrail verbally and in writing, asking how it could lease this rail property. There has been no response as of March 2004. In October of 2003, Safe Disposal Systems contacted Conrail requesting a Sidetrack Agreement so it could re-activate its out-of-service sidetrack in Philadelphia. There has been no response as of March 2004.

3. The lack of a revenue incentive discourages improvement in service quality. Conrail is only measured economically by CSX and NS on how much it reduces costs, not on how much it increases revenues. With no incentive to increase transportation revenues, there is no incentive to improve the quality of Conrail's service offering.

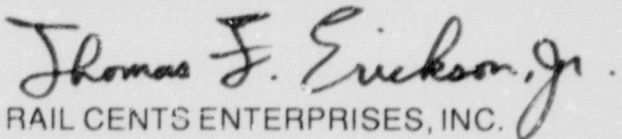
For example, in April of 2002 Advanced Lubrication Specialties, Bensalem PA (rail station Cornwells Heights), was scheduled to receive Conrail switching service on Mondays, Tuesdays, and Thursdays. As its business grew this had become less and less convenient for the industry, and it requested that switching days be changed to Mondays, Wednesdays, and Fridays. Conrail denied this request and the industry did not pursue the matter for fear of a return to Conrail's March switching performance, where out of twelve scheduled switches, four had been incomplete and two skipped.

CONCLUSION

In a free market economy, when an entity is blocked from growth, it inevitably dies. There are at least three ways that the current organizational structure of Conrail blocks revenue growth: 1) by an accounting system that treats all carload traffic as though it has the same cost basis, 2) by deferral of industrial development to parties that prefer growth on their own properties, and 3) by the lack of any monetary incentive to improve its service product. Conrail cannot survive with its current structure. It can only shrink until rendered irrelevant.

There are viable alternative structures. Conrail could be given its own commercial departments, like the Indiana Harbor Belt Railroad which is still owned by Class I railroads; it could be divided between CSX and NS, with some sort of reciprocal switching arrangements if dual commercial access were deemed essential; or it could be sold to independent operators.

Respectfully submitted,

for 
RAILCENTS ENTERPRISES, INC.
Wallingford, PA

STB

FD-33388 (SUB 91)

03/26/04

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210424



united transportation union

General Committee of Adjustment
CSX Baltimore & Ohio System — C, T & E
Buffalo & Pittsburgh RR — C, T & E

Correspondence

MAR 30 2004

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The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

388 Sub-No. 1112

RECEIVED
MAR 26 2004
MAIL
MANAGEMENT
STB

Dear Sir:

I am extremely proud to have the opportunity to address the members of the Surface Transportation Board through this letter. The comments set out herein below are designed to address the integration of Conrail into CSXT effective June 1, 1999.

While I would have preferred to present my thoughts and comments before the Board in person, a very important personal commitment prevents my attendance.

The United Transportation Union Baltimore and Ohio General Committee of Adjustment became totally immersed in the negotiations surrounding the so-called Conrail transaction from the onset. As General Chairperson for the B&O Committee, I participated in every negotiating session covering the former B&O territory.

Initially, the parties agreed to certain stipulations which created an atmosphere where the UTU openly supported the transaction before the Surface Transportation Board. It is without question the processes surrounding this particular transaction impacted a tremendous number of employees, as well as, assets of CSX and the former Conrail Corporation.

Through exhaustive negotiations, the parties were able to formulate Implementing Documents covering the territory of the former B&O Railroad which enhanced the work opportunities of the employees and created a more fluid transportation system for CSX to grow their business.

This Organization has found the imposition of New York Dock by the Board in this transaction to be seamless in the administration thereof. CSX and this Committee have worked tirelessly to limit the problems that could have been associated with the protective issues.

The overall environment which evolved from this transaction has proven to be beneficial to the employees and CSX through increased business levels and additional work opportunities for the employees. We find that our workforce is more consistent and the work availability at a higher level.

Page 2
V. A. Williams
FD 33388

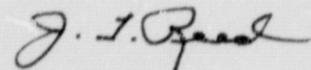
We are optimistic, as a Union, that the membership and Carrier will continue in a positive direction for the foreseeable future.

The magnitude of this transaction has created an open door policy from management to labor for the purpose of generating ideas that will assist in the overall goals of both groups. Input by employees is at an all time high and the Carrier's receptiveness to the employees' ideas is rewarding.

In closing I recognize that the CSXT Corporation has aggressive plans for the future which will need day-to-day dialog to assure a smooth and seamless continuation of the past. The Board can be assured this Committee will endeavor to cooperate at every level to make CSXT's plan a reality.

Once again I would like to thank you for the opportunity to communicate this message to the members of the Board.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "J. I. Reed".

General Chairperson

STB

FD-33388 (SUB 91)

03/26/04

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210407

March 26, 2004

By Messenger

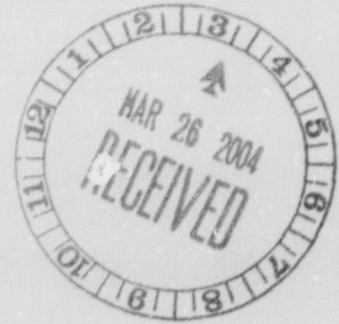
The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K St. N.W.
Washington, D.C. 20043

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210407



RE: STB Finance Docket No. 33388 (Sub-No. 91), *CSX Transportation Corporation, et al and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc. and Consolidated Rail Corporation* [General Oversight]

Dear Secretary Williams:

By letter dated March 25, 2004, the National Industrial Transportation League (League) requested permission to appear at the hearing of the Surface Transportation Board in the above-noted proceeding, to be held on Friday, April 2, 2004. At the time of that letter, the League's representative was not known, and the League indicated that it would notify the Board as soon as possible when its representative was identified.

This letter is to inform the Board that the League is requesting time to appear at the hearing for Mr. R. Jerry Reynolds, Global Logistics and Process Manager, E.I. DuPont de Nemours and Company. Mr. Reynolds is a member of the Board of Directors of the League, and is a member of its Rail Transportation Committee, and he will be appearing on behalf of the League at the hearing.

Sincerely,

Nicholas J. DiMichael
Counsel for The National Industrial Transportation League

STB

FD-33388 (SUB 91)

03/26/04

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210405

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388 (Sub-No. 91)

210405

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

GENERAL OVERSIGHT

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WRITTEN STATEMENT OF THE PORT
AUTHORITY OF NEW YORK AND NEW JERSEY

I. INTRODUCTION

The Port Authority of New York and New Jersey ("the Port Authority") is an agency of the States of New York and New Jersey whose bi-state compact was approved by the Congress. Foremost among the statutory responsibilities of the Port Authority is the protection of the commerce of the New York/New Jersey Port District. The Port District, a statutorily defined area, is a district that is roughly a 25 mile radius around the Statue of Liberty, and includes virtually all of the North Jersey Shared Asset Area ("NJSAA") as that area was defined in the Application in this proceeding.

In its initial comments in this Oversight proceeding filed July 14, 2000, the Port Authority noted that several of its concerns voiced during the control proceedings were in fact being realized. Service had deteriorated, and the carriers were financially unable to make the necessary infrastructure investments to correct those problems. The Port Authority is pleased to



state that since those comments were filed, the carriers and the Port Authority have continually met to resolve mutual rail transportation problems. These productive meetings have survived the tragedy of September 11, 2001, and the parties are committed to continue their cooperative efforts even if formal oversight proceedings are discontinued.

II. PORT AUTHORITY CAPITAL EXPANSION

The facilities of a great port such as New York/New Jersey cannot be efficiently operated unless export/import traffic can move freely to and from the terminal facilities. The New York/New Jersey region is particularly challenged in this regard because of its large population and relatively constricted geographic area. Highway congestion, with its resulting negative economic and environmental consequences, is a constant problem.

Recognizing the expansion of export/import traffic, with the corresponding highway congestion attendant thereto, the Port Authority, beginning in the early 1990s began to invest in the expansion of its rail transportation capacity. The results have been remarkable. The Port's on-dock rail volumes increased from approximated 50,000 in 1993 to nearly 233,000 in 2003, an annual compound growth rate of 17 percent. For the first 23 weeks of 2004, the growth rate has been 23 percent. The 1993 to 2003 period saw the Port handle approximately 1.6 million on-dock rail containers. This was the equivalent of some 2.7 million truck trips.

Needless to say, such increases in rail volumes could not have been achieved without substantial Port Authority investment in rail and terminal facilities. Nor can we expect those increases to continue without an even greater investment program moving forward.

Accordingly, the Port Authority plans call for the investment of \$438 million between 2002 and 2009 to improve and expand intermodal rail capacity at facilities served by Conrail, Norfolk

Southern and CSX. This includes new or expanded on-dock rail terminals, new connections to improve rail access to marine terminals, associated storage and support yards and regional improvements all in the NJSAA. Most of these projects are in the design stage and many are already under construction. Specifically these projects include \$186.1 million for on-dock rail terminals; \$135.4 million for new connections; \$91.7 million for support yards; and \$25 million for New Jersey regional rail programs.

III. PORT AUTHORITY/CARRIER COOPERATION

Plainly, it would be highly imprudent to make plans and expend monies on rail infrastructure improvement without the constant cooperation of the rail carriers who would essentially operate over the connections and yards provided and serve the on-dock terminal facilities constructed. Similarly, the carriers would be ill-advised to tailor their operations, or to make investments within the Port District, particularly when dealing with intermodal traffic, without consulting with the Port Authority. To this point, all of the involved have operated in their own best interests by cooperating and coordinating their activities in the NJSAA. The Port Authority assumes that this cooperation and coordination will likely continue into the foreseeable future.

Events could, however, nullify this assumption. If, for example, one or both of the major carriers were to merge with or be acquired by other carriers, the competitive picture might well be dramatically altered. If, on the other hand, a different management philosophy were to be adopted by one or both of the carriers, again the competitive picture might be changed. In these circumstances, or others that cannot now be foreseen, the Port Authority would quite probably seek the intervention of this Board to protect the commerce of the Port District.

In the event of a merger or acquisition, the Port Authority would, to the extent that it could not reach agreement with the new entity, likely seek conditions be imposed to protect the Port District. In the event that new management philosophy causes some conditions that the Port Authority deems detrimental to the Port District, the Port Authority would seek additional conditions be imposed through these oversight proceedings, or should oversight be discontinued, through reopening of the underlying Finance Docket No. 33388.

IV. ONGOING OVERSIGHT

The Port Authority is aware that the Norfolk Southern and CSX will seek termination of the oversight proceedings at the end of the five year term of initial oversight prescribed in the Board's control decision. The Port Authority is also aware that some shipper and other interests may wish to seek oversight continued. Given the cooperation between the Port Authority and the carriers, and given the right of the Port Authority to petition to reopen the underlying docket, the Port Authority will neither support nor oppose termination of these oversight proceedings.

Respectfully submitted,

THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY

STB

FD-33388 (SUB 91)

03/26/04

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210404

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emhocky@ggelaw.com

210404
GG&E GOLLATZ
GRIFFIN
& EWING
ATTORNEYS - AT - LAW



March 25, 2004
VIA: UPS Overnight

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
Mercury Building, #711
1925 K Street, N.W.
Washington, DC 20423-0001

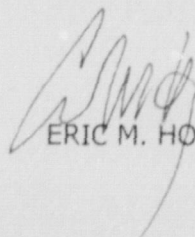
Re: STB Finance Docket No. 33388 (Sub-No. 91)
CSX Corporation et al. - Control - Conrail Inc. et al.
[General Oversight]

Dear Secretary Williams:

Enclosed for filing are the original and ten (10) copies of the Pre-hearing Statement of GROWMARK, Inc.

Please time stamp the extra copy of this letter to indicate receipt, and return it to me in the stamped self-addressed envelope provided for your convenience.

Respectfully,


ERIC M. HOCKY

Enclosures

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GOLLATZ, GRIFFIN & EWING, P.C.

WEST CHESTER

PHILADELPHIA

WILMINGTON

210404

Before the

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388 (Sub-No. 91)



CSX CORP. ET AL. - CONTROL - CONRAIL INC. ET AL.

[General Oversight]

PRE-HEARING STATEMENT OF GROWMARK, INC.

GROWMARK, Inc. ("GROWMARK") is filing this pre-hearing statement pursuant to the Board's Decision No. 12 issued February 12, 2004, in this oversight proceeding. The statement is being submitted in conjunction with the comments GROWMARK anticipates making at the public hearing scheduled for April 2, 2004.

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MAR 26 2004

GROWMARK'S Interest

GROWMARK is a federated, regional agricultural cooperative that provides products and services to member cooperatives and retail dealers in the Midwest and Eastern United States, and Ontario, Canada. Local member cooperatives and retail dealers, in turn, provide farmers and others with among other products and services, crop inputs, energy products, feed and animal health products, grain handling systems, lawn care products, and grain marketing services.

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Public Record

At the time the Conrail transaction was implemented in July 1999, GROWMARK was primarily active in the Midwest United States, and it was largely unaffected by the transaction. However, in December 2002, GROWMARK acquired a number of assets from Agway

Agronomy, including Agway's storage facilities located on property leased from Conrail at Pier 122 along the Delaware River in Philadelphia. Conrail owns the Pier and the cranes located there which are used to unload vessels and barges, and the tracks that serve the Pier and the storage facilities. Pier 122 and the adjacent property are part of the South Jersey/Philadelphia Shared Asset Area ("SAA"). During the period of Agway's operations, and when GROWMARK took over in December 2002, the Pier 122 facilities received urea, phosphates and ammonium sulphate by barge and vessel, where it was unloaded for outbound shipment by rail.

In the Spring of 2003, GROWMARK was advised that Conrail was closing Pier 122 because the cranes were not in compliance with OSHA regulations. Conrail indicated that it was no longer able to accept freight at Pier 122. GROWMARK had a vessel enroute which it was forced to re-route to another port, where the freight was unloaded and trucked to GROWMARK's storage facilities at Pier 122. CSX Transportation, Inc. ("CSX") and Norfolk Southern Railway, Inc. ("NS") subsequently embargoed the piers. Those embargoes continue today, almost a year later.

In the Fall of 2003, with the cranes not yet repaired by Conrail, GROWMARK was again forced to re-route its freight to other ports. The freight was unloaded, and shipped by rail to the Pier 122 storage facilities where it was held until it was shipped out again by rail. If the cranes are not repaired soon, GROWMARK will continue to have to divert its inbound freight. Despite the efforts of GROWMARK and other interested parties, Conrail has not repaired the cranes.¹

¹ GROWMARK has also filed a claim with Conrail for the increased shipping and handling costs it has. Conrail has denied the claim.

Oversight Proceeding

One of the asserted purposes of the Board's oversight proceeding is to make sure that the Applicants keep the promises and satisfy the representations they made in the course of the proceeding. *CSX Corp. et al - Control - Conrail Inc. et al*, 3 STB 196 (1998) (*Merger Decision No. 89*), at 366. Essential to the concept of the SAAs were Applicants' representations that Conrail would have sufficient resources to maintain its facilities within the SAAs, and if necessary to make capital improvements. *Applicants' Railroad Control Application*, Vol. 1 at 55, 56-57, and 621-622, 623 (Joint V.S. of Sparrow and Romig). *See also Merger Decision 89* at 230-231.

Based on Conrail's actions with respect to Pier 122, Conrail and the other Applicants do not appear able or willing to maintain their SAA facilities. CSX and NS have embargoed Pier 122. Despite that embargoes are meant to be temporary in nature, Applicants have shown no indication that they have plans to repair the cranes and restore service. Conrail has in fact notified GROWMARK that the cranes will not be repaired. To date, attempts to negotiate a resolution have not progressed.

There are a number of possible reasons for Conrail's refusal and/or inability to repair its cranes -

- (1) is it because the Applicants are realizing increased revenues because GROWMARK's freight must now move both in and out by rail?
- (2) is it because CSX and NS do not want to invest in the Port of Philadelphia, preferring other ports (such as Baltimore and Norfolk) where they were already providing service?

- (3) is it because CSX and NS do not want to invest in Conrail facilities because each is afraid that the other will get an advantage?

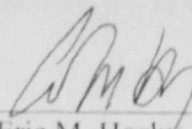
The problem GROWMARK is experiencing at Pier 122 raises the question whether the governing structure established for Conrail and the SAAs² allows Conrail to be responsive to the needs of its shippers and the facilities that serve them, or does the structure inherently inhibit such responsiveness.

² Conrail exists only to serve NS and CSX and not its former shippers (*Railroad Control Application*, Vol. 1 at 45); 50/50 control of Conrail's board - either NS or CSX can veto (*Railroad Control Application*, Vol. 1 at 33).

Conclusion

For whatever the reason, it appears to GROWMARK that Conrail and its controlling shareholders CSX and NS are not maintaining their promises with respect to the South Jersey / Philadelphia SAA generally, or Pier 122 in particular. GROWMARK recommends that before the Board terminates the formal oversight process, it should investigate whether in fact Conrail is adequately maintaining its facilities, whether NS and CSX are investing the South Jersey / Philadelphia SAA as required, and whether NS and/or CSX is using its veto power to prevent Conrail from making needed maintenance and repairs within the SAA.

Respectfully,



Eric M. Hocky, Esq.
Gollatz, Griffin & Ewing, P.C.
Four Penn Center
Suite 200
1600 John F. Kennedy Blvd.
Philadelphia, PA 19103-2808
215-563-9400

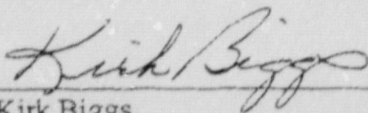
Attorneys for GROWMARK, Inc.

Dated: March 25, 2004

VERIFICATION

I hereby verify on behalf of GROW MARK, Inc., under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on March 25, 2004.


Kirk Biggs
Title: *Crops Division Manager*
GROWMARK, Inc.

STB

FD-33388

(SUB 91)

3/26/04

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Kenneth R. Pramik
Director Transportation
Cemex, Inc.
840 Gessner, Suite 1400
Houston, Texas 77025
(713)-722-6059
kennethpramik@cemexusa.com

March 18, 2004

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



Dear Mr. Williams:

Ref: STB Finance Docket No. 33388 (Sub-No.91)

Please consider this my request to speak at the second Public Hearing to be held in Washington D.C. on Monday, May 3, 2004, regarding the non-SAA aspects of the Conrail Transaction. I would expect my remarks to take less than five minutes.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads 'Kenneth R. Pramik'.

Kenneth R. Pramik

Enclosures: 10 copies

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FD-33388 (SUB 91)

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One Newark Center, 17th floor, Newark, NJ 07102
(973) 639-8400 • fax (973) 639-1953 • www.njtpa.org

Peter S. Palmer, Chairman
Joel S. Weiner, Executive Director

March 24, 2004

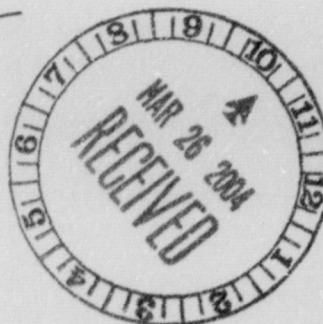
VIA UPS DELIVERY

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

210402
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**Re: Finance Docket No. 33388 (Sub-No. 91), CSX Corporation
and CSX Transportation, Inc., Norfolk Southern Corporation
and Norfolk Southern Railway Company—Control and
Operation Leases/Agreements—Conrail Inc. and Consolidated
Rail Corporation [General Oversight]**

Dear Secretary Williams:

Pursuant to the U.S. Surface Transportation Board Decision Number 12, reference STB Finance Docket No. 33388 (Sub Part 91), to hold hearings regarding the operations of the Conrail Shared Assets Area, please find the attached ten (10) copies of the written statements that I will be making at the April 2, 2004 hearing in Trenton, New Jersey.

We also intend to provide further supporting material that will be submitted for Board consideration by the July 1, 2004 deadline.

Respectfully,

Peter S. Palmer
Chairman of the Board of Trustees
NJTPA

C: NJTPA Board of Trustees

210402



Draft Testimony by Peter S. Palmer, Chairman of the North Jersey Transportation Planning Authority, the Metropolitan Planning Organization for the Northern Thirteen Counties of New Jersey Before the U.S. Surface Transportation Board, Regarding the Conrail Transaction, Board Docket Number 33388. April 2, 2004

Sub 91

Good Afternoon.

My name is Peter S. Palmer. I am Chairman of the Board of Trustees of the North Jersey Transportation Planning Authority. I am here to convey the strong interest of our Board in effective freight rail operations in our diverse region. The NJTPA is the Metropolitan Planning Organization designated under TEA-21 for the northern thirteen counties of New Jersey. In addition to the thirteen counties, the NJTPA has on its board the mayors of the two largest cities of New Jersey: Newark and Jersey City, as well as the chief executives of four state agencies including the Port Authority of New York and New Jersey, New Jersey Transit, NJ Department of Transportation, and the Governor's Office. Rounding out the Board of Trustees is a gubernatorial appointee as a Citizen Representative.

As the regional planning agency tasked with the responsibility for prioritizing federal contributions to major transportation investments in our region, we have to find intelligent and strategic ways to invest

limited federal and state dollars to cover the huge transportation needs of our large, heavily populated and congested area. In fact, New Jersey is the most densely populated state in the nation, with three quarters of that population in our NJTPA region. Furthermore, northern New Jersey is the gateway to the largest and richest consumer market on earth—the New York, New Jersey, and Connecticut metropolitan region of some 18 million people. The entire state of New Jersey is a federally designated air quality non-attainment area.

In our current freight planning activities we have developed an extensive stakeholder and participant network. This includes the principal funding and implementation agencies of our region: NJDOT, the Port Authority of NY&NJ, and NJ Transit as well as the Class One and shortline railroads, port stevedores and shipping lines, trucking companies and trucking organizations, warehouse and distribution companies, real estate developers, municipal and county governments, public interest groups, and academic institutions. We also work closely with a number of federal, state and neighboring regional planning agencies and are actively planning to meet freight needs in the federally designated International Intermodal Transportation Corridor, which encompasses most of the CSAA.

The NJTPA established itself as a Party of Record in the Conrail Transaction in 1997. We conducted a major study and analysis of regional issues related to the transaction. Working with the New Jersey Department of Transportation, our report became the basis of

the filings by the State before the STB. The report and its recommendations called for the state to achieve several objectives from the merger. These included Class One competition after years of near-monopoly by Conrail; improved service; economic development related to expanded rail opportunities; protection of service on joint passenger/freight rail lines; improved relationships between the Class Ones and the New Jersey Shortlines, and expanded rail service and infrastructure to handle forecasted freight growth in the region. Ultimately, we notified the STB that we would subsume our interests in the Transaction under the filings by the state, which included our key objectives.

We were pleased by the Board's decision to divide Conrail in such a way as to guarantee competitive Class One service to our region, especially through the creation of a Conrail Shared Assets Area (CSAA) which helps to organize operations in our dense rail network and provides competitive service in an area that urgently needs greater diversion of freight traffic from trucks to rail. We noted that the agreements around this Transaction called for continuing collaboration between the Class One railroads and key state agencies such as NJDOT and the Port Authority, access to the Shared Assets interchanges for shortline railroads, increased economic development and marketing in the area, and investments to upgrade rail infrastructure and capacity.

In recognition of the approaching conclusion of the STB's five-year oversight period of the Conrail Transaction, we initiated a review of

the performance of the freight railroads in our region since the acquisition. We particularly focused on the northern Conrail Shared Assets Area, which encompasses most of the key rail lines and terminals in our region and also roughly coincides with both the Port Authority's Port District and the federally designated International Intermodal Transportation Corridor.

Working with NJDOT, which has a standing research grant with the New Jersey Institute of Technology, we designed a study that was conducted under contract with Rutgers University's Voorhees Transportation Institute, a neutral third party, to review the STB decisions as they pertain to our region under the Conrail transaction. The study included surveys of the railroads, both Class One and Shortlines, as well as key rail customers large and small to determine general levels of rail service, outstanding issues, and suggested improvements, if any. Based on a preliminary report produced by the Rutgers study, the NJTPA, under signature of our then-chairman Theodore Narozanick, as well as the Commissioner of the NJ Department of Transportation filed letters of concern about the operations of the Class Ones and the CSAA to the STB in July 2003. Since then, a draft report of the study's findings has been produced. After final review, we expect to submit the full report to the STB before the July 1 deadline for written submissions. My testimony today is based primarily on some of the key findings from the study. I should emphasize that the interviews and surveys that were performed by the Rutgers Study Team were conducted under terms of confidentiality so therefore in this testimony we are not at liberty to

cite specific names and places. We have urged that interested parties submit their own testimony or otherwise determine whether they want us to identify them in our additional written materials submitted by July 1.

The Shared Assets area, with its large rail yards and its proximity to the largest port on the Atlantic Seaboard, is the forward-most intermodal freight distribution infrastructure serving the huge metro area. Using these terminals to the greatest extent possible helps to reduce long distance truck vehicle miles traveled (VMT). Goods entering the port can move to more distant markets by rail, thereby sparing the region some of the heavy truck traffic we experience. Likewise, goods destined to the huge metropolitan consumer market from West Coast ports or from NAFTA trade and other parts of the U.S. can be distributed from these rail terminals to the market without traversing the length and breadth of New Jersey by long distance truck movements. We therefore rely on the original assurances given by CSX and NS railroads during the Conrail Transaction that they would commit to diverting long distance truck movements off the major north-south and east-west highway routes.

The NJTPA region and the State of New Jersey have a huge stake in seeing that this is accomplished if we are to realize an efficient and capable rail freight distribution system. We face severe constraints in expanding our roadway network and we must optimize the use of our entire transportation infrastructure. One of the constraints we face, because our region is so developed, is that it is often either

impossible or prohibitively expensive to expand our roadway infrastructure by adding new lanes or other capacity enhancements. Therefore, a key transportation goal for our region must be to encourage as much of our freight traffic to move by rail as possible, especially in the vital Shared Assets Area.

With this understanding, it is a cause for concern for many in our region that the Class One railroads are not handling all their rail borne traffic to the forward-most rail terminals in our Shared Assets Areas. The report we commissioned has identified several instances where carload and intermodal traffic are dropped just beyond the New Jersey border and trucked into or through the region. By handling New Jersey and metro-bound customers at its own facilities in Pennsylvania, NS keeps these customers captive to its own facilities rather than exposing them to the competitive and jointly operated CSAA. This of course has the effect of greatly adding to truck traffic on our region's roadways and does not fulfill the assurances of NS that one of the benefits of the Conrail Transaction would be the diversion of truck traffic to rail service throughout its system, which is especially vital to the heavily congested Shared Assets Area. In addition, the report finds that the organizational structure of the Conrail Shared Assets Area may be an impediment to providing a strong rail marketing approach by the two Class One parents.

In general the report notes that the current level of intermodal service to the port and several large customers in the CSAA is well run. The

vast amount of port traffic was one of the major markets sought by both CSX and NS at the time of the Conrail Transaction.

However, the report also finds that similar levels of service in many cases are not being provided to other customers, particularly smaller and medium sized carload customers. Such customers form a key and growing segment of our rail freight business. Unlike other areas of the U.S. that have extensive large industrial plants, grain silos and mines, our aging industrial base leaves us with many smaller firms that depend on carload services, which for a number of customers is provided by the shortline rail roads.

Some of these smaller and mid-size customers in northern New Jersey have complained of late or insufficient service, or of receiving unrealistic and non-competitive rate quotes for service. Some cargoes are moved by Class Ones circuitously rather than on the shortest direct route, thereby adding time to final delivery. In many areas of the Shared Assets service region, marketing to new and existing customers has been left solely to the Shortline railroads.

Our report notes that the Class Ones have a minimal marketing and economic development presence in New Jersey, which undermines their ability to conduct a consistently strong marketing approach to the state. CSX has a small marketing office in central New Jersey. Its economic development and government affairs staff reside in Albany New York and have responsibility for all of Pennsylvania, New York and New Jersey. NS public affairs, economic development and

marketing staff serve New Jersey from Philadelphia, Delaware and Virginia. This creates a situation where it is difficult for state economic development agencies and Shortline Railroads to readily coordinate new business initiatives with the Class Ones to grow the business in New Jersey.

While short lines might be in a position to fill the vacuum left by the Class Ones in terms of marketing and providing service to some smaller customers on their own lines, their overall effectiveness still depends on a cooperative and collaborative partnership with the Class One railroads. However, our report notes that there are interchange or access agreements between the Class Ones and the New Jersey Shortlines that were sought at the time of the Conrail Transaction that remain uncompleted in the CSAA even now, five years later.

Other small and mid-size customers that are served directly by the Conrail Shared Assets are dependent on investments and operational support provided by the parent railroads.

A key problem with the CSAA organization highlighted by our report is that some Class One pricing practices, particularly in the case of NS, discourage customers who serve the metro market from handling their rail traffic in the CSAA. Interviews with rail customers, under promise of confidentiality, revealed that the Class One railroads are quoting additional prices of \$250 to \$260 for handling traffic into and through the terminals of the CSAA. This violates the assurances of

the Class One railroads under the Conrail Transaction that they would make delivery of traffic via the CSAA an invisible and integrated part of their service to New Jersey. Interviews conducted by the Rutgers Study team show that by making separate and visible additional charges in rate quotes to new customers who will deliver freight traffic in New Jersey or other parts of the metro region, the railroads are encouraging these businesses to establish distribution centers outside of the region and then move the cargo by truck to final market. Likewise, these visible extra charges were used in marketing efforts by NS to encourage existing customers to relocate their New Jersey operations to Pennsylvania where they would then be wholly served by the NS rail system. Obviously, this business approach threatens to reduce economic development opportunities in our region, reduces the incentive of regional freight operators to divert traffic from truck to rail and potentially destabilizes the viability of the Shared Assets Area.

Both the Rutgers report and our earlier Brownfield Economic Redevelopment report note that the dramatic growth of traffic through the Port of New York will create a growing demand for value-added, distribution services to not only our own regional market, but to more distant markets that are very suitable for rail service. Just as in the case of major West Coast ports such as Los Angeles/Long Beach, our growing port traffic will lead to new freight customers who will process goods received from abroad and then redistribute them to customers throughout North America. These operations represent a tremendous opportunity for economic development and jobs in our

region. These new and expanded distribution operations will seek both carload and intermodal rail service to markets beyond our metro region. These customers deserve competitive and cost effective rail service from the nearest rail terminals that are located in the CSAA. Without such rail service, the alternatives are either more truck traffic through our region or the relocation of distribution firms to other states.

While many of the issues found in the report flow from the business practices of the two Class One railroads, the inability of the CSAA itself to provide the same full range of services that are provided by similar terminal railroads in places like Chicago was found to be problematic. It is our view that the CSAA is a very important operational entity that provides crucial and, up to this point, largely effective service throughout the area it defines. It provides important interchange services between the Class Ones themselves and between the Class Ones and the Shortlines. It also provides direct service to final customers in its area, as in the case of the General Motors plant in Linden, the Oak Island yard and others.

However, because it is structured and maintained by its two parents as only a cost center and not a profit center, there is pressure to limit its equipment, personnel and investments in rail infrastructure to the least-cost arrangement possible. The risk is that these limitations, in turn, may limit the CSAA's ability to fully accommodate the projected growth in freight traffic effectively.

The Class Ones have largely divided their respective shares of the Conrail Shared Assets current customers. Since each of the parent railroads has veto power over significant investments and improvements that could benefit the customers of the other, they now face a situation where each railroad cannot be assured that any new investments that it makes in the CSAA will only benefit itself. This creates an incentive to shift customers to facilities that are wholly served by its own operations. As a result, NS, which has greatly expanded its facilities just over the border in Pennsylvania, has been building an alternative service infrastructure outside of the CSAA. Dropping traffic there is generating new truck traffic into our region.

The new federal rules on trucking hours-of-service are compounding this situation. Freight movement in the metro region involves innumerable direct and multiple deliveries of goods to customers. Truckers are now on a continuous clock and must limit the number of deliveries to realistic time frames. Two-thirds of the metropolitan population is east of the Hudson River. Serving this regional metro market from the periphery means that more trucks will now be needed to move goods over tightened delivery schedules, with additional environmental and congestion costs that cannot be quantified at this time. In contrast, handling truck delivery movements from the closer CSAA terminals will reduce vehicle miles traveled, time, and other negative operational impacts.

Rail customers in the entire CSAA and, by extension, the customers of the Shortline railroads that feed into the CSAA are dependent on

the marketing efforts and willingness of the parents to provide investments to assure adequate levels of service. This points to a weakness in the CSAA's structure that could be overcome if the CSAA was given the ability to independently engage in marketing activities and to quote rates. In effect, the CSAA could develop new markets and customers that could be profitably bid on and served by both Class One parents. A CSAA with an independent marketing function that grows new business would provide incentive to the Class One parents to make adequate investments.

Given the above, we therefore conclude that there are lingering problems and unfulfilled promises pertaining to the Conrail Transaction in the State of New Jersey, and especially in the Conrail Shared Assets Areas.

We ask that the Surface Transportation Board analyze and revisit the operations of the CSAAs in our State, with an eye towards strengthening them and allowing them to be active in promoting and growing rail freight business. We ask that the Surface Transportation Board look at ways that can empower the Shared Assets Area to better serve our region and that it continue its oversight until the necessary changes are implemented.

We ask that the STB place additional emphasis on seeing that the Class One railroads resolve outstanding differences with the Shortline Railroads in terms of access to the CSAA and its interchange points. The Class Ones should be instructed to improve marketing

coordination and service to the Shortlines to mutually grow their respective business.

I want to stress that in many ways, we in the region and our friends and colleagues in the rail business want to achieve the same objectives. We want to grow the use of rail service by the goods movement sector. We want the railroads, both Class Ones and the Shortlines, to be successful, efficient and proactive in our state and region. We are aware that in today's world you can't get something for nothing. In this respect, the State of New Jersey and the Port Authority of NY&NJ have spent millions of dollars matching the Class Ones railroads in important investments to increase capacity, signaling and clearances. The New Jersey Department of Transportation also has a funding program to aid the Shortline railroads in improving track and structures to handle heavier weights and keep their lines in good repair.

Since the NJTPA allocates federal TEA-21 dollars to transportation projects, we face restrictions on how we can apply them to freight rail operations. However, as the federal surface transportation reauthorization proceeds, we see that there are calls for greater flexibility under some programs to help to increase rail capacity. It is not inconceivable that we will also find ourselves partners with the railroads on important projects. But we also believe that we have a right to ask that in return for public monies contributed into joint efforts to improve rail infrastructure, we should see a more proactive effort on the part of the rail industry to serve regions such as ours

with its high congestion and population density. In the meantime, we stand ready to work with the railroads towards achieving an improved rail system in New Jersey, any way we can.

In closing, we seek firm commitments from the railroads that they will reinvigorate their marketing and investment strategies for New Jersey and the crucial Shared Assets Areas. These commitments should show that the Class One railroads will help the region and the State to lower truck VMT by handling traffic to the forward-most interchange or intermodal terminal location. And again, the STB should consider addressing the structural problems revealed in its current operations, instituting arrangements that allow the CSAA and its parents actively to cultivate new customers and expanded business in the core New Jersey rail market it serves.

Thank you for allowing this opportunity to bring our concerns and issues before the Surface Transportation Board.

STB

FD-33388 (SUB 91)

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March 25, 2004

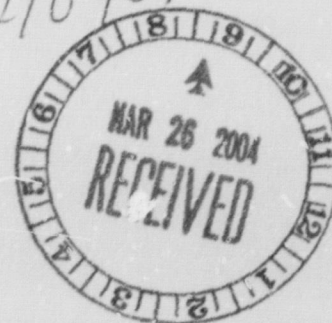
By Messenger

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K St. N.W.
Washington, D.C. 20043

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RE: STB Finance Docket No. 33388 (Sub-No. 91), *CSX Transportation Corporation, et al and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc. and Consolidated Rail Corporation* [General Oversight]

Dear Secretary Williams:

In Decision No. 12 in the above-noted proceeding, the Board indicated that it would be holding a hearing on Friday, April 2, 2004 in Trenton, New Jersey dealing with the three "shared assets areas" that were created in connection with the Conrail Transaction.

The League respectfully requests permission to appear at the hearing on Friday, April 2. The League understands that the Board requested that a written notice of intent to speak should be filed on or before March 18, 2004. However, the League's Rail Transportation Committee and Board of Directors met on March 23 and March 24, respectively, and it was not determined to request time to appear at the April 2 hearing until the matter was discussed at those meetings. The League therefore requests leave to file this request late, and respectfully asks the Board for an allotment of time at the hearing.

The League respectfully requests seven minutes time to present its position. The identity of the League's representative has not yet been determined, but the League will notify the Board as soon as possible when its representative is identified.

Sincerely,

Nicholas J. DiMichael
Counsel for The National Industrial Transportation League

STB

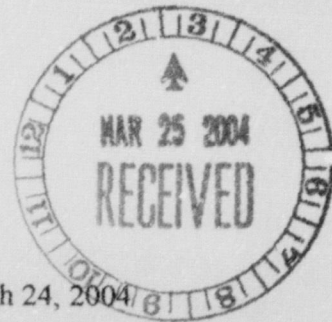
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LACKAWANNA COALITION
Box 283
Millburn, N.J. 07041



March 24, 2004

Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 K St., N.W., Rm. 700
Washington, D.C. 20423

Re: CSX Corp, CST Transportation, Inc., Norfolk Southern Railway Co. – Control and
Operation Leases/Agreements – Conrail, Inc. and Consolidated Rail Corp. (General
Oversight), Docket No. FD-33388 (sub 91)

Dear Mr. Williams:

Enclosed please find Original and ten copies of the Statement, including Exhibits, which
the Lackawanna Coalition wishes to submit for the record in the hearing on the above matter, to
be held in Trenton, New Jersey on April 2d.

As we notified you previously, a representative of the Lackawanna Coalition will also be
speaking at the hearing.

Thank you for your consideration.

Yours very sincerely,



DAVID PETER ALAN
Chair

Encls: Statement (7 pages, original and 10 copies)
Exhibits (7 pages, 11 copies)

Cc: New Jersey Dept. of Transportation
North Jersey Transportation Planning Authority
New Jersey Transit
New York & Greenwood Lake Railway Co.
William R. Wright

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STATEMENT BY LACKAWANNA COALITION BEFORE SURFACE TRANSPORTATION

BOARD HEARING OF APRIL 2, 2004, HELD AT TRENTON, NEW JERSEY.

Re: CSX Corp., CST Transportation, Inc., Norfolk southern Railway Co. – Control and
Operation Leases/Agreements – Conrail, Inc. and Consolidated Rail Corp. (General
Oversight), Docket No. FD-33388 (sub 91)

The Lackawanna Coalition, Inc. is a not-for-profit corporation of the State of New Jersey. The Coalition is an independent organization, whose Principal Members are the counties and municipalities along New Jersey Transit's Morris & Essex and Montclair-Boonton Lines. Our Associate Members are individuals concerned with the quality of the rail service offered on our lines of concern. The Coalition advocates on behalf of the riders of our rail lines, and for better passenger transit in the region generally.

We express our concern today that the current arrangement between CSX and NS for operations in the Conrail Shared Assets (CSA) area in New Jersey is inherently harmful and does not allow for circumstances that benefit potential rail passengers in our region. Potential riders of rail lines in our region are a constituency who should be served. The STB acts to promote the "public interest, convenience and necessity" by its own rules; 49 CFR, part 1150, subpart C. The Lackawanna Coalition advocates on behalf of the riders who use existing rail lines, and we have supported extensions of rail passenger service to lines within the concern of the STB in this proceeding. We claim standing to speak on behalf of the rail riders of our region under *Federal*

Election Commission v. Akins, 524 U.S. 11 (1998) and *United Church of Christ v. FCC*, 359 F.2d 994, 1005 (D.C. Cir. 1966). The Lackawanna Coalition is concerned solely with passenger rail services in our area. We appear in this proceeding, because the STB-mandated structure in question directly affects potential passenger rail services.

The purpose of the Railroad Reorganization and Regulatory Reform Act of 1976 ("4R Act") is to help railroads become independent and economically viable. In keeping with this purpose, the Coalition wishes to extend this ideal beyond the actual mileage of the former Conrail lines to other railroads. The New York & Greenwood Lake Railway Co. (NY&GL), which wishes to operate passenger trains in our region, is an example.

We believe that looking at economic issues concerning only NS and CSX as entities in a vacuum is too narrow a view. Looking at the broader picture, the STB, like its predecessor, the Interstate Commerce Commission (ICC), is required to operate in the public interest, convenience and necessity (*see* 49 U.S.C. Sec. 11324). In this time and place, the public interest, convenience and necessity requires that the public have as much access as possible to our rail network, while also promoting other forms of transportation and intermodal connections. This includes both Class I carriers and other railroads, including short lines.

The reason for this is that the public interest, convenience and necessity encompasses far more than the mere cost of shipping goods from one place to another. A significantly more important issue is public access to our rail lines for actual passenger transport, to take people to places where they cannot currently go by rail. Our rail lines are an especially vital resource for passenger transportation in our region, since our region is so densely populated, our highways are so severely overcrowded, and our rail lines are often so wastefully underutilized.

Today, the cases sustaining this Board's broad authority ((See, e.g. *Erie-Niagara Steering Committee v. STB*, 247 F.3d 437 (2d Cir. 2001); *Missouri-Kansas-Texas RR. Co. v. ICC*, 632 F.2d 392 (5th Cir. 1980)) do not appear to apply to the situation which our region of New Jersey presently faces. The cases deal solely with issues of costs of shipping freight and access to line capacity for freight shipment only. While these are important economic issues, they pale in comparison to the right of the public to travel. The public's right of access to transportation from one place to another is far more vital than the saving of a few dollars on shipping costs. At the present time, New Jersey's highways are crowded, while rail lines that could carry passengers do not. The Lackawanna Coalition is directly concerned with proposed rail passenger services on the NY&GL line (Glen Ridge to Hoboken, in cooperation with New Jersey Transit) and the former Lackawanna Cutoff Line which, when rebuilt, can provide rail service to Scranton and connect with other existing track to points as far away as Syracuse and Buffalo. Other projects for new passenger services in our region have been proposed. These include Bound Brook to West Trenton, Raritan Valley Line extension to Phillipsburg and Allentown, an east-west line in Bergen and Passaic Counties on the New York, Susquehanna & Western, and others. If only the narrow interests of Class I carriers like NS and CSX are considered, eventual restoration of these services becomes less likely than under a regulatory scheme that considers the right of people to travel to be part of the public interest, convenience and necessity.

The regulatory scheme of the past sixty years has been concerned largely with the elimination of passenger rail services provided by private railroads. Except for tourist excursions, every scheduled passenger train operating in the United States today is operated either by Amtrak or by a local transit authority, such as New Jersey Transit. The NY&GL has proposed operation of a passenger service, financed by revenues obtained by shipping freight.

While this was an idea that built the railroads many years ago, it is also an ideal that has not been proposed within the lifetimes of most of us living today. Given the act by NS of removing one of the tracks over which NY&GL would operate this service, it is clear that NS is acting in contravention of the public interest by making it more difficult to restore a passenger rail service than it would have been if they had not committed this act. For the STB to condone such practices by looking solely at the narrow interests of the Class I railroads would frustrate the public interest and militate against the intent of the 4R Act.

For the STB to consider only costs of shipping freight as its sole issue of concern would be like taking a freeze-frame photograph of the present use and capacity of the Conrail Shared Assets (CSA) area. This would preclude further development of new capacity for carrying passengers, and even other freight capacity, in contravention of 49 U.S.C. Sec. 11324. As with all freeze-frame photographs, this one does not depict motion. It is universally understood the "motion" is what transportation is all about.

In short, THE CURRENT ARRANGEMENT IS INHERENTLY ANTICOMPETITIVE, and this Board should not continue to condone it.

This lack of competitiveness in our region negatively impacts the possibility for restoration of rail passenger service between Hoboken, N.J. and Scranton, Pa., on the line formerly known as the Lackawanna Cutoff. Restoring passenger service to this line could be facilitated by allowing CP Rail/D&H to operate over the restored Cutoff Line and the Boonton Line, to the New York metropolitan area. Since NS and CSX appear to be acting as a single carrier within our region of concern, the standard of encouraging two or more Class I railroads to serve a region should be applied by allowing CP Rail/D&H to enter this market, if they desire to

do so. We endorse this idea, since funding from a major freight carrier to rebuild the abandoned Cutoff Line and upgrade it to a standard which could support a viable passenger service, could be combined with the funding already pledged by New Jersey Transit and Monroe and Lackawanna Counties in Pennsylvania. Such combined funding could have a synergistic effect in building a much stronger rail line, both technically and in terms of operational capacity, than funding from either the public or private entities alone could provide.

Although CSX and NS claim to be competitors in our region, their filings in reply to the Coalition's initial filing to the Board strongly state otherwise.

On July 10, 2003, the Lackawanna Coalition filed objections to the practices by NS that could lead to increasing difficulty in reinstating passenger services in our region. Copies of that filing and the resolution to which it alludes are submitted collectively as Exhibit "A" herewith. The response to this filing by CSX (Document No. 208608, filed August 4, 2003) is particularly noteworthy. The reply by CSX objected to our complaints about its purported competitor, NS. It is particularly interesting that CSX objected to our complaints about NS even more vociferously and in stronger language than did NS itself (reply by NS also filed August 4, 2003, Document No. 208621).

The very fact that CSX made ~~an~~ objection ~~whatsoever~~ to the Coalition's complaints about its purported competitor shows that the relationship between the two carriers is not competitive, but collusive; at least in our region of New Jersey. It makes no sense that any reasonable firm, especially in an oligopolistic industry, would complain that a third party objects to its competitor's practices. A reasonable firm in that situation would be delighted that a third party complained about its competitor, even if it did not express that delight in an administrative filing. The Coalition has previously expressed this opinion in its filing of September 12, 2003. A copy

is submitted as Exhibit "B" herewith. This filing was not considered in prior proceedings. See Decision No. 11, dated January 16, 2004 at 11 and note 5.

It appears that, in reality, NS and CSX are not competitors, but colluders who wish to share the spoils of New Jersey. It appears to us that the comments by CSX in its filing indicate sufficient anticompetitive motive that it is incumbent on the Board to keep this proceeding open, with an eye toward eventually forcing the establishment of a truly competitive situation where at least two Class I railroads serve our area.

The Lackawanna Coalition is also concerned with the recent practices of NS on the Lower Boonton Line, in the geographical area of Bloomfield and Glen Ridge. The New York & Greenwood Lake Railway Company has proposed operating a passenger shuttle service between Hoboken and Benson Street Station in Glen Ridge, in cooperation with New Jersey Transit. The Lackawanna Coalition has consistently supported this proposal. However, NS has torn up one of the tracks in the affected area, making restoration of passenger service more difficult. If NS abandons the DB Drawbridge over the Passaic River (and NS has never denied such intent), restoration of this service will become impossible. It is in the public interest, convenience and necessity that provision should be made for possible restoration of a service that has been proposed and is actively under consideration.

NS has complained, in response to the document filed last July by the Coalition, that the Coalition has proposed to confiscate PRR's (not NS's own) assets without paying for them. Yet, NS has actually abandoned the second track in the affected area, and has not denied that it intends to abandon the drawbridge that links this line to tracks that provide access to Hoboken Terminal. Under the circumstances, the protestations by NS are so disingenuous as to be laughable. Essentially, NS is complaining that v are proposing that someone might steal their

garbage. It is clear that NS has little interest in operating this line, and they have no interest at all in operating the portion of the right-of-way that consists of the track that was removed. If NS, by its own action, has demonstrated that it does not want that portion of their former line, they should not be permitted to keep it. Another operator wants to operate that line for the direct benefit of persons who reside in the towns along that line. NS should not be permitted to retain right-of-way that it has expressly abandoned by ripping up the track located on it.

The Lackawanna Coalition expressly incorporates the documents submitted with our written statement as part of our comments in this matter. We renew our request that the Board continue its oversight in the present case, and we repeat our opinion that this Board should give the lines which NS does not wish to operate in the interest of the people of our region to another operator who will operate them in keeping with the restoration of the passenger services we mentioned in our earlier filings. We express no opinion about freight operations in the region, except inasmuch as they impact on future passenger operations. We strongly support the restoration of passenger services that once ran in our area. We also state our belief that the public interest, convenience and necessity require policies that promote the eventual restoration of these services.

Prepared by the Legal Committee
Of the Lackawanna Coalition:

Abbot D. Gorin, Esq., Legal Committee Chair
David Peter Alan, Esq., Lackawanna Coalition Chair
John David Healy, Esq., Presenting Attorney at Hearing

Dated: March 23, 2004

LACKAWANNA COALITION
Box 283
Millburn, N.J. 07041

July 10, 2003

Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 K St., N.W., Room 700
Washington, D.C. 20423

Re: CSX Corp., CST Transportation Inc., Norfolk Southern Railway Co. – Control and
Operation Leases/Agreements – Conrail, Inc. and Consolidated Rail Corp. (General
Oversight), Docket No. FD-33388 (sub 91)

Dear Mr. Williams:

The Lackawanna Coalition is an independent organization which advocates on behalf of rail riders on New Jersey Transit's Morris & Essex and Montclair-Boonton Lines. While we are concerned with issues regarding passenger rail service in our geographic area, the present matter is an instance where rail freight issues directly impact upon proposed passenger services of interest to rail riders and potential rail riders in our region.

We have adopted a resolution in support of a proposal by the New York & Greenwood Lake Railway Co. to operate commuter passenger service between Benson St. Station on the Boonton Line (former Greenwood Lakes Line) and Hoboken. A portion of the line proposed for this service is part of Conrail Shared Assets (CSA) and is operated by the Norfolk Southern Railway Co. (NS). Commuter rail passenger service was operated on this line by New Jersey Transit until September 20, 2002, and the New York & Greenwood Lake Railway Co. has proposed to restore this service. We are concerned that the recent removal of one of the tracks on this portion of the line (formerly double tracked), despite urgings by the New Jersey Department of Transportation to leave the line intact, has reduced the likelihood of the restoration of this passenger service. For passenger service to be restored, DB Drawbridge (over the Hackensack River) must be kept intact and operable. We are concerned that NS could decide to discontinue operations on the bridge, thereby rendering restoration of commuter service impossible.

We have also been informed that NS has attempted to entice shippers to move away from locations along this line (which it operates in New Jersey as part of CSA), in favor of other locations on its line in Pennsylvania. Such practices must inevitably result in the diminution of the usefulness of this line to the region of New Jersey which it serves, both in terms of current freight and future passenger operations. Every major metropolitan area should be served by two Class I freight railroads. It appears that NS has not acted as if it is willing to serve the New York area through its CSA line in New Jersey. This leaves only CSX to serve the nation's largest market. If NS does not wish to actively compete with CSX in New Jersey, the line should be turned over to an operator that would. Perhaps a revenue sharing arrangement between NS and CSX is inherently flawed, since it creates an inherent conflict, and should be abandoned.

EXHIBIT "A"

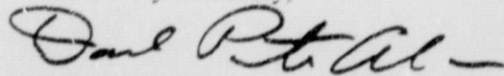
The Lackawanna Coalition has also adopted a resolution supporting rebuilding of the Lackawanna Cutoff Line between Morris Jct. and the Pennsylvania side of the Delaware Water Gap, for the restoration of passenger rail service to Scranton and possibly beyond. We have been informed that the restoration of the Lackawanna Cutoff would allow the Canadian Pacific Railway Co./Delaware & Hudson Railway Co. (CP/D&H) access for freight shipments to the New York area, through the Boonton Line, which is part of the line currently operated by NS. We are concerned that NS could engage in practices that will have the impact of preventing competition from CP/D&H. Such a result would have an anticompetitive effect in serving the New York area through rail lines in New Jersey. Moreover, infrastructure investment by CP Rail, as a major freight carrier, could help to defray the cost of rebuilding the Lackawanna Cutoff Line. A prospective partnership with CP Rail to develop this line for both freight and passenger service could result in significant cost savings for the organizations that have pledged funds for rebuilding the line; New Jersey Transit, and Monroe and Lackawanna Counties in Pennsylvania.

The Lackawanna Coalition wishes to assist in the restoration of commuter service between Benson St. and Hoboken, as well as intercity service on the Lackawanna Cutoff Line to Scranton and points beyond. We believe that these ends can be effectively served by the removal of the line comprising the Boonton Line (including the former Greenwood Lakes Line), Orange Branch, Washington Secondary and Phillipsburg Branch from control and operation by NS, and giving such control and operation to a local, New Jersey-oriented entity. Such an entity could be either an independent railroad company established to operate the line at issue, or a consortium of existing short line railroads currently operating in the region (such as the Morristown & Erie). Accordingly, we request that you hold final acceptance of the present post-Conrail arrangement, and substitute an arrangement that makes the CSA line in New Jersey independent of CSX and NS. Such a move would promote both the viability of our freight rail infrastructure and the possibility of restoring two proposed passenger services in the region.

On June 23, 2003, the Lackawanna Coalition adopted a resolution in support of the objectives described in this letter. A copy of that resolution is enclosed. Copies of the other resolutions mentioned herein will be furnished on request.

Please consider this letter and the enclosed resolution to constitute the comments by the Lackawanna Coalition on the above-entitled matter.

Yours very sincerely,



DAVID PETER ALAN
Chair

Encl. as stated

Cc: Bruno Maestri, Esq.; Norfolk Southern Railway Co.
Commissioner Jack Lettiere, N.J. Dept. of Transportation
North Jersey Transportation Planning Authority
New Jersey Transit

RESOLUTION REGARDING PENDING SURFACE TRANSPORTATION BOARD REVIEW OF OWNERSHIP AND OPERATION OF THE FORMER LACKAWANNA RAILROAD MAIN LINE AND FORMER ERIE GREENWOOD LAKES LINE IN THE STATE OF NEW JERSEY.

At a meeting of the Lackawanna Coalition, held in Millburn, New Jersey on June 23, 2003, the following resolution was adopted.

WHEREAS the Surface Transportation Board is currently reviewing the grant of ownership and operating rights given to the Norfolk Southern Railway Co. (NS) and CSX Transportation Co. (CSX) as a result of the breakup and redistribution of assets of the Consolidated Rail Corp. (Conrail); and

WHEREAS NS has been granted operating rights over railroad trackage from freight yards in New Jersey serving the New York area west to Philippsburg, New Jersey; the line in question comprising the former Greenwood Lake Branch (also known as the Lower Boonton Line), the Orange Branch, Boonton Line, Washington Secondary and Philippsburg Branch; in a financial arrangement with CSX, known as Conrail Shared Assets (CSA); and

WHEREAS we have secured a legal opinion that NS has engaged in anticompetitive practices such as enticing shippers out of New Jersey and away from the aforementioned rail line; and

WHEREAS we believe that such enticement weakens the economic viability of the aforementioned rail line for both freight and passenger services; and

WHEREAS the New York & Greenwood Lake Railway Co. has a proposal before the New Jersey Department of Transportation to operate a commuter-type passenger rail service to carry passengers on the portion of the aforementioned rail line nearest to Hoboken, N.J. and the Lackawanna Coalition has enthusiastically supported the operation of such service to replace service permanently discontinued by New Jersey Transit in September of 2002; and

WHEREAS the practices in which NS appears to be engaged would clearly have the effect of decreasing the likelihood of future operation of passenger service by the New York & Greenwood Lake Railway Co.; and

WHEREAS the rebuilding of the line between Morris Jct. and the Pennsylvania side of the Delaware River at the Delaware Water Gap (Lackawanna Cutoff Line) would allow the operation of a proposed rail passenger service between Hoboken and Scranton, Pa., with possible extension to Binghamton, N.Y. and beyond at a future time; and the Lackawanna Coalition (along with Monroe and Lackawanna Counties, the affected counties in Pennsylvania) has taken a position in support of the rebuilding of the Cutoff Line and the operation of such service; and

WHEREAS the rebuilding of the Lackawanna Cutoff Line would provide the Canadian Pacific Railway Co. (CP Rail) with a route through New Jersey over the Lackawanna Cutoff line,

the former Lackawanna Boonton Line and the former Erie Greenwood Lake Line, thereby increasing the economic viability of the rail line and, thereby, its availability for passenger service; and

WHEREAS a transfer of ownership or control over the aforementioned rail line by the STB would put an end to the anticompetitive practices apparently engaged in by NS along this line and facilitate the use of the line for both freight and proposed passenger rail services: it is hereby

RESOLVED that the Lackawanna Coalition hereby urges the Surface Transportation Board to remove the rail line comprising the Boonton Line (including portions formerly known as the Greenwood Lakes Line), Orange Branch, Washington Secondary and Philippsburg Branch from control by the Norfolk Southern Railway Co. and either establish an independent railroad company to operate the line, or turn the line over to a consortium of short lines operating in New Jersey.

FURTHER RESOLVED that copies of this resolution and any supporting papers shall be sent to the Surface Transportation Board, members of the New Jersey Congressional Delegation in our area of concern, members of the New Jersey Legislature in our area of concern, the North Jersey Transportation Planning Authority, the Commissioner of the New Jersey Department of Transportation, New Jersey Transit and other persons to whom the Lackawanna Coalition deems it advisable to send such papers.

Dated: June 23, 2003


DAVID PETER ALAN
Chair

LACKAWANNA COALITION
Box 283
Millburn, N.J. 07041

September 12, 2003

Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 K St., N.W., Room 700
Washington, D.C. 20423

Re: CSX Corp., CST Transportation Inc., Norfolk Southern Railway Co. – Control and
Operation Leases/Agreements – Conrail, Inc. and Consolidated Rail Corp. (General
Oversight), Docket No. FD-33388 (sub 91)

Dear Mr. Williams:

This is in response to Answers filed in the above matter by Norfolk Southern (NS) and
CSX Corp. (CSX) on August 4, 2003.

The Lackawanna Coalition is a nonprofit corporation of the State of New Jersey,
organized as the Lackawanna Coalition, Inc. in 1980. Since that time, the Coalition has
advocated on behalf of riders on New Jersey Transit's Morris & Essex Lines. The Coalition has
added the Montclair-Boonton Line of New Jersey Transit to its area of concern, and has
expressed support for resumption of rail passenger service over the former Lackawanna Cutoff
Line to the Pocono Mountain region and Scranton, and over the portion of the Boonton Line
where service was abandoned by N.J. Transit in September, 2002. The allegation by CSX (at 12)
that the Coalition consists of rail riders on the former NS Boonton Line is a blatant
mischaracterization. In fact, the Coalition consists of the counties and municipalities served by
N.J. Transit's Morris & Essex and Montclair-Boonton Lines, along with individuals from this
region who perform the tasks that assist the Coalition in advocating on behalf of rail riders on the
lines of concern. The Lackawanna Coalition has for many years supported N.J. Transit's efforts
to build the Montclair Connection, and we continue to support Transit's efforts to develop
ridership on the Montclair-Boonton Line. At the same time, we support the initiative by the New
York & Greenwood Lake Railway Co. (NY&GL) to independently serve the stations abandoned
by New Jersey Transit upon completion of construction of the Montclair Connection.

At the outset, it should be noted that CSX has taken it upon itself to ridicule the nonprofit
status of the North Jersey Transportation Planning Authority (NJTPA), another commenting
party, as "unsupported by any shipper or anyone else with an economic interest in the matter" (at
2). The Lackawanna Coalition is concerned that its own nonprofit status will bring upon it the
same derision and scorn heaped upon the NJTPA by CSX. The Lackawanna Coalition operates
in the public interest, on behalf of rail riders. Its interest is not unlike that of the United Church
of Christ in *United Church of Christ v. FCC*, 359 F.2d 994, 1005 (D.C. Cir. 1966), in which the
court upheld the right of the church, as an advocate on behalf of the listening public, to object to
a transfer of a radio station license by the FCC. The attitude expressed by CSX that the

Lackawanna Coalition has no business objecting to the practices of NS is reminiscent of the oft-quoted attitude of "the public be damned" attributed to Cornelius Vanderbilt of the New York Central during the 19th Century. The Lackawanna Coalition is duly authorized to advocate on behalf of the rail riders of our region, and has been so recognized by New Jersey Transit and by the American Public Transit Association (APTA). We note the attitude expressed by CSX, and we state that, under no circumstances, will we voluntarily participate in our own damnation or that of our riders. We also question the motive of CSX in criticizing the Lackawanna Coalition, since our own criticism is aimed at NS, the purported competitor of CSX.

It is also appropriate to address two disingenuous comments by CSX. First, CSX claims (at 12) that we are a group of local commuters without a concrete plan to operate the passenger service that we endorse. We are not required to formulate such a plan, since NY&GL is formulating such a plan and is now negotiating to put it into operation (it should be noted that NS backhandedly acknowledges the existence of these negotiations at 13). CSX further states (at 13) that we disagree with N.J. Transit concerning termination of service to a number of stations last September, but our filing expressed no opinion whatsoever on this decision, and merely mentioned it as fact. Had eminent counsel for CSX bothered to read our filing, they probably would have noticed this. Our disagreement (in our second paragraph) was expressed at the action by NS in removing one of the tracks in the affected area and the imminent abandonment of DB Drawbridge. Neither CSX nor NS denies that the track in question was removed, or that it would be an easy matter to discontinue operations over DB Drawbridge, thereby making it essentially impossible to restore commuter service under the NY&GL plan.

NS claims that we would "commendeer PRR property" (at 11). Curiously, CSX (the purported competitor of NS) also states (at 12) that the objection stated by the Coalition in its July filing "impermissibly proposes to confiscate private freight rail assets." Whatever relationship "PRR" might have to NS, NS took it upon itself to eliminate the existence of one of the tracks through the area in question. We do not comment on the extent to which this action by NS constitutes a "confiscation" or "commandeering" of the assets of the alleged entity PRR. That is for PRR, if it is indeed an independent entity and not a shell for NS, to question. However, it cannot be gainsaid that the destruction of a part of a rail line is an act done in furtherance of the public interest, convenience or necessity. Indeed, the Lackawanna Coalition questions the rationality of the allegations by both railroad companies about confiscation when NS wantonly destroys a line which it claims only to operate (and not to own), despite urgings by the New Jersey Department of Transportation (NJDOT), an allegation not denied by NS or CSX.

NS states: "conditions are imposed only to ameliorate or eliminate harms from the transaction itself" (at 12) and blames New Jersey Transit for the actual harm done to former riders of the Montclair-Boonton Line who now want alternate service provided by the NY&GL. In fact, the latest round of harm was caused by NS, when it tore up a track in the affected area, making resumption of passenger service far more difficult than it had been before that act.

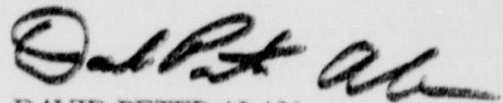
In fact, the harm to the public occurred at the time of the breakup of Conrail, which created Conrail Shared Assets (CSA). The conduct of the two railroad companies which commented on the Lackawanna Coalition's own statement make it abundantly clear that there is now an anticompetitive situation among the Class I railroads in our region. NS claims that it

competes vigorously with CSX for business in New Jersey, but the very filings submitted in the present matter by the railroads belie this allegation. CSX, especially, has shown that it is not the competitor of NS, but its confederate. In a truly competitive situation, CSX would be reasonably expected to support our call for turning over the line now operated by NS to another operator who would be more responsive to local concerns. Instead, CSX heaps even more ridicule upon us than does NS for having the temerity to suggest that its "competitor" is acting in an anticompetitive manner.

It is no accident that NS and CSX appear to be acting in concert. The two companies share beneficial ownership of the lines operated by each other. This leads to an inherent conflict of loyalties, since a "victory" over the "competition" for either side means a diminution of the assets belonging to the "other" railroad. For example, if CSX were to vigorously compete with NS and lure shippers away from NS, NS would lose business and its shares would lose value. This could lead to a further diminution of the value of the rail lines under CSA joint ownership. Such a competitive "victory" by CSX could actually lead to lowered value for some of CSX's assets. A similar "victory" for NS could lead to a lowered value for its assets, in the same manner. Thus, the "shared assets" arrangement is anticompetitive and can easily lead to the two allegedly "competing" railroads acting more like partners than competitors. This is the harm that stems from the transaction itself. Therefore, we urge the Board to re-evaluate the establishment of the "shared assets" situation between NS and CSX.

Finally, we note that the concerns stated in our original filing have not been disputed or otherwise contested by either NS or CSX. We believe that the public interest, convenience and necessity demands that the rail lines in our region be operated in a competitive manner, and in such a way that proposed restoration of passenger services (specifically on the Lower Boonton Line and the Lackawanna Cutoff Line) becomes more likely, rather than less likely. We continue to urge that the Board give serious thought to turning the line in question over to an independent company that will operate the line truly in the interest of the shipping and potential riding public.

Yours very sincerely,



DAVID PETER ALAN
Chair

Cc: Bruno Maestri, Esq., Norfolk Southern Railway Co.
Commissioner Jack Lettiere, N.J. Dept. of Transportation
North Jersey Transportation Planning Authority
New Jersey Transit

STB

FD-33388 (SUB 91)

03/18/04

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UNITED STATES OF AMERICA
SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388 (Sub-No. 91)



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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[GENERAL OVERSIGHT]

MAR 18 2004

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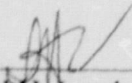
NOTICE OF INTENTION TO PARTICIPATE AND OFFER EVIDENCE

In response to Decision No. 12, served February 12, 2004, announcing the Surface Transportation Board's decision to hold two public oversight hearings in the above proceeding, RESOURCES WAREHOUSING & CONSOLIDATION SERVICES, INC. (RWCS) hereby gives notice of its intention to participate and offer evidence at the public hearing set for April 2, 2004 in Trenton, NJ.

Appearing and participating on behalf of RWCS will be its owner and principal officer Frank V. Folise, whose warehouse and offices are located at 220 Secaucus Road, North Bergen, NJ 07047 and mailing address is P.O. Box 1067, Secaucus, NJ 07096; NJ Tel. 212.594.7448 and NY Tel. 201.348.6300.

RWCS has previously participated in both merger and oversight proceedings.

Dated: March 18, 2004


Paul H. Lamboley
1701 Pennsylvania Avenue, N.W., Suite 300
Washington, D.C. 20006
(T) 202.879.2623
(F) 202.879.2624
phlamboley@aol.com

Counsel for Resources Warehousing
& Consolidation Services, Inc.

STB

FD-33388 (SUB 91)

03/18/04

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210341



NOVOLOG Bucks County Inc.

USX - INDUSTRIAL PARK - USS FAIRLESS WORKS
1 SINTER ROAD
FAIRLESS HILLS, PA, 19030
Tel: 215 295 2600 Fax: 215 295 3700
E-MAIL: David.Reid@novologusa.com

7 February 2002

210341
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MAR 18 2004

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VIA FEDERAL EXPRESS
ORIGINAL AND 10 COPIES

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Re: STB Finance Docket No. 33388 (Sub-No. 91)
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 (General Oversight)

Dear Secretary Williams:

Novolog Bucks County Inc. hereby notifies the Surface Transportation Board of its intent to speak at the public hearing scheduled for April 2, 2004, in Trenton, New Jersey. David Reid will speak on behalf of Novolog Bucks County Inc. Novolog Bucks County Inc requests a total of 5 minutes to speak about the Conrail Shared Assets Areas after the acquisition of Conrail by CSX and NS. Novolog Bucks County Inc does not plan to file a written statement prior to the hearing.

Respectfully yours,

David Reid pp

Novolog Bucks County Inc.

David Reid, President & CEO

STB

FD-33388 (SUB 91)

03/18/04

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**DELAWARE VALLEY
REGIONAL PLANNING COMMISSION**

The Bourse Building, 111 South Independence Mall East
Philadelphia, PA 19106-2515

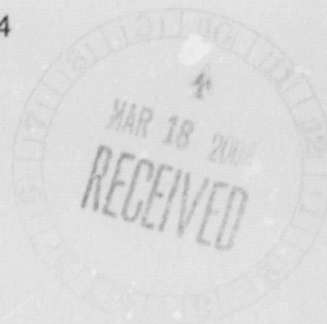
Telephone: (215) 592-1800
Fax: (215) 592-9125
www.dvrpc.org

March 17, 2004

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Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Re: STB Finance Docket No. 33388 (Sub-No. 91)

Dear sir/madam:

Please allow me to express my intent to participate in the public hearing in Trenton, New Jersey on Friday, April 2, 2004 in order to address the Surface Transportation Board on the Conrail South Jersey/Philadelphia Shared Asset Area.

My comments will be offered on behalf of the Delaware Valley Regional Planning Commission, the Metropolitan Planning Organization (MPO) for the Philadelphia-Camden-Trenton region, and the local rail freight community.

My requested allotment of time to address the Board and its guests is five minutes.

Thank you very much for your consideration of this request.

Sincerely,

Donald S. Shanis, Ph.D.
Director of Transportation

Encl.: 10 copies of this letter

STB

FD-33388 (SUB 91)

03/18/04

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210338

PAUL C. THOMPSON
International President

DAN E. JOHNSON
General Secretary and Treasurer



united transportation union

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March 17, 2004

U.P.S. OVERNITE

The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Re: STB Finance Docket No. 33388 (Sub-No. 91)
CSX Corporation and CSX Transportation, Inc.
Norfolk Southern Corporation and Norfolk Southern Railway Co.
- Control and Operating Leases/Agreements -
Conrail, Inc. and Consolidated Rail Corporation (General Oversight)



Dear Secretary Williams:

This is the United Transportation Union's notice to the Surface Transportation Board that the United Transportation Union intends to appear and speak at the public hearing scheduled for April 2, 2004, in Trenton, New Jersey. James R. Cumby will speak on behalf of the United Transportation Union. The United Transportation Union requests a total of ten minutes to speak about the contribution of Conrail employees represented by the United Transportation Union to the successful operation in the Conrail Shared Assets areas after the acquisition of Conrail by CSX and U.S. The United Transportation Union does not plan to file a written statement prior to the hearing.

Yours truly,

Paul C. Thompson
United Transportation Union
International President

cc: D. L. Hakey, Vice President-Administration
J. R. Cumby, Vice President

STB

FD-33388 (SUB 91)

03/18/04

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March 17, 2004

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The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Re: STB Finance Docket No. 33388 (Sub-No 91)
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 (General Oversight)

Dear Secretary Williams:

Mars Industries, Inc. hereby notifies the Surface Transportation Board of its intent to speak at the public hearing scheduled for April 2, 2004, in Trenton, New Jersey. Michael H. Klein will speak on behalf of Mars Industries, Inc. Mars Industries, Inc. requests a total of 5 minutes to speak about the Conrail Shared Assets Areas after the acquisition of Conrail by CSX and NS. Mars Industries, Inc. does not plan to file a written statement prior to the hearing.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Michael H. Klein". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael H. Klein - President
Mars Industries, Inc.

STB FD-33388 (SUB 91) 03/18/04 D 210336

FOUR PENN CENTER
SUITE 200
1600 JOHN F. KENNEDY BLVD.
PHILADELPHIA, PA 19103-2808
TELEPHONE 215.563.9400
FACSIMILE 215.665.9988
WWW.GGELAW.COM

ERIC M. HOCKY
DIRECT DIAL 215.320.3720
emhocky@ggelaw.com

210336

GG&E GOLLATZ
GRIFFIN
& EWING
ATTORNEYS - AT - LAW

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March 17, 2004
VIA: UPS Overnight

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
Mercury Building, #711
1925 K Street, N.W.
Washington, DC 20423-0001

Re: STB Finance Docket No. 33388 (Sub-No. 91)
CSX Corporation et al. - Control and Operating Leases /
Agreements - Conrail Inc. et al. (General Oversight)

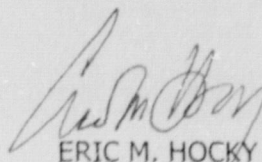
Dear Secretary Williams:

Pursuant to Decision No. 12 issued in the above-referenced proceeding on February 12, 2004, please be advised that GROWMARK wishes to speak at the April 2, 2004 hearing in Trenton, NJ. GROWMARK is a shipper with facilities located at a pier in Philadelphia within the Shared Assets Area.

GROWMARK requests that it be allotted six minutes of time. It has not yet been determined whether GROWMARK will be represented by a corporate representative or by the undersigned as its attorney.

An original and ten (10) copies of this letter are enclosed for filing of record in this proceeding. Please time stamp the extra copy of this letter to indicate receipt, and return it to me in the stamped self-addressed envelope provided for your convenience.

Respectfully,


ERIC M. HOCKY

Enclosures

GOLLATZ, GRIFFIN & EWING, P.C.

WEST CHESTER

PHILADELPHIA

WILMINGTON

STB

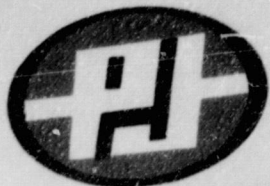
FD-33388 (SUB 91)

03/17/04

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(201) 434-8373
FAX (201) 434-8242



203 PORT JERSEY BOULEVARD • JERSEY CITY, NEW JERSEY 07305

PORT JERSEY RAILROAD COMPANY

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FD 33388 -91



Surface Transportation Board
1925 K Street N.W.
Washington D.C. 204 23 -0001

210 330

To Whom it may concern

I am writing to tell you of my intention to speak at the shared assets hearing in Trenton April 2 2004
I believe 5 minutes of time will be sufficient. I will be speaking on behalf of the new jersey shortline
Railroad Association .

Bob Bailey President
N.J.S.L.R.R.A.

STB FD-33388 (SUB 91) 03/17/04 D 210331

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BEFORE THE
SURFACE TRANSPORTATION BOARD

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MAR 17 2004

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FINANCE DOCKET NO. 33388 (Sub-No. 91)



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

[GENERAL OVERSIGHT]

NOTICE OF INTENT OF THE PORT AUTHORITY
OF NEW YORK AND NEW JERSEY TO PARTICIPATE
IN PUBLIC HEARING

Pursuant to the Board's Decision No. 12 in this proceeding, the Port Authority of New York and New Jersey hereby notifies the Board of its intent to participate in the public hearings scheduled for April 2, 2004, in Trenton, New Jersey, and May 3, 2004, in Washington, DC. The Port Authority requests 15 minutes on each occasion to present its comments. The undersigned will present the Port Authority comments on April 2, 2004, in Trenton. The person presenting the comments in Washington, DC is yet to be determined, but the Port Authority will notify the Board of the person to present on or before April 16, 2004.

Respectfully submitted,

Paul M. Donovan
LAROE, WINN, MOERMAN & DONOVAN
4135 Parkglenn Court, N.W.
Washington, DC 20007
(202) 298-8100

STB

FD-33388 (SUB 91)

03/17/04

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CONRAIL

March 16, 2004

Via UPS Overnight Delivery

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

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MAR 17 2004

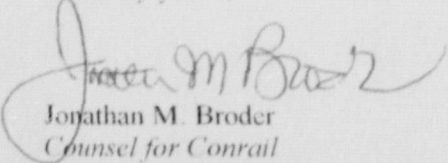
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Public Record

Re: STB Finance Docket No. 33388 (Sub-No. 91)
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 (General Oversight)

Dear Secretary Williams:

I am enclosing for filing an original and ten (10) copies of the Joint Notice of Intent to Speak of Conrail Inc. and Consolidated Rail Corporation (collectively "Conrail"), CSX Corporation and CSX Transportation, Inc. (collectively "CSX"), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively "NS") at the April 2, 2004 hearing in Trenton, New Jersey. Please date-stamp the extra copy that is enclosed and return it to our representative.

Sincerely yours,


Jonathan M. Broder
Counsel for Conrail

2001 Market Street – 29th Floor
Philadelphia, PA 19103

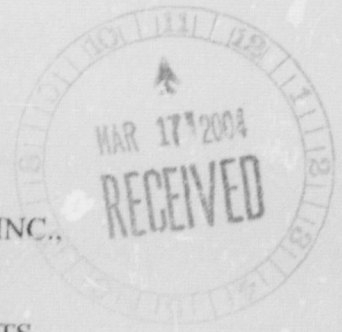
Peter J. Shudtz
Counsel for CSX

John V. Edwards
Counsel for NS

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 33388 (SUB-NO. 91)

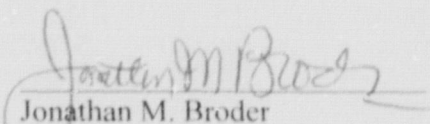
CSX CORPORATION AND CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
- CONTROL AND OPERATING LEASES/AGREEMENTS -
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION
(GENERAL OVERSIGHT)



JOINT NOTICE OF INTENT TO SPEAK

Conrail Inc. and Consolidated Rail Corporation (collectively "Conrail"), CSX Corporation and CSX Transportation, Inc. (collectively, "CSX"), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively "NS") hereby notify the Board of their intent to speak at the public hearing scheduled for April 2, 2004, in Trenton, New Jersey. Gregory Weber and Ronald Batory will speak on behalf of Conrail, Les Passa will speak on behalf of CSX, and David Brown will speak on behalf of NS. Conrail, CSX and NS request a total of 45 minutes to speak.

Respectfully submitted,


Jonathan M. Broder
CONRAIL
2 Commerce Square
2001 Market Street
Philadelphia, PA 19103
(215) 209-5020

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Peter J. Shultz
CSX
1331 Pennsylvania Avenue, N.W.
Suite 560
Washington, D.C. 20004
(202) 783-8124

John V. Edwards
NORFOLK SOUTHERN
Three Commercial Place
Norfolk, VA 23510
(757) 629-2838

Dated: March 16, 2004

STB

FD-33388 (SUB 91)

03/17/04

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COUNTY OF UNION

DEPARTMENT OF ECONOMIC DEVELOPMENT

James Daley, Director



March 16, 2004

**BOARD OF
CHOSEN FREEHOLDERS**

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County Manager

M. ELIZABETH GENIEVICH,
R.M.C., M.P.A.,
*Deputy County Manager/
Director of Administrative
Services*

ROBERT E. BARRY, ESQ.
County Counsel

SHARDA BADRI
Clerk of the Board

Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

RE: STB Finance Docket No. 33388 (Sub-No. 91)

Dear Sir or Madam:

By this correspondence, please be advised that the County of Union is requesting to speak at the Public Hearing on Friday, April 2, 2004 to be held in Trenton, New Jersey regarding the Conrail Merger and the creation of the Shared Asset Areas. I am requesting approximately 10-15 minutes to speak at the hearing on these issues.

I will represent the County on these issues limiting my remarks to how the split up of Conrail and the creation of the Shared Assets Areas has impacted Union County. Enclosed are ten copies of this filing as requested in your Public & Media Advisory No. 04-4.

Should you need additional information, please feel free to contact me at (908) 659 7412. I thank you for the opportunity to address the board on these critical issues.

Sincerely,

James Daley
Director

Enclosures

Cc: George W. Devanney, County Manager

ADMINISTRATION BUILDING

Elizabethtown Plaza

Elizabeth, NJ 07207

(208) 527-4086

fax (908) 527-4715

www.ucnj.org

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FD-33388 (SUB 91)

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One Newark Center, 17th floor, Newark, NJ 07102
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Peter S. Palmer, Chairman
Joel S. Weiner, Executive Director

March 16, 2004

VIA UPS DELIVERY

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

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**Re: Finance Docket No. 33388 (Sub-No. 91), CSX Corporation
and CSX Transportation, Inc., Norfolk Southern Corporation
and Norfolk Southern Railway Company—Control and
Operation Leases/Agreements—Conrail Inc. and Consolidated
Rail Corporation [General Oversight]**

Dear Secretary Williams:

Pursuant to the U.S. Surface Transportation Board Decision Number 12, reference STB Finance Docket No. 33388 (Sub Part 9i), to hold hearings regarding the operations of the Conrail Shared Assets Area, I, Peter S. Palmer, Chairman of the North Jersey Transportation Planning Authority, the Metropolitan Planning Organization for the northern thirteen counties of New Jersey, wish to notify the Board that I will attend and speak at the April 2, 2004 hearing in Trenton, New Jersey. I request that I be allotted a total of fifteen (15) minutes to present testimony for the Board's consideration regarding the operations of the Conrail Shared Assets Area in northern New Jersey.

We also intend to provide written remarks, that expand on the points of our testimony at the April 2nd meeting, with further supporting material that will be submitted for Board consideration by the July 1, 2004 deadline.

Respectfully,

Peter S. Palmer
Chairman of the Board of Trustees
NJTPA

C: NJTPA Board of Trustees

The Metropolitan Planning Organization for Northern New Jersey

STB FD-33388 (SUB 91) 03/16/04 D 210319



March 16, 2004

VIA UPS DELIVERY

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

One Newark Center, 17th floor, Newark, NJ 07102
(973) 639-8400 • fax (973) 639-1953 • www.njtpa.org

Peter S. Palmer, Chairman
Joel S. Weiner, Executive Director

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Re: Finance Docket No. 33388 (Sub-No. 91), CSX Corporation
and CSX Transportation, Inc., Norfolk Southern Corporation
and Norfolk Southern Railway Company--Control and
Operation Leases/Agreements--Conrail Inc. and Consolidated
Rail Corporation [General Oversight]

Dear Secretary Williams:

Pursuant to the U.S. Surface Transportation Board Decision Number 12, reference STB Finance Docket No. 33388 (Sub Part 91), to hold hearings regarding the operations of the Conrail Shared Assets Area, I, Peter S. Palmer, Chairman of the North Jersey Transportation Planning Authority, the Metropolitan Planning Organization for the northern thirteen counties of New Jersey, wish to notify the Board that I will attend and speak at the April 2, 2004 hearing in Trenton, New Jersey. I request that I be allotted a total of fifteen (15) minutes to present testimony for the Board's consideration regarding the operations of the Conrail Shared Assets Area in northern New Jersey.

We also intend to provide written remarks, that expand on the points of our testimony at the April 2nd meeting, with further supporting material that will be submitted for Board consideration by the July 1, 2004 deadline.

Respectfully

Peter S. Palmer
Chairman of the Board of Trustees
NJTPA

C: NJTPA Board of Trustees

The Metropolitan Planning Organization for Northern New Jersey

STB

FD-33388 (SUB 91)

03/16/04

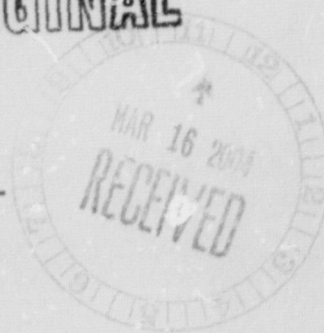
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210315

LAW OFFICES
FRITZ R. KAHN, P.C.
EIGHTH FLOOR
1920 N STREET, N.W.
WASHINGTON, D.C. 20036-1601

(202) 263-4152
FAX (202) 331-8330
e-mail: xiccgc@worldnet.att.net

ORIGINAL



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March 12, 2004

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Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW (7th fl.)
Washington, DC 20423-0001

This refers to STB Finance Docket No. 33388 (Sub-No. 91), CSX Corporation, et al. - Control and Operating Leases/Agreements - Conrail Inc., et al. (General Oversight), and to Decision No. 12, served February 12, 2004.

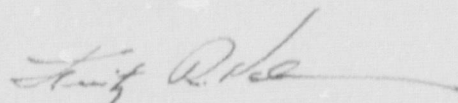
Please be advised that I wish to speak at the April 2, 2004, hearing in Trenton, NJ. I shall be speaking on behalf of SMS Rail Service, Inc., whose President, Mr. Jeffrey L. Sutch will accompany me and be available to answer questions.

I request that I be allotted ten minutes' time.

Ten copies of this letter are enclosed to permit your circulation of it. An additional copy is enclosed for you to stamp to acknowledge your receipt of it and to return to me via the enclosed stamped and self-addressed envelope.

If you have any question concerning the foregoing which you believe I may be able to answer or if I otherwise can be of assistance, please let me know.

Sincerely yours,


Fritz R. Kahn

enc.

cc: Mr. Jeffrey L. Sutch

STB

FD-33388

(SUB 91)

03/16/04

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210310

210310



State of New Jersey

DEPARTMENT OF TRANSPORTATION

P.O.Box 600

Trenton, New Jersey 08625-0600

JAMES E. MCGREEVEY
Governor

JACK LETTIERE
Commissioner

March 15, 2004

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

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Subject: STB Finance Docket No. 33388(Sub-No. 91)
Notice of Intent to Speak

Dear Secretary Williams:

This letter serves as notice that the New Jersey Department of Transportation intends to speak at the Hearing scheduled to be held in Trenton, New Jersey, on April 2, 2004. The Department will be represented by Mr. John Lettierre, Commissioner of Transportation, or his designee. Anticipated timeframe for the Department's comments should not exceed 15 minutes.

We appreciate the opportunity to address the Board and offer comments on this important issue.

Sincerely,


Theodore H. Matthews
Executive Director
Transportation Services

STB

FD-33388 (SUB 91)

03/15/04

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210312



March 11, 2004

Notice of Intent to Speak
Public Hearing Friday April 2, 2004

FD 33388-91

It is my intent to speak for approximately 10 minutes at the above hearings.

The thrust of my statement will be the progress SAA has been in the Philadelphia area to Madison International Sales.

How pleased overall! we are with the service.

My suggestions will be aimed at how we can improve transit times out of the shared asset area on NS.

Thank you

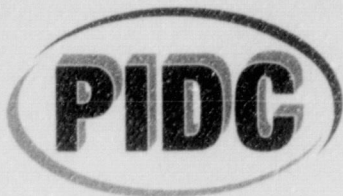
Jim Bruno

203-229-7427

A handwritten signature in dark ink, appearing to read "Jim Bruno", written over the printed name.

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STB FD-33388 (SUB 91) 03/15/04 D 210297



Philadelphia Industrial Development Corporation

Peter S. Longstreth
President

March 11, 2004

Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

RE: STB Finance Docket No. 33388 (sub. No. 91)
CSX-NS – Control and Operating Leases/Agreements – Conrail

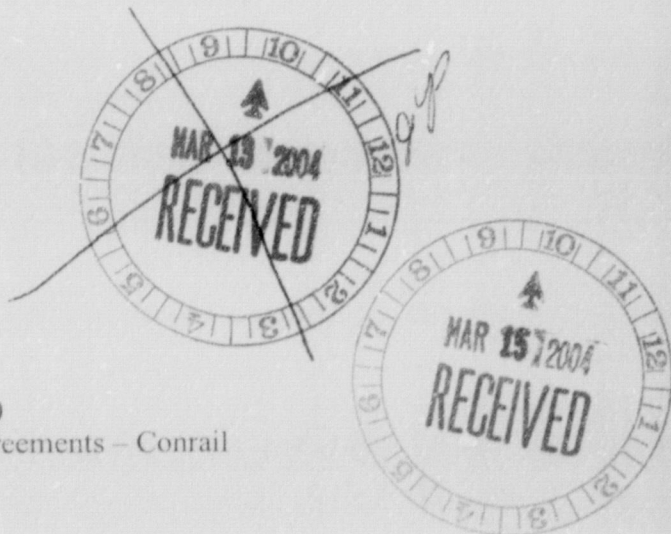
Dear Sir or Madam:

Pleased be advised that a representative of Philadelphia Industrial Development Corporation (PIDC) desires to speak for five minutes at the April 2, 2004 Trenton NJ hearing on this subject. The PIDC representative will speak also on behalf of the Philadelphia Authority for Industrial Development, and may speak also on behalf of the City of Philadelphia, or may introduce a representative of the City who will present the City's comments.

The City and PIDC submitted joint comments on this subject railroad control application on October 20, 1997, and on February 23, 1998 submitted a request to make part of the record of these proceedings two letter agreements dated October 21, 1997 addressed by the Presidents of CSX and NS to the Governor of the Commonwealth of Pennsylvania and the Mayor of the City.

These letters contain various representations proposing assistance to the City and Commonwealth for fostering economic development, job retention/expansion, capital expenditures, passenger rail and civic and charitable giving/corporate citizenship. We wish to address the applicants' progress in adhering to these representations, in accordance with Paragraph 19 of STB Decision No. 89 decided July 20, 1998. In the event that it is determined that the railroads have not achieved satisfactory progress, then we will request that the Board extend their deadline for achieving them and establish metrics to monitor their progress.

Copies of these two letters are attached.

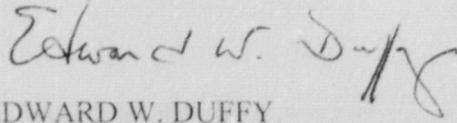


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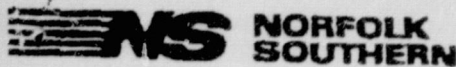
Sincerely,

A handwritten signature in dark ink, appearing to read "Edward W. Duffy". The signature is fluid and cursive, with a large, stylized "D" at the end.

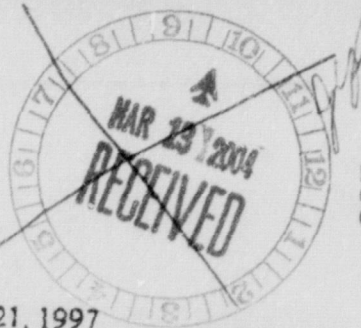
EDWARD W. DUFFY
Vice President

EWD/js

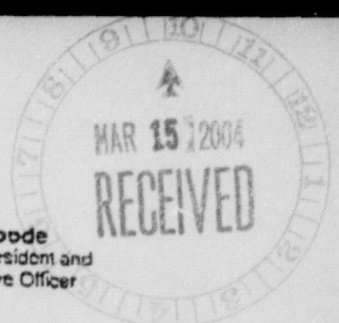
Cc: Stephanie Naidoff
Peter Longstreth
H. Craig Lewis, NS
D. Kevin Hurley, CSX
D. Yeager, Governor's Action Team



Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191
804 629-2610



David R. Goode
Chairman, President and
Chief Executive Officer



October 21, 1997

Copy to:
~~*SA [illegible]*~~
More

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The Honorable Thomas Ridge
Governor of Pennsylvania
225 Main Capitol
Harrisburg, PA. 17120

The Honorable Edward Rendell
Mayor of Philadelphia
City Hall
Philadelphia, PA. 19107

Dear Governor Ridge and Mayor Rendell:

I appreciate the commitment and cooperation you and your representatives have demonstrated during the past few months as we have worked toward a mutual understanding of the benefits and challenges for the Commonwealth and the City resulting from the proposed Conrail Acquisition. An agreement about the significant issues has been our objective. I believe the goal is achievable and offer the following proposals toward that end:

I. Economic Development

Norfolk Southern, the Commonwealth and the City will enter into an unprecedented public-private partnership to encourage rail-oriented industry to locate in Philadelphia and across Pennsylvania. Our respective commitments include:

- A. Norfolk Southern will provide \$10 million in cash investments to supplement the public effort to attract Kvaerner ASA to the Philadelphia Navy Yard. Our payments, which will be directed by the state and city, will be made in five (5) equal, annual installments, with the initial installment to be made on July 1, 1998.
- B. Norfolk Southern, working with the Department of Community and Economic Development, the Governor's Action Team and the Philadelphia Industrial Development Corporation ("PIDC"), will expend a minimum of \$15 million in the five (5) years after STB approval of the Conrail Acquisition for rail-served economic development programs in Philadelphia and across the Commonwealth. These programs will assist in land acquisition, facility construction and rail infrastructure installation with a focus on the Philadelphia Naval Business Center ("PNBC").
- C. To complement the prior efforts, Norfolk Southern will pursue additional economic development incentive programs to encourage rail-oriented industry to locate in Philadelphia and across the state. Working with the Department of

Community and Economic Development and the Governor's Action Team, Norfolk Southern will provide up front capital through these programs to assist potential rail customers in their costs of land acquisition, facility construction and rail infrastructure installation in exchange for contractual obligations for acceptable levels of rail business. After STB approval, Norfolk Southern will make available for such projects a maximum of \$5 million annually and will continue this program for a minimum of five (5) years, thus making an additional \$25 million available for rail-oriented economic development projects.

- D. The City of Philadelphia, through the PIDC, and Norfolk Southern plan to execute a Development and Marketing Agreement that is being developed for the PNBC.
- E. The Delaware River Port Authority and Norfolk Southern plan to execute an agreement that is being developed for the location and operation of Norfolk Southern's intermodal terminal, referenced in III.B., at the AmeriPort Intermodal Terminal.
- F. The Commonwealth of Pennsylvania will approve the expenditure of ISTEA funds for signalization and track improvements on the Chambersburg line and such additional Pennsylvania projects as may subsequently be authorized by Congress involving lines owned or operated by Norfolk Southern, including the Erie track relocation project.

II. Jobs

Job creation is one of the principal goals of our combined economic development efforts. Additionally, Norfolk Southern's job creation efforts will include:

- A. A Mid-Atlantic Regional headquarters will be located in Philadelphia. Initially, there will be seventy-five (75) jobs, including a Regional Vice President, at this site.
- B. One-hundred-fifty (150) new rail-related jobs will be created as a result of Norfolk Southern commercial and operational activities in the Philadelphia area during the three years after STB approval of the Conrail Acquisition.
- C. CSX and Norfolk Southern will jointly own Conrail Inc. Philadelphia will remain as the headquarters of Conrail Inc. for the 350 positions involved with the operation of the "Shared Assets Areas" and other continuing Conrail activities.

III. Capital Expenditures

The operating plan filed with the STB identifies more than \$235 million in capital improvement expenditures by or on behalf of Norfolk Southern in Pennsylvania. This is the largest expenditure by Norfolk Southern in any single state and includes an investment of more than \$30 million in Philadelphia for four major projects:

- A. Triple Crown facility (\$4 million);
- B. Intermodal facility (\$10 million);
- C. Automobile facility (\$16 million); and
- D. Track connection at Zoo interlocking (\$1.4 million).

IV. Passenger Rail

Freight and passenger rail operations share track in more than half of SEPTA's service territory. Norfolk Southern, the City and the Commonwealth will recommend to Conrail and SEPTA that the existing Trackage Rights Agreement be extended for five (5) years. Norfolk Southern agrees, subsequent to STB approval of the Conrail Acquisition, to negotiate seriously and in good faith the extension of SEPTA service on the Harrisburg and Morrisville lines, and such other issues as may be appropriate.

V. Corporate Citizenship

Norfolk Southern will be an active participant in civic and charitable affairs in Philadelphia and throughout Pennsylvania and, together with CSX, will encourage Conrail to fulfill its philanthropic commitments of this date.

VI. Regulatory Review

On or before October 21, 1997, The Commonwealth of Pennsylvania and the City of Philadelphia will file written statements of support for the Conrail Acquisition with the STB. Additionally, you have agreed to encourage other elected officials and public agencies, including SEPTA and the DRPA, also to file timely statements of support.

Norfolk Southern's commitments in this letter are expressly conditioned upon STB approval of the Conrail Acquisition substantially as it was filed on June 23, 1997, and therefore, will take effect only upon closing of the Conrail Acquisition. Norfolk Southern's commitments

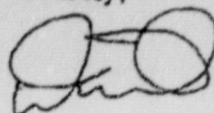
The Honorable Thomas Ridge
The Honorable Edward Rendell
October 21, 1997 - Page 4

also are conditioned upon fulfillment by Pennsylvania and Philadelphia of their reciprocal commitments, reflected in this letter and in the agreements under development.

Some of the issues I have addressed have common elements or involve mutual requirements with CSX. I believe that we and CSX are in agreement about the objectives and expect that you will memorialize your understandings with CSX in a similar fashion.

This unprecedented public-private partnership demonstrates Norfolk Southern's commitment to Pennsylvania and Philadelphia and to their future economic prosperity. We are excited about the opportunities that lie ahead and look forward to working closely with you.

Sincerely,

A handwritten signature in dark ink, appearing to read 'David R. Goode', with a stylized, overlapping loop at the end.

David R. Goode



One James Center
Richmond, Virginia 23219
(804) 782-1434

John W. Snow
Chairman, President
Chief Executive Officer

October 21, 1997

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File -

NS IN NORMAL

The Honorable Thomas Ridge
Governor
Commonwealth of Pennsylvania
225 Main Capitol
Harrisburg, PA 17120

The Honorable Edward Rendell
Mayor
City of Philadelphia
City Hall
Philadelphia, PA 19107



Dear Governor Ridge and Mayor Rendell:

We have worked together in a cooperative team over the last seven months, starting just after the announcement of the acquisition of Conrail by CSX and Norfolk Southern. We believe this historic transaction will provide competitive freight transportation to the Northeast that will benefit all shippers by providing improved value for rail freight transportation. Specifically, we have worked with representatives of the Commonwealth, the City of Philadelphia, SEPTA and the Port on economic development projects that can provide future benefits for the citizens of Pennsylvania. This letter outlines proposals necessary to advance developments of these projects consistent with the Commonwealth's and City's active support of the acquisition to the Surface Transportation Board.

1. Economic Development

CSX, the Commonwealth and the City will enter into a public-private partnership in recognition of the changes that will occur in the Philadelphia area and to encourage rail-oriented industry to locate in Philadelphia and across Pennsylvania. This partnership also will benefit the Jones Act trades, in which Sea-Land, a CSX subsidiary, participates. Our respective commitments include:

- A. CSX will provide \$10M in cash investments to supplement the public effort to attract Kvaerner ASA to the Philadelphia Navy Yard. Our payments, which will be directed by the state, will be made in five (5) equal, annual installments, with the initial installment to be made on July 1, 1998.
- B. CSX will expend a minimum of \$1M per year over the five (5) years (a total of \$5M) after merger approval for rail-served economic development programs in Philadelphia and across the Commonwealth. These programs will assist in land acquisition, facility construction and rail infrastructure improvements with a focus on Philadelphia.

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- C. To complement these efforts, CSX will establish a new economic development incentive program to encourage rail-oriented industry to locate in Philadelphia and across the Commonwealth. Working with the Department of Economic and Community Development and the Governor's Action Team, CSX will provide capital through these programs to assist potential rail customers in their costs of land acquisition, facility construction, installation of rail sidings, etc., in exchange for contractual obligations for certain levels of rail business. After STB approval, CSX will make available \$2M per year over a five year period (a total of \$10M) for this program.
- D. The City of Philadelphia, through the PIDC, and CSX will execute a Marketing Agreement for the City of Philadelphia.
- E. The Delaware River Port Authority and CSX will execute an agreement for the development and operation of its intermodal terminal at Greenwich Yard.
- F. The Commonwealth of Pennsylvania will seek, along with CSX, and approve the expenditure of federal funds for clearance improvements on the West Trenton line from Philadelphia to the New Jersey border and approve funding for any such additional Pennsylvania projects as may be subsequently authorized by Congress involving lines owned or operated by CSX.
- G. The Commonwealth, the City of Philadelphia and CSX agree that it is in the Commonwealth's economic interest to have a strong, well-maintained and strategically located rail freight infrastructure.

2. Jobs

Job creation is the principal goal of our combined economic development efforts.

- A. CSX and Norfolk Southern will jointly own Conrail, Inc. Philadelphia will remain as the headquarters of Conrail, Inc. which, as detailed in our application to the STB, will have 350 positions involved with the operation of the "Shared Assets Areas" and other continuing Conrail activities.

- B. Thirty-five new rail-related jobs will be created in addition to 150 existing jobs, as a result of CSX commercial and operational activities in the Philadelphia area during the three years after STB approval of the acquisition.
- C. CSX anticipates establishing a regional office in Philadelphia that will include government relations, industrial development, sales and operations.

3. Capital Expenditures

The operating plan filed with the STB identifies more than \$27M in capital improvement expenditures by CSX in Pennsylvania with at least \$22M in Philadelphia for three major projects:

- A. Intermodal facility (\$15M). (The Delaware River Port Authority has offered to fund the construction of this facility pursuant to the agreement referred to in paragraph 1E.)
- B. Track connection at Eastwick interlocking (\$4M).
- C. Belmont Siding (\$3M).

4. Passenger Rail

Freight and passenger operations share track in more than half of SEPTA's service territory. Our CSX team has begun to work closely with SEPTA, Conrail and the Norfolk Southern to ensure safe on-time passenger and freight operations. CSX will consent to Conrail extending the SEPTA Trackage Rights Agreement for an additional five years as long as SEPTA provides unqualified liability coverage for CSX and the Conrail Shared Area Operations company (CSAO) backed by broad indemnification language and insurance.

5. Civic and Charitable Giving

After STB approval, CSX along with Norfolk Southern and Conrail, Inc. will ensure that all of Conrail's philanthropic obligations as of the date of this letter are met. The three companies will be active members of the civic and charitable community in Philadelphia and throughout the Commonwealth.

6. Regulatory Review

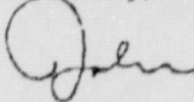
On or before October 21, 1997, the Commonwealth of Pennsylvania and the City of Philadelphia will file written statements of support for the Conrail acquisition with the STB. We anticipate that you will encourage other elected officials and public agencies, including SEPTA and the DRPA, to file timely statements of support and will otherwise continue to support the acquisition.

CSX's authority to acquire Conrail and expand operations in Pennsylvania and, therefore, the terms of our agreement, are expressly conditioned upon approval of the Conrail acquisition by the STB. Of course, CSX obligations contained in this letter are subject to the Commonwealth and the City satisfying their obligations.

Some of the issues I have addressed have common elements or mutual requirements with Norfolk Southern. I believe that we and Norfolk Southern are in agreement about the objectives and expect that you will memorialize your understandings with Norfolk Southern in a similar fashion.

I look forward to working closely with you in the future.

Sincerely,

A handwritten signature in dark ink, appearing to be the name "John", written in a cursive style.

STB

FD-33388

(SUB 91)

03/12/04

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210349

210349

LACKAWANNA COALITION
Box 283
Millburn, N.J. 07041

March 5, 2004



Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 K St., N.W., Room 700
Washington, D.C. 20423

Re: CSX Corp, CST Transportation, Inc., Norfolk: Southern Railway Co. -- Control and
Operation Leases/Agreements -- Conrail, Inc. and Consolidated Rail Corp. (General
Oversight), Docket No. FD-33388 (sub. 91)

Dear Mr. Williams:

Please take notice that the Lackawanna Coalition, a not-for-profit corporation of the State of New Jersey which advocates on behalf of riders of the Morris & Essex Lines and Montclair-Boonton Line of New Jersey Transit, as an independent organization composed of citizen volunteers, wishes to present its views at the hearing concerning the above-entitled matter scheduled for April 2, 2004 at Trenton, New Jersey.

We expect that our presenter will be John David Healy, Esq., a member of the Legal Committee of the Lackawanna Coalition and a staff attorney with the former Interstate Commerce Commission. We request a time allotment at the hearing of ten minutes.

We will submit a written statement for inclusion in the record later this month, in accordance with Board requirements. In the meantime, ten copies of this notice are submitted with it.

Thank you for your consideration.

Yours very sincerely,

DAVID PETER ALAN
Chair

Encl: 10 copies

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FD-33388 (SUB 91)

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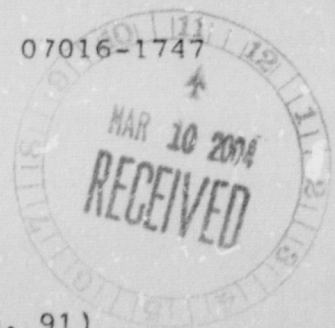
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210276

210276
34 Beech St.
Cranford, NJ., 07016-1747

March 3, 2004

Ms. Julia M. Farr
Surface Transportation Board
1925 K Street, NW
Washington, DC., 20423-0001



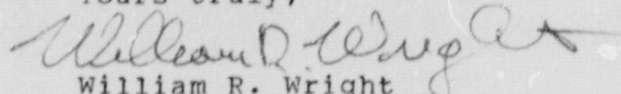
RE: STB Finance Docket No. 33388 (Sub-No. 91)

Please place my name on the list of speakers re this docket at the hearing April 2, 2004 at Trenton, NJ. I wish to be in line for a three minute time slot anytime after 10:30 AM. I await your confirmation along with the place where the hearing will be held.

As background I sit on state, regional and county transoort boards and have done so since 1958. I am also a retired rail marketer, I wish to discuss several factors of the existence of the Conrail Shared Assets formation, which has not proved helpful to this conurbation.

I await your confirmation and hearing locale.

Yours truly,


William R. Wright
phone 908-272-5968

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FD-33388 (SUB 91)

03/08/04

D

210253

**Office of Transportation Technology,
Strategy, Planning & Development**

1200 New Rodgers Road • Bristol, PA 19007

Web Site: www.surface-transportation.com

E-Mail: shenefelt@surface-transportation.com

Telephone (215) 781-1915 fax (215) 781-8302 fax (215) 781-3904

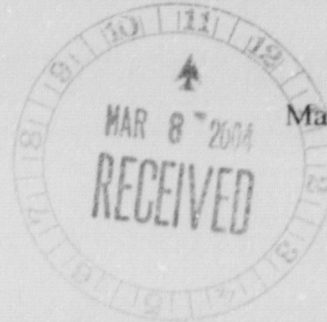
"where rail highway corridors form nation's heaviest density intersection...Amtrak NEC, two turnpikes, NS & CSX railroads"

Arthur B. Shenefelt
Director

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March 4, 2004

The Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Subject: Shared Asset Hearing, April 2, 2004, Trenton, N.J.
Finance Docket No. 33388 (Sub. No. 91)

Gentlemen:

Notice herewith filed reference Service Date Late Release February 12, 2004, that the undersigned seeks and intends to appear before the Surface Transportation Board in request for time not to exceed ten minutes at STB Public Hearing "dealing with Shared Assets Areas," April 2, 2004 --scheduled 3rd floor, Clarkson Fisher Federal Building, 402 East State Street, Trenton, N.J.

I will appear as (1) Chairman of our affiliate, The Bucks HUB Conference, and as (2) former Press Secretary and Transportation Advisor to Senator Vance Hartke, Chairman, Senate Transportation Committee 1970-73 in preparation and passage of the Rail Reorganization Act(s) establishing USRA and Conrail in lieu of eastern bankrupt railroads. I will describe two problems and offer two solutions for your consideration.

In first instance (1) I shall appear on behalf of 7,000 residents, some 3,000 households, in severe and immediate jeopardy caused by several thousand quarry trucks per day literally destroying local township, and village roads. They haul an estimated eight million tons of aggregate each year over these small back roads from quarries in Central Bucks County, PA and northerly New Jersey. Yet a rail right of way exists between their major points of origin and destination, all within your jurisdiction known as the "South Jersey/Bucks, Philadelphia Asset Area." The aggregate deliveries are matched with return loads of sand - an ideal opportunity for a marketable, profitable, rail turnaround service. Two shortlines and one major railroad have expressed interest in the move. They are: Winchester and Western, CSX and New Hope and Ivyland RR. Feasibility is proved in an identical move over three railroads almost paralleling this service: The W&W, NS and Reading Blue Mountain & Northern Railroad. *Railway Age* Cited its "Year 2000 Railroad Award" (copy to be provided) to this profitable, well functioning, three-rail service in this *Asset Area* and within the Bucks HUB Conference region of interest.

All our concerns lie directly in relation to this most east and arguably most distressed of the shared asset regions. Forcefully expressed Federal attention, assistance and direction are necessary to activate reluctant and often uninformed local, regional and state government entities to accommodate -- even to consider -- this option to relieve citizens now literally caught in life-threatening situations. *We can elaborate upon these in considerable detail.*

In the second instance (2) I intend to offer a rail solution directly addressing shortline, regional rail problems in a set of considerations affecting national, transcontinental and intercontinental traffic *apart from* as well as within the Bucks Hub Conference five-state regions: i.e., portions of NJ, PA, MD, DE, and NY.

The BUCKS HUB was and is defined, from Paine Webber "192nd rail bankruptcy studies" onward, as the "heaviest density" surface-transportation rail highway corridor cross-over on the face of this planet. This fact has been recognized by multi-global corporate investment interests and by major shippers world-round but has never been grasped by local and state governments, whose citizens increasingly are placed at congestive highway risk as a consequence. A strong, Federal participant has not addressed salutary rail options with restructured highway formations (a) to speed up services; and (b) to remove arterial traffic from capillary, non-"systems"...i.e., farm roads and small township streets. This, to invent a phrase, is the province of what the Congress has defined as SURFACE TRANSPORTATION, under this Board's specified jurisdiction.

An exception to this local, regional and state lethargy and inaction has been the Newtown ByPass, a \$23 million two mile extension in Bucks County, Pennsylvania -- earmark mandated over the objections of Pennsylvania's PennDOT and a local, now long-gone, thoroughly repudiated congressman. This Pennsylvania bypass received undivided congressional attention because it served employee/resident transfers for largest scale corporate interests in Princeton, New Jersey! -- An arterial highway construction completed in Pennsylvania to serve principal interests in New Jersey! Mr. Moynihan in 1988 (S. 2088) was the last to offer a national mechanism for disbursing this sort of cross-state-border transportation funding. Over the ensuing years, alas, we have watched ever more emphasis on a state-by-state based address of what really are regional, multi-state needs. --Result: an enforced isolation from realistic, interlinked needs. The 1988 Transportation Senate House Conference Report set aside the Newtown ByPass funds in an unusual manner (copy to be supplied). Subsequent public testimony by both majority and minority appropriations committee chairs and ranking members of House and Senate credited the ByPass's unusual status to the hard work of the Bucks HUB Conference. A regionalization of common but multi-state needs.

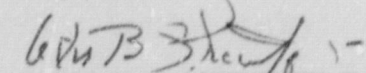
We call our new effort to remove horrendous road damage, personal danger and awesome congestion...BY and efficient RAIL System.... "Newtown Bypass Part II"

*Shared Asset Hearing
Newtown ByPass Part II*

-3-

We look forward to working with the Surface Transportation Board to solve both problems, the (2) longer range re-address of the national rail system and (1) a resultant better service within this Shared Asset Area.

Truly yours,



ARTHUR B. SHENEFELT
Chairman, OTTSPD & Affiliated
Bucks HUB Conference
ABS/ac

STB

FD-33388

(SUB 91)

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SERVICE DATE - LATE RELEASE MARCH 3, 2004

SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 33388 (Sub-No. 91)

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

[GENERAL OVERSIGHT]

Decision No. 13

Decided: March 3, 2004

In Decision No. 12 (served February 12, 2004, and published in the Federal Register on February 18, 2004, at 69 FR 7664), the Board announced that two public hearings will be held in this proceeding: the first on Friday, April 2, 2004, in Trenton, NJ; and the second on Monday, May 3, 2004, in Washington, DC. The Board indicated, in Decision No. 12, that the time and the precise location at which the first hearing will be held would be announced as soon as final arrangements were made.

Final arrangements for the first hearing have now been made, and the Board now wishes to announce that the first hearing will be held on Friday, April 2, 2004, beginning at 12:00 noon, in Ceremonial Courtroom #1 on the Third Floor of the Clarkson S. Fisher Federal Building & Courthouse, at 402 East State Street in Trenton, NJ.

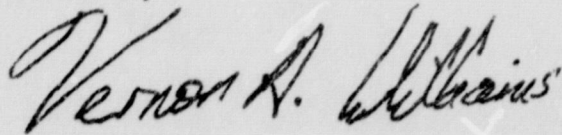
This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The first of the two public hearings to be held in this proceeding will be held on Friday, April 2, 2004, beginning at 12:00 noon, in Ceremonial Courtroom #1 on the Third Floor of the Clarkson S. Fisher Federal Building & Courthouse, at 402 East State Street in Trenton, NJ.

2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

A handwritten signature in cursive script, reading "Vernon A. Williams". The signature is written in dark ink and is positioned above the printed name and title.

Vernon A. Williams
Secretary

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SCOTT M. ZIMMERMAN

February 20, 2004



BY HAND DELIVERY

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

Re: CSX Corp. et al. – Control and Operating Leases/Agreements – Conrail Inc. et al., Finance Docket No. 33388 (Sub-No. 91) (General Oversight)

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding are the original and 25 copies of CSX/NS-5, the "Joint Report of CSX Corporation, CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Co."

Kindly date-stamp the enclosed additional 2 copies of CSX/NS-5 and return them to our messenger.

Sincerely,

Scott M. Zimmerman

Enclosures

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CSX/NS-5

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET No. 33388 (Sub-No. 91)

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

(GENERAL OVERSIGHT)

JOINT REPORT OF CSX CORPORATION, CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY CO.

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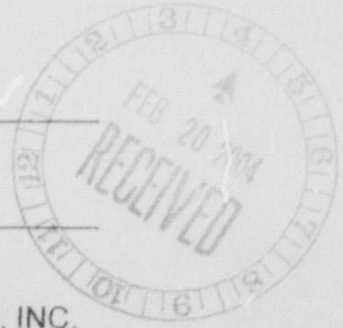
Date: February 20, 2004

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Scott M. Zimmerman
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(202) 298-8660

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BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET No. 33388 (Sub-No. 91)



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

(GENERAL OVERSIGHT)

**JOINT REPORT OF CSX CORPORATION, CSX TRANSPORTATION, INC.,
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY CO.**

CSX Corporation and CSX Transportation, Inc. (collectively, "CSX") and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "NS") hereby submit this Joint Report to the Board supplementing the record with respect to the comments submitted by National Lime and Stone Company ("NLS") in the fourth annual round of the Conrail general oversight proceeding. CSX and NS submit this Joint Report to inform the Board that CSX and NS have reached an agreement – unassociated with conditions imposed by the Board on its approval of the Conrail transaction – that will have the effect of extending the term of trackage rights relevant to NLS, as well as other aggregate shippers, for an additional five years.

In Decision No. 89 approving the Conrail transaction, the Board imposed a limited and temporary condition affecting NLS and another Ohio aggregate shipper, Wyandot Dolomite ("Wyandot"). Ordering Paragraph No. 43 provides that, with respect to those two shippers, NS and CSX must adhere to their offer to provide certain described single-line service for movements of aggregates, much the same services over the same period that they had separately agreed to provide to another Ohio aggregate shipper, Martin Marietta Materials, in settlement agreements. *CSX Corp. et al.—Control and Operating Leases/Agreements—Conrail Inc. et al.*, 3 S.T.B. 196, 390 (1998).

In Decision No. 96, the Board clarified the limited nature of this condition -- that NS and CSX must adhere to that condition only for a five-year term expiring May 31, 2004. *See CSX Corp. et al.—Control and Operating Leases/Agreements—Conrail Inc. et al.*, 3 S.T.B. 764, 772, 789 (1998). The limited term of the settlement agreements with Martin Marietta (and the imposed conditions on behalf of NLS and Wyandot) was a recognition that market conditions never remain static, but nevertheless CSX and NS were willing to provide these particular shippers a limited term to continue operating in their respective then-current shipping lanes while developing new markets in the post-transaction environment.

In comments submitted in the fourth annual round of the Conrail general oversight proceeding, NLS noted that it and CSX "are negotiating a new service agreement to replace the service [NLS] presently receives under the auspices of Condition No. 43." NLS-3 at 3. In Decision No. 11 in the Conrail general oversight proceeding, the Board took no action on the NLS comments because NLS sought no

new relief from the Board. See *CSX Corp., et al. – Control and Operating Leases/Agreements – Conrail Inc. et al.*, STB Finance Docket No. 33388 (Sub-No. 91) (served Jan. 21, 2004), *slip op.* at 11.

NS and CSXT have recently reached an agreement – outside of the Conrail proceeding and unassociated with the conditions imposed in Decision No. 89 – that will extend the term of three trackage rights agreements¹ that are instrumental in moving traffic for the Ohio aggregate shippers. Specifically, NS and CSXT have agreed to double – to ten years – the term of: (1) the NSR trackage rights over the Toledo Terminal Subdivision for the movement of aggregates between Toledo and Woodville; (2) the CSXT trackage rights over the Fort Wayne Line for the movement of aggregates between Crestline and Wooster, OH; and (3) the CSXT trackage rights for the movement of aggregates between Crestline and Alliance, OH.

This commercial agreement further makes unnecessary any action by the Board with regard to the comments of NLS.

¹ Technically, the three trackage rights agreements are so-called "Form A" attachments to certain master trackage rights agreements that were approved by the Board as a part of its approval of the Conrail transaction. Each Form A deals with different line segments, and each contains certain terms and conditions that are unique to the rights granted with regard to those segments.


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February 20, 2004

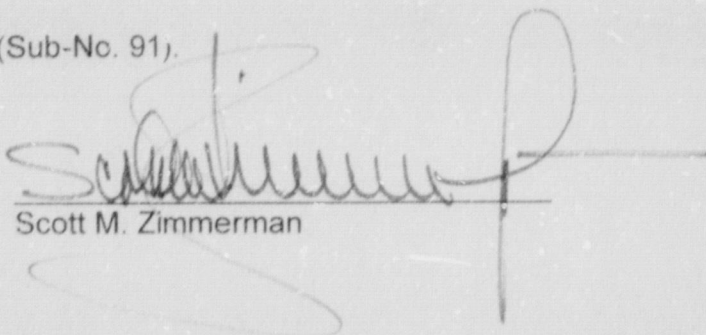
Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on February 20, 2004 a true copy of CSX/NS-5 was served by first class U.S. Mail, postage prepaid, or by more expeditious means, upon all known parties of record in Finance Docket No. 33388 (Sub-No. 91).



Scott M. Zimmerman

STB

FD-33388

(SUB 91)

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October 28, 2003

Honorable Vernon A. Williams
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

RE: Change of Address

Dear Secretary Williams:

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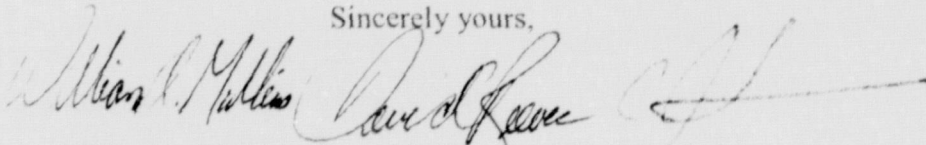
Effective **Thursday, October 30, 2003**, the offices of Baker & Miller PLLC will relocate to the following address:

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2401 Pennsylvania Avenue, NW
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Washington, DC 20037
TEL: (202) 637-9499
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Please update the Surface Transportation Board's ("STB") records to reflect the above change of address for all active proceedings included on the enclosed list in which William A. Mullins, David C. Reeves and/or Christine J. Sommer have appeared. Copies of all STB notices, decisions, pleadings or other correspondence related to these proceedings dated October 30, 2003 and thereafter should be sent to the attention of Messrs. Mullins, Reeves or Ms. Sommer at Baker & Miller PLLC at their new address.

All known parties of record in the proceedings listed on the enclosure have been sent a copy of this change of address notification.

Sincerely yours,



William A. Mullins / David C. Reeves / Christine J. Sommer

Enclosure

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Change of Address Notification

Effective Thursday, October 30, 2003

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William A. Mullins / David C. Reeves / Christine J. Sommer

Docket No. or Finance Docket No.	Name of Proceeding at the STB
Docket No. AB-308 (Sub-No. 3X)	Central Michigan Railway Company-Abandonment Petition-In Saginaw, MI
Docket No. AB-468 (Sub-No. 5X)	Paducah & Louisville Railway, Inc.-Abandonment Exemption-In McCracken County, KY
Docket No. AB-468 (Sub-No. 6X)	Paducah & Louisville Railway, Inc.-Abandonment Exemption-In Hopkins County, KY
F.D. No. 34397	Keokuk Junction Railway Co.-Alternative Rail Service-Line Of Toledo, Peoria And Western Railway Corporation
F.D. No. 34342	Kansas City Southern-Control-The Kansas City Southern Railway Company, Gateway Eastern Railway Company, And The Texas Mexican Railway Company
F.D. No. 34335	Keokuk Junction Railway Company-Feeder Railroad Development Application-Line Of Toledo, Peoria & Western Railway Corporation Between La Harpe And Hollis, IL
F.D. No. 34178	Dakota, Minnesota & Eastern Railroad Corporation And Cedar American Rail Holdings, Inc.-Control-Iowa, Chicago & Eastern Railroad Company
F.D. No. 34177	Iowa, Chicago & Eastern Railroad Company-Acquisition And Operation Exemption-Lines Of I&M Rail Link, LLC
F.D. No. 34015	Waterloo Railway Company-Acquisition Exemption-Bangor and Aroostook Railroad Company and Van Buren Bridge Company
F.D. No. 34014	Canadian National Railway Company-Trackage Rights Exemption-Bangor and Aroostook Railroad Company and Van Buren Bridge Company
F.D. No. 33740 and F.D. No. 33740 (Sub-No. 1)	The Burlington Northern and Santa Fe Railway Company-Petition For Declaration Or Prescription Of Crossing, Trackage Or Joint Use Rights and For Determination Of Compensation and Other Terms
F.D. 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
F.D. No. 33388 (Sub-No. 91)	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 (General Oversight)
F.D. No. 32760	Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company-Control and Merger-Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company
F.D. No. 32760 (Sub-No. 21)	Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company-Control and Merger-Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company-Oversight
F.D. No. 32760 (Sub-Nos. 26 - 32)	Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company-Control and Merger-Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company

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FD-33388

(SUB 91)

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ATTORNEYS AT LAW

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October 2, 2003

BY HAND DELIVERY

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

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Public Record



Re: CSX Corp. et al. – Control and Operating Leases/Agreements – Conrail
Inc. et al., Finance Docket No. 33388 (Sub-No. 91) (General Oversight)

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding are the original and 25 copies of NS-12, the "Reply Of Norfolk Southern Corporation And Norfolk Southern Railway Company To The 'Status Report And Comments of Cargill, Incorporated.'"

Please date-stamp the enclosed additional 3 copies of NS-12 and return them to our messenger. Many thanks for your assistance.

Sincerely,

Scott M. Zimmerman

Enclosures

209034

NS-12

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET No. 33388 (Sub-No. 91)



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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(GENERAL OVERSIGHT)

**REPLY OF NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY TO THE
"STATUS REPORT AND COMMENTS OF CARGILL, INCORPORATED"**

Norfolk Southern Corporation and Norfolk Southern Railway Company (together, "NS") hereby respond to the "Status Report and Comments of Cargill, Incorporated" (CARG-8) dated September 25, 2003.

Cargill's comments discuss the plan for serving Cargill's plant at Sidney, Ohio described by NS and CSX Transportation, Inc. ("CSX") in CSX/NS-4, the Joint Report of Norfolk Southern and CSX Regarding Cargill, Incorporated, filed with the Board on June 9, 2003.¹ Although Cargill expresses some concerns with that plan, it acknowledges

¹ To the extent that this response would otherwise be considered an impermissible "reply to a reply" under 49 CFR § 1104.13(c), NS requests that that rule be waived and this response accepted into the record, because the Cargill filing includes a new request for relief to which NS otherwise would have no opportunity to respond. See, e.g., *Union Pac. Corp. et al.—Control and Merger—Southern Pac. Rail Corp. et al.*, Finance Docket No. 32760, Decision No. 86 at n. 4 (served July 12, 1999).

that it is not being adversely affected at present and does not seek any present, substantive relief from the Board. Instead, Cargill asks the Board to "clarify" that the Board retains jurisdiction to address the situation at Sidney in the future and that the "original" 2-to-1 remedy proposed in the Conrail Application "remains available" to Cargill "in the event that the economic and operational issues become more favorable" at some time in the future. CARG-8 at 6.

NS submits that there is no need for the Board to clarify anything or take any other action with regard to this matter. First, NS does not dispute that the Board retains the authority to address possible future concerns about 2-to-1 issues arising from the Conrail transaction. There is no need for the Board to "clarify" that undisputed proposition.

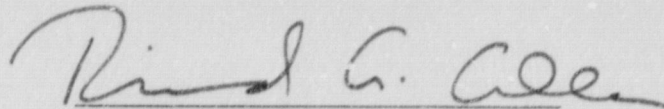
Furthermore, Cargill does not dispute that it is currently enjoying two-carrier access at its Sidney facility, and it admits that it is suffering no harm; indeed, Cargill is, in fact, using NS to serve the Sidney plant. NS does not agree with a number of assertions in Cargill's filing, including, among others, its contention that the plan for serving the plant described in CSX/NS-4 does not preserve adequate two-carrier access to the plant, but that issue is entirely academic at the present, given Cargill's admission that it is not presently suffering harm. If a situation were to develop in the future prompting Cargill to seek Board action to address an alleged actual, present harm (as opposed to a future, speculative one), the determination of what, if any, relief might be appropriate necessarily would depend upon evidence of the facts and circumstances that exist at the time. It therefore would be not only unnecessary, but

inappropriate, for the Board now to prejudge, or "clarify," what relief Cargill might or might not be entitled to should that situation arise.

Conclusion

For the foregoing reasons, NS requests that the Board decline to issue the "clarifications" that Cargill seeks.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Richard A. Allen". The signature is fluid and cursive, with the first name "Richard" being more prominent and the last name "Allen" following in a similar style.

Richard A. Allen
Scott M. Zimmerman
**ZUCKERT, SCOUTT &
RASENBERGER, LLP**
888 Seventeenth Street, NW
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(202) 298-8660

*Attorneys for Norfolk Southern Corporation
and Norfolk Southern Railway Company*

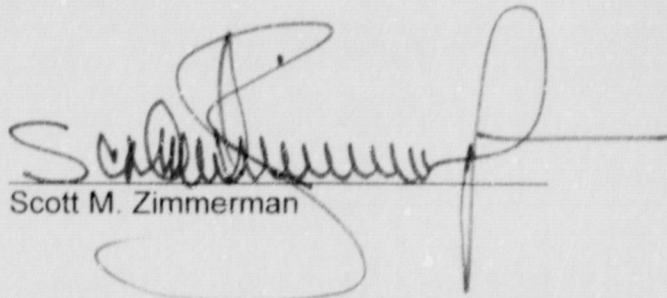
October 2, 2003

CERTIFICATE OF SERVICE

I certify that on October 2, 2003 a true copy was of NS-12 was served by hand
delivery upon:

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Washington, D.C. 20036
Attorney for Cargill, Incorporated

Mary Gabrielle Sprague
Arnold & Porter
555 Twelfth Street, N.W.
Washington, D.C. 20004-1206
*Attorney for CSX Corporation and
CSX Transportation, Inc.*



Scott M. Zimmerman

STB

FD-33388

(SUB 91)

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Washington, DC 20004-1206

October 1, 2003

VIA HAND DELIVERY
ORIGINAL AND 25 COPIES

The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
Office of the Secretary
1925 K Street, NW
Washington, DC 20423-0001



Re: STB Finance Docket No. 33388 (Sub-No. 91)
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 (General Oversight)

Dear Secretary Williams:

On September 25, 2003, CSX was served with a copy of a pleading styled "Status Report and Comments of Cargill, Incorporated" (CARG-8). We read the Board's rules as calling for a response within twenty days and therefore anticipate responding on or before October 15, 2003. Please contact the undersigned at (202) 942-5773 if you have any questions.

Respectfully yours,

Mary Gabrielle Sprague
Counsel for CSX Corporation and
CSX Transportation, Inc.

cc: Jeffrey O. Moreno
Richard A. Allen

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FD-33388

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September 25, 2003

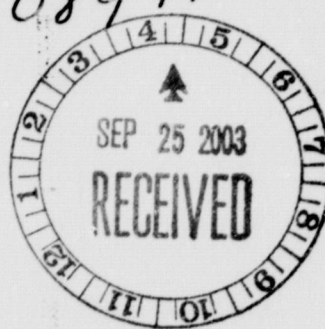
By Messenger

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

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FD 33388 Sub 91

RE: *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*

Dear Secretary Williams:

Enclosed please find an original and ten (10) "PUBLIC" copies of the Status Report and Comments of Cargill, Incorporated.

Also enclosed is an additional copy of the Status Report and Comments for stamp and return. Kindly date-stamp the additional copy for return to this office by messenger.

Sincerely,

Jeffrey O. Moreno

Enclosures

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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 33388 (SUB-NO. 91)

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

[GENERAL OVERSIGHT]

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SEP 25 2003

Part of
Public RecordSTATUS REPORT AND COMMENTS
OF CARGILL, INCORPORATED

Cargill, Incorporated ("Cargill") hereby submits this Status Report and Comments in the above-captioned proceeding, concerning the protection of Cargill as a so-called "2-to-1" shipper at Sidney, Ohio. This Status Report responds to the proposal of CSX Corporation and CSX Transportation, Inc. (collectively "CSX") and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively "NS") to protect Cargill in the "Joint Report of Norfolk Southern and CSX Regarding Cargill, Incorporated" (CSX/NS-4), filed on June 9, 2003 (hereinafter "Joint Proposal").

Background and Procedural Status

Cargill initially brought its concerns to the Board in Comments filed over a year ago, on August 5, 2002 (CARG-5). Specifically, Cargill expressed alarm that recent developments involving the fees charged by CSX to NS to preserve two-carrier access at Sidney, Ohio were inconsistent with the merger decision by not adequately protecting Cargill's shipments of agricultural products from Sidney, Ohio to NS-served destinations, effectively negating the

protections that both carriers assured Cargill, as a 2-to-1 shipper at Sidney, would preserve two-carrier competition post-merger.

CSX and NS had designated Sidney a 2-to-1 point in their merger application and listed Cargill as a 2-to-1 shipper. See Verified Statement of James W. McClellan, CSX/NS-18, Vol. 1 at 546 and 549. In order to preserve two carrier competition at Sidney, they entered into a trackage rights agreement and a switching agreement to give NS access to Sidney shippers over approximately 33 miles of CSX track extending north from Sidney to Lima, Ohio. See CSX/NS-25, Vol. 8B, at 543-50; CSX/NS-25, Vol. 8C, at 616-39, respectively. Even before the division of Conrail, however, CSX and NS concluded that these agreements did not establish a convenient interchange at Sidney. Therefore, a new interchange was established at Marion, Ohio, approximately 60 miles east of Sidney on the former Conrail line. This plan never was submitted to the Board for its approval. Thus, the original plan approved by the Board to preserve two carrier competition at Sidney never was implemented, and instead, Cargill has accessed NS under the agreement establishing the Marion interchange.

In July 2002, however, Cargill learned that the interchange fee charged by CSX to NS would be increased, retroactively, from \$200 per car to more than \$600 per car, to be adjusted annually by the RCAF-U. This rate increase purportedly was based upon CSX's costs, which included an interchange operation that required Cargill's traffic to move nearly 100 miles west to Indianapolis and then move 160 miles east over the same track to reach the NS interchange at Marion, Ohio. This contrasted sharply with Cargill's pre-merger access to a second carrier via a short reciprocal switch at Sidney, for which Cargill paid only \$205 per car.

The increased CSX fee prompted NS to announce rate increases of \$450-480 per car on soybean meal from Sidney, effective October 1, 2002. Although Cargill was to have had access

to NS via switching at Sidney, the relocation of the interchange to Marion, 60 miles to the east, along with the preceding 200 mile round trip move west on CSX before heading to Marion, effectively converted those single line moves to two carrier movements, for which CSX sought to charge NS an additional \$450 per car. These facts prompted Cargill to bring its concerns to the Board.

At the request of CSX and NS, and without objection from Cargill, the Board extended the time for filing Reply Comments to Cargill until September 25, 2002, in order to allow the parties to reach a negotiated resolution of Cargill's concerns. See Decision No. 9 (served Sept. 13, 2002). During that time NS agreed to absorb the increased charges from CSX and deferred its previously announced rate increase. CSX and NS separately filed comments on September 25, 2002, stating that CSX had sent a written proposal to Cargill. Both railroads expressed hope that a negotiated resolution could be reached, although NS expressed some preliminary concerns regarding CSX's proposal.

The CSX proposal offered four alternative solutions to Cargill. After carefully considering each option, Cargill selected the first option, which would implement the plan originally approved by the Board in the merger decision to preserve two carrier competition at Sidney. CSX and NS initiated discussions to address the operating details of that option.

After nearly seven months without any agreement between CSX and NS, Cargill asked the Board, on April 28, 2003, to set a firm deadline. (CARG-7) In a joint response filed on May 19, 2003, CSX and NS informed the Board that they had intensified their efforts and hoped to submit a final proposal to the Board by June 9, 2003. (CSX/NS-3)

On June 9, 2003, CSX and NS submitted the Joint Proposal to the Board, which contains their final plan to address Cargill's concerns as a 2-to-1 shipper at Sidney. (CSX/NS-4) After a series of further discussions with CSX and NS, Cargill hereby responds to the Joint Proposal.

Cargill's Comments

The June 9th Joint Proposal of CSX and NS does not implement the original plan approved by the Board to preserve two carrier competition at Sidney. Instead, it continues the operating plan of interchanging cars with NS at Marion, Ohio that has been in place since the Conrail split, but never was approved by the Board. Cargill also understands that its cars no longer move 100 miles west on CSX to Indianapolis before returning east to the Marion interchange with NS, although there still is some back-tracking. This operational change, however, is not part of the Joint Proposal. The *only* change offered in the Joint Proposal itself is a reduction in the CSX switching charge to NS from \$600 to { } for a period of five years, subject to annual adjustment. This amount, however, still is a { } increase over the amount that had been charged since the Conrail split.

The only explanation that CSX and NS have provided for not implementing the original plan that was proposed in their merger application and approved by the Board to preserve two carrier competition at Sidney, and that Cargill had selected from the four options proposed by CSX in response to Cargill's initial comments in this proceeding (CARG-5), is the following statement:

The central difficulty confronted is that, operationally speaking, a transfer of cars between NS and Cargill is a costly and difficult process. Physical access to Sidney by NS involves substantial cost and operational difficulty.

CSX/NS-3 at 2. In recent conversations with Cargill, NS restated these points and emphasized that, if Cargill insisted upon implementing the original plan, the costs to NS would be greater and consequently so would the potential increase in Cargill's rates.

This is extremely troubling because it indicates that CSX and NS *never* performed *any* analysis of the economic or operational feasibility of their original plan to preserve 2-to-1 competition at Sidney prior to including that plan within their application for control of Conrail. The traffic patterns and volumes at Sidney have not significantly changed such that the original plan only became unfeasible after the application. To the extent there have been operational changes, those would have been within the control of both railroads. Instead, it appears as if CSX and NS presented a plan that looked good on paper in order to induce Cargill's support for, and the Board's approval of, their acquisition of Conrail.

As a consequence of this misrepresentation, Cargill has become a 2-to-1 shipper without a real 2-to-1 remedy. In recent discussions with Cargill, NS has insisted that the Joint Proposal constitutes all that is required in a 2-to-1 remedy as long as Cargill's traffic still moves to NS-served destinations under the resulting rates. Under that logic, captive shippers would be no worse off than shippers with two carrier service as long as the traffic still moved by rail. Of course, no one subscribes to that logic, which would completely undermine the concept of differential pricing between captive and competitive traffic.

The whole point of remedying 2-to-1 situations is to preserve the competitive benefits of two carrier service. Prior to the Conrail transaction, Cargill was served directly by Conrail at Sidney, Ohio and had access to CSX via a short reciprocal switch at a \$205 rate. The Joint Proposal asserts that the reciprocal switch rate was \$390, which would be comparable to the { } fee that CSX will charge NS under the Joint Proposal. But, Cargill received a rebate from

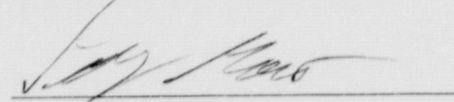
Conrail that rendered the effective switch rate only \$205. Therefore, a 60-mile switch to NS at Marion, Ohio for { } is not a 2-to-1 remedy. That switch fee between CSX and NS is for a limited 5-year duration, after which it can be changed at the whim of CSX without concern for competitive constraints. As a consequence, Cargill must rely upon Board oversight as a surrogate for actual competition. By contrast, a true 2-to-1 remedy would not require such a degree of oversight, since rates would be regulated by direct competition.

For the time being, NS has committed to absorb the higher CSX charge in the NS rates to Cargill. As long as NS continues this practice, Cargill will not suffer substantial immediate harm. NS, however, will not commit to absorb these charges even for the 5-year duration of the Joint Proposal. In the absence of a true 2-to-1 remedy at Sidney, as originally proposed to and approved by the Board, Cargill could suffer immediate and irreparable harm on short notice (*i.e.* the notice required to increase common carrier rail rates). Therefore, in order to protect Cargill in that circumstance, Cargill requests the Board to clarify that

1. it retains jurisdiction and will maintain oversight over the 2-to-1 situation at Sidney in order to remedy any harm to Cargill caused by the failure of CSX and NS to provide a 2-to-1 remedy at Sidney; and
2. the original 2-to-1 remedy, apparently proposed by CSX and NS without any analysis of its economic or operational feasibility, and approved by the Board, remains available to Cargill, in the event that the economic and operational issues become more favorable.

With these clarifications from the Board, Cargill's immediate concerns will be addressed.

Respectfully submitted,



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1920 N Street, N.W., Suite 800
Washington, D.C. 20036
(202) 331-8800

Attorney for Cargill, Incorporated

September 25, 2003

CERTIFICATE OF SERVICE

I, Pamela D. Plummer, a secretary at the law firm of Thompson Hine LLP, do hereby certify that on this 25th day of September, 2003, a copy of the Status Report and Comments of Cargill, Incorporated was served by first-class mail, postage prepaid, or more expedited method to the following:

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*Attorneys for Norfolk Southern Corporation
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*Counsel for Applicants
CSX Corporation and
CSX Transportation, Inc.*


Pamela D. Plummer

***by hand**

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(SUB 91)

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LACKAWANNA COALITION
Box 283
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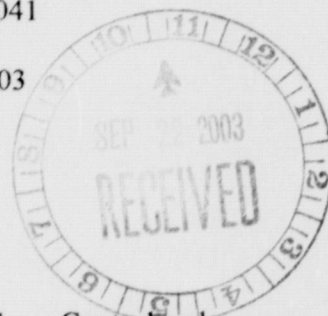
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September 12, 2003

Mr. Vernon Williams, Secretary
Surface Transportation Board
1925 K St., N.W., Room 700
Washington, D.C. 20423

SEP 22 2003

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Re: CSX Corp., CST Transportation Inc., Norfolk Southern Railway Co. – Control and
Operation Leases/Agreements – Conrail, Inc. and Consolidated Rail Corp. (General
Oversight), Docket No. FD-33388 (sub 91)

Dear Mr. Williams:

This is in response to Answers filed in the above matter by Norfolk Southern (NS) and
CSX Corp. (CSX) on August 4, 2003.

The Lackawanna Coalition is a nonprofit corporation of the State of New Jersey, organized as the Lackawanna Coalition, Inc. in 1980. Since that time, the Coalition has advocated on behalf of riders on New Jersey Transit's Morris & Essex Lines. The Coalition has added the Montclair-Boonton Line of New Jersey Transit to its area of concern, and has expressed support for resumption of rail passenger service over the former Lackawanna Cutoff Line to the Pocono Mountain region and Scranton, and over the portion of the Boonton Line where service was abandoned by N.J. Transit in September, 2002. The allegation by CSX (at 12) that the Coalition consists of rail riders on the former NS Boonton Line is a blatant mischaracterization. In fact, the Coalition consists of the counties and municipalities served by N.J. Transit's Morris & Essex and Montclair-Boonton Lines, along with individuals from this region who perform the tasks that assist the Coalition in advocating on behalf of rail riders on the lines of concern. The Lackawanna Coalition has for many years supported N.J. Transit's efforts to build the Montclair Connection, and we continue to support Transit's efforts to develop ridership on the Montclair-Boonton Line. At the same time, we support the initiative by the New York & Greenwood Lake Railway Co. (NY&GL) to independently serve the stations abandoned by New Jersey Transit upon completion of construction of the Montclair Connection.

At the outset, it should be noted that CSX has taken it upon itself to ridicule the nonprofit status of the North Jersey Transportation Planning Authority (NJTPA), another commenting party, as "unsupported by any shipper or anyone else with an economic interest in the matter" (at 2). The Lackawanna Coalition is concerned that its own nonprofit status will bring upon it the same derision and scorn heaped upon the NJTPA by CSX. The Lackawanna Coalition operates in the public interest, on behalf of rail riders. Its interest is not unlike that of the United Church of Christ in *United Church of Christ v. FCC*, 359 F.2d 994, 1005 (D.C. Cir. 1966), in which the court upheld the right of the church, as an advocate on behalf of the listening public, to object to a transfer of a radio station license by the FCC. The attitude expressed by CSX that the

Lackawanna Coalition has no business objecting to the practices of NS is reminiscent of the oft-quoted attitude of "the public be damned" attributed to Cornelius Vanderbilt of the New York Central during the 19th Century. The Lackawanna Coalition is duly authorized to advocate on behalf of the rail riders of our region, and has been so recognized by New Jersey Transit and by the American Public Transit Association (APTA). We note the attitude expressed by CSX, and we state that, under no circumstances, will we voluntarily participate in our own damnation of that of our riders. We also question the motive of CSX in criticizing the Lackawanna Coalition, since our own criticism is aimed at NS, the purported competitor of CSX.

It is also appropriate to address two disingenuous comments by CSX. First, CSX claims (at 12) that we are a group of local commuters without a concrete plan to operate the passenger service that we endorse. We are not required to formulate such a plan, since NY&GL is formulating such a plan and is now negotiating to put it into operation (it should be noted that NS backhandedly acknowledges the existence of these negotiations at 13). CSX further states (at 13) that we disagree with N.J. Transit concerning termination of service to a number of stations last September, but our filing expressed no opinion whatsoever on this decision, and merely mentioned it as fact. Had eminent counsel for CSX bothered to read our filing, they probably would have noticed this. Our disagreement (in our second paragraph) was expressed at the action by NS in removing one of the tracks in the affected area and the imminent abandonment of DB Drawbridge. Neither CSX nor NS denies that the track in question was removed, or that it would be an easy matter to discontinue operations over DB Drawbridge, thereby making it essentially impossible to restore commuter service under the NY&GL plan.

NS claims that we would "commendeer PRR property" (at 11). Curiously, CSX (the purported competitor of NS) also states (at 12) that the objection stated by the Coalition in its July filing "impermissibly proposes to confiscate private freight rail assets." Whatever relationship "PRR" might have to NS, NS took it upon itself to eliminate the existence of one of the tracks through the area in question. We do not comment on the extent to which this action by NS constitutes a "confiscation" or "commandeering" of the assets of the alleged entity PRR. That is for PRR, if it is indeed an independent entity and not a shell for NS, to question. However, it cannot be gainsaid that the destruction of a part of a rail line is an act done in furtherance of the public interest, convenience or necessity. Indeed, the Lackawanna Coalition questions the rationality of the allegations by both railroad companies about confiscation when NS wantonly destroys a line which it claims only to operate (and not to own), despite urgings by the New Jersey Department of Transportation (NJDOT), an allegation not denied by NS or CSX.

NS states: "conditions are imposed only to ameliorate or eliminate harms from the transaction itself" (at 12) and blames New Jersey Transit for the actual harm done to former riders of the Montclair-Boonton Line who now want alternate service provided by the NY&GL. In fact, the latest round of harm was caused by NS, when it tore up a track in the affected area, making resumption of passenger service far more difficult than it had been before that act.

In fact, the harm to the public occurred at the time of the breakup of Conrail, which created Conrail Shared Assets (CSA). The conduct of the two railroad companies which commented on the Lackawanna Coalition's own statement make it abundantly clear that there is now an anticompetitive situation among the Class I railroads in our region. NS claims that it

competes vigorously with CSX for business in New Jersey, but the very filings submitted in the present matter by the railroads belie this allegation. CSX, especially, has shown that it is not the competitor of NS, but its confederate. In a truly competitive situation, CSX would be reasonably expected to support our call for turning over the line now operated by NS to another operator who would be more responsive to local concerns. Instead, CSX heaps even more ridicule upon us than does NS for having the temerity to suggest that its "competitor" is acting in an anticompetitive manner.

It is no accident that NS and CSX appear to be acting in concert. The two companies share beneficial ownership of the lines operated by each other. This leads to an inherent conflict of loyalties, since a "victory" over the "competition" for either side means a diminution of the assets belonging to the "other" railroad. For example, if CSX were to vigorously compete with NS and lure shippers away from NS, NS would lose business and its shares would lose value. This could lead to a further diminution of the value of the rail lines under CSA joint ownership. Such a competitive "victory" by CSX could actually lead to lowered value for some of CSX's assets. A similar "victory" for NS could lead to a lowered value for its assets, in the same manner. Thus, the "shared assets" arrangement is anticompetitive and can easily lead to the two allegedly "competing" railroads acting more like partners than competitors. This is the harm that stems from the transaction itself. Therefore, we urge the Board to re-evaluate the establishment of the "shared assets" situation between NS and CSX.

Finally, we note that the concerns stated in our original filing have not been disputed or otherwise contested by either NS or CSX. We believe that the public interest, convenience and necessity demands that the rail lines in our region be operated in a competitive manner, and in such a way that proposed restoration of passenger services (specifically on the Lower Boonton Line and the Lackawanna Cutoff Line) becomes more likely, rather than less likely. We continue to urge that the Board give serious thought to turning the line in question over to an independent company that will operate the line truly in the interest of the shipping and potential riding public.

Yours very sincerely,



DAVID PETER ALAN
Chair

Cc: Bruno Maestri, Esq., Norfolk Southern Railway Co.
Commissioner Jack Lettiere, N.J. Dept. of Transportation
North Jersey Transportation Planning Authority
New Jersey Transit

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**SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.**

Finance Docket No. 33388 -91

**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**

NOTICE OF INTENT TO PARTICIPATE

Please enter the appearance of the undersigned counsel on behalf of the South Jersey Transportation Planning Organization ("SJTPO"), acting on behalf of the southern district of the State of New Jersey, which intends to participate and become a party of record in this proceeding. Pursuant to 49 C.F.R. § 1104.12, service of all documents filed in this proceeding should be made upon the undersigned.

Please also remove the appearance of the law firm Gruccio, Pepper, Giovinnazzi, DeSanto & Farnoly, P.A., 817 Landis Avenue, CN 1501, Vineland, NJ 08360 as they are no longer counsel for the SJTPO.

Dated this 11th day of August 2003.

ANGELINI, VINIAR & FREEDMAN, LLP

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By: Michael A. Angelini

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