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July 12, 2002

BY HAND

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



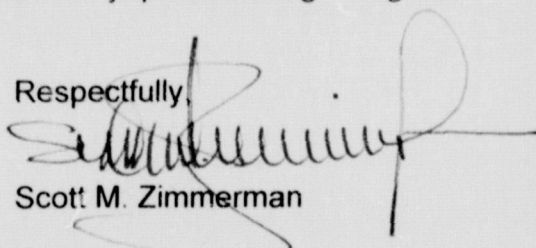
**Re: STB Finance Docket No. 33388, CSX Corporation and CSX
Transportation, Inc., Norfolk Southern Corporation and Norfolk
Southern Railway Company – Control and Operating
Leases/Agreements – Conrail Inc. and Consolidated Rail Corporation**

Dear Secretary Williams:

Pursuant to Ordering Paragraph No. 22 at page 177 of Decision No. 89 in the above proceeding, applicants Norfolk Southern Corporation and Norfolk Southern Railway Company ("NS") hereby submit the attached report and 25 copies reflecting the origins, destinations, and routings for the truck traffic at the intermodal terminal at Croxton, New Jersey, which was allocated to NS pursuant to the Conrail transaction, based on surveys for the months of April, May and June, 2002.

Please do not hesitate to call me if you have any questions regarding the attached report.

Respectfully,


Scott M. Zimmerman

cc: Melvin F. Clemens, Jr.
Ms. Alice Cheng
Director, Intermodal Planning
New York City Economic Development Corp.
110 Williams Street
New York, NY 10038

Attachment

ENTERED
Office of Proceedings

JUL 15 2002

Part of
Public Record

Norfolk Southern Corporation
Intermodal Terminal Report No. 12
Croxtan Intermodal Terminal
Months of April May June 2002

State	City	In-Gate	Out-Gate	Total
	Unknown	2	2	4
CT	DANBURY	0	0	0
CT	EAST GRANBY	0	0	0
CT	EAST HARTFORD	0	0	0
CT	NEW HAVEN	0	0	0
CT	ORANGE	0	0	0
CT	WALLINGFORD	0	0	0
CT	Unknown	0	0	0
MA	ALSTON	0	0	0
MA	CHELMSFORD	0	0	0
MA	FALL RIVER	0	0	0
MA	LENOX	0	0	0
MA	NORTH DARTHMOUTH	0	0	0
MA	SOUTH BORO	0	0	0
MA	SOUTHLEE	0	0	0
MA	Unknown	0	0	0
MA	WORCESTER	0	0	0
ME	ROCKLAND	0	0	0
NY	BRONX	181	183	364
NY	BROOKLYN	0	0	0
NY	HICKSVILLE	0	0	0
NY	LONG ISLAND	0	0	0
NY	MANHATTAN	0	0	0
NY	PORT CHESTER	0	0	0
NY	QUEENS	9	9	18
NY	STATEN ISLAND	0	0	0
NY	Unknown	0	0	0
RI	Unknown	0	0	0
George Washington		192	194	386
George Washington		192	194	386
Tappan Zee		84	80	164
Staten Island Crossings		5	8	13
Manhattan Tunnels		0	0	0
Other / Unknown		0	0	0
East of Hudson		281	282	563
West of Hudson		952	945	1,897
GRAND TOTAL		1,233	1,227	2,460

These results reported for Croxtan are for loaded units entering and exiting the terminal.

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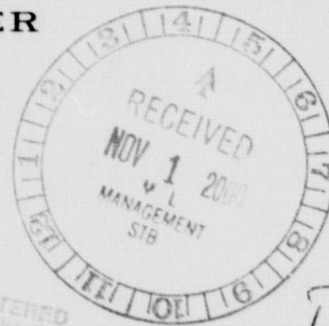
DENNIS G. LYONS
(202) 942-5858

NEW YORK
DENVER
LOS ANGELES
LONDON

November 1, 2000

BY HAND

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



ENTERED
Office of the Secretary

NOV 01 2000

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Public Record

Re: STB Finance Docket No. 33388 (Sub-No. 93)
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 (Buffalo Area Infrastructure)

Dear Secretary Williams:

Enclosed are an original and twenty five (25) copies of CSX-1, the Reply Comments of CSX Corporation and CSX Transportation, Inc., for filing in the above-referenced docket. A certificate of service is included.

Please note that the enclosed 3.5-inch diskette contains a WordPerfect 5.1 formatted copy of this filing.

Kindly date-stamp the enclosed additional copy of this letter and the Reply at the time of filing and return them to our messenger.

Thank you for your assistance in this matter. Please contact the undersigned at (202) 942-5858 if you have any questions.

Respectfully yours,

Dennis G. Lyons
Counsel for CSX Corporation and
CSX Transportation, Inc.

rjm

Enclosures

cc All Parties of Record
David M. Konschnik, Esq.
Julia M. Farr, Esq.

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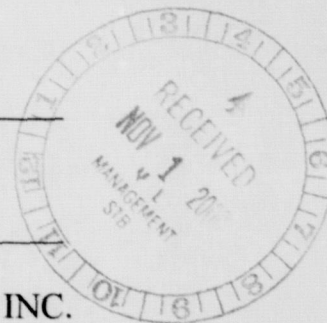
CSX-1

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of the Secretary

FINANCE DOCKET No. 33388 (Sub-No. 93)

NOV 01 2000
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Public Record



**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
(BUFFALO AREA INFRASTRUCTURE)**

**REPLY COMMENTS OF CSX CORPORATION
AND CSX TRANSPORTATION, INC.**

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*Counsel for CSX Corporation and
CSX Transportation, Inc.*

Dated: November 1, 2000

ORIGINAL

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET No. 33388 (Sub-No. 93)

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

(BUFFALO AREA INFRASTRUCTURE)

**REPLY COMMENTS OF CSX CORPORATION
AND CSX TRANSPORTATION, INC.**

On September 7, 2000, CSX Corporation and CSX Transportation, Inc. (collectively "CSX"), jointly with Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively "NS"), filed their Report on Buffalo Area Infrastructure (the "Report"), as required by the Board's Decision No. 1 in this proceeding. Three Comments have been filed with the Board with respect to that Report. This constitutes CSX's reply to those Comments.¹

¹ Like NS (*see* NS-1 at 1 n.1) we take the liberty of filing these Reply Comments though not expressly contemplated by the Board's Decision No. 1 in this matter. The three Comments seek various forms of affirmative relief from the Board, including ordering the subjection of CSX's property to operation by one of the commenters, ordering it to support a consultant's study sought by another, and ordering it to enter into Board-supervised negotiations, asked for by a third.

The Report dealt not only with infrastructure issues, but also provided other information of pertinence to rail service in the Greater Buffalo area. Mindful of the Board's encouragement in Decision No. 1 (at 3) to CSX and NS "to reach out to all concerned parties and to work with them to achieve the common goal of improved rail service in the Buffalo area," the two carriers sent out almost three hundred invitations to potentially interested parties to attend the meeting contemplated by the Board's decision. In addition, the carriers presented in their Report a seven-page description and listing of other community outreach efforts which CSX and NS had made prior to the meeting. Report at 21-27.

As set forth in the Report, in addition to presentations by CSX and by NS, twelve other parties -- railroads, shippers, civic groups and other organizations -- either made written submissions or oral submissions, or both, at the meeting. So that these parties could speak with their own voices to the Board, CSX and NS attached their written submissions, together with a transcript of the entire meeting, to their Report, at Tabs 3 through 11.

As was made plain in the Report, relatively little was said at the meeting as to needs for capacity-increasing infrastructure in the Greater Buffalo area. CSX's position was that it had no operating infrastructure needs and that expansion of service facilities to take advantage of opportunities to create further direct service, such as intermodal facilities and bulk transfer facilities, would be its focus in the

immediate future in Greater Buffalo. NS discussed a proposal for construction of a second bridge at CP Draw. No one else who spoke at the meeting identified any other particular capacity-increasing infrastructure needs, although some parties identified projects for the separation of rail traffic and vehicular traffic. The rest of the discussion consisted of other proposals and other suggestions not involving capacity-increasing infrastructure.

In addition to providing the full text of all the written and oral statements made by the various interests at the meeting, the CSX and NS Report provided brief synopses of those statements and a commentary upon them. Some disagreement was expressed in the Report as to the views of the three present Commentors' presentations at the meeting: Erie-Niagara Rail Steering Committee ("ENRS"), Canadian National Railway ("CN") and South Buffalo Railway Company ("SB"). Those three interests have filed Comments with the Board. CSX will briefly reply to them.

I. ENRS

ENRS is an *ad hoc* committee of various local interests in the Greater Buffalo area. It was formed after the filing in June 1997 of the joint application by CSX and NS to acquire control of Conrail and allocate the use of its routes between them. ENRS's principal apparent role has been in litigation and other forensic activities, making extensive filings before the Board seeking "shared

assets area" treatment for the Greater Buffalo area or, failing that, to change it into some form of joint terminal area or the like. ENRS was not content with the relief granted by the Board to the Buffalo area in its Decision No. 89 in Finance Docket No. 33388, but filed a lawsuit in the United States Court of Appeals for the Second Circuit a week after the Board's decision in July 1998. ENRS has continued to prosecute that suit ever since.

At the meeting, ENRS's spokesman claimed that the railroad infrastructure capacity in Greater Buffalo was not adequate, and that this was the fault of the market-based division of Conrail by CSX and NS. He did not specify what capacity-increasing infrastructure projects ENRS felt were needed, leaving that to a neutral consultant to be engaged to study the Buffalo rail infrastructure and pronounce its findings. CSX and NS in response disagreed both with the diagnosis and the proposed treatment. Report 32-35. No reply is made by ENRS to that response and we will not repeat CSX and NS's response here.

ENRS continues its principally litigious approach in its Comments. Most of ENRS's Comments are addressed at NS. ENRS characterizes the need for additional infrastructure to cross the Buffalo River near CP Draw as "critical," and chides NS for not viewing this as urgently as ENRS does. It apparently wants NS to forthwith construct the entire CP Draw project using its own funds, contrary to the views of the State's officials who propose a \$10 million contribution to the

project by New York State in a bond referendum to be presented to the electorate in the upcoming elections. ENRS also criticizes NS for not following up on an alternative method of providing a way around that Buffalo River crossing, and complains of NS's unwillingness forthwith to construct a second bridge using its own funds. NS is also charged with unlawfully abandoning a bridge which was taken out of service in the 1980s. ENRS-1 at 3-5. NS has filed a convincing Reply to these assertions.

ENRS accuses both CSX and NS of not reaching out and working with "ENRS and other interested parties to improve service." *Id.* at 2. The record belies this. The great extent to which the two carriers have reached out to ENRS's constituencies was discussed in the Report at pp. 21-27. These contacts on CSX's part included not only regular meetings with a group formed as a result of Ordering Paragraph No. 33 in Decision No. 89, also described at some length in CSX's filing of June 5, 2000, in Sub-No. 90, but many other meetings and contacts outlined by CSX in the Report.

ENRS's central concern, which it gives as "an example," is apparently that the proposal that ENRS made at the meeting was criticized. ENRS had no particular infrastructure proposals that would increase railroad capacity to make at the meeting, but suggested that a third party consulting firm be engaged to do what it now describes as "an objective study of the rail infrastructure needs and funding

in the Niagara area.” *Id.* at 3. CSX and NS thought this was not a good idea and said so in their Report. Their reasons were given at some length. ENRS offers no rebuttal, only complaint that its proposal was not accepted. Reaching out and working with concerned parties does not mean accepting every idea they have regardless of its merits or its feasibility.

CSX and NS are also chided for not entering into “any meaningful dialogue with the Canadian carriers regarding . . . [their] suggestions.” ENRS-1 at 5. Instead, according to ENRS, the two carriers chose “instead to engage in public critiques of the suggestions,” referring to the fact that some of those carriers’ suggestions were criticized in the Report.² *Id.* The suggestions by the Canadian carriers were made under circumstances where a report to the Board by CSX and NS was required; the reaction of CSX and NS to those suggestions seemed to deserve something approaching equal time with the suggestions, or the Report would have been unbalanced. Had suggestions been made privately, as they often are, the response to them would have been private. We comment further on this in Part II, dealing with CN.

² In fact, the CSX/NS discussion was largely complimentary toward the CP presentation (Report at 36-38); it was only CN of whose suggestions CSX/NS were highly critical.

In CSX's view, ENRS put forward no substantive ideas at the meeting and has continued its forensic approach to its mission, apparently believing that that would be the most effective way of serving its constituencies. There are no substantive ideas contained in its Comments, either; they for most part seem to be a baseless attack on CSX and NS's deportment, rather than a constructive contribution.

II. CN

Mr. John Sebesta, Director of Interline Management, Eastern Division, for CN, made available written comments in "presentation" form and gave a slide show at the meeting using presentation software. The presentation included five "Proposed Solutions" set forth as part of Tab 9 of the Report. All of the "Solutions" involved access to, or improvements to be made by, the major U.S. carriers serving the area, CSX and NS, for CN's use. A "Summary," among other things, said that: "if CSX and NS cannot provide a service, shippers should have access to other carriers," giving, as an example, the Board's Houston Emergency Order. Mr. Sebesta's oral remarks which accompanied the slide show (Transcript at 73-86) were essentially to the same effect.

It is fair to say that CSX and NS did not take kindly to Mr. Sebesta's remarks, interpreting them as an effort to improve CN's facilities, business and marketing position at the expense of CSX and NS. They stated their objections in

the Report. The notion that there was a Houston-like situation in Buffalo was, in CSX's view, an astounding hyperbole, but CSX and NS replied to that assertion only briefly. A principal point made as to CN in the Report was that "over the past 20 years, CN has actively and significantly reduced its assets base in the Buffalo region (including the Canadian side). It has enjoyed the cost savings and looked to others to carry the burden." Report at 41. The Report made the point that any evaluation of rail infrastructure in the Greater Buffalo area had to consider the infrastructure, or lack of it, just over the bridges in nearby Ontario. *Id.* at 40-41.

In its Comments, CN makes no attempt to support Mr. Sebesta's proposals. Moreover, CN does not deny that it has engaged in disinvestment in infrastructure in the Greater Buffalo region, if one includes the part in Ontario. Indeed, it appears from CN's comments that CN and CP may be in the process of selling off jointly owned rail properties in the Niagara Falls, Ontario, area, thus increasing CN's disinvestment. CN Comments at 3.

The principal reply CN makes to CSX's and NS's comments is to say that "CN believes that the CSXT and NS analysis of Mr. Sebesta's comments misrepresents and misinterprets his testimony." *Id.* at 1-2. The CN comments try to convey the idea that CN was willing to help pay for the improvements which Mr. Sebesta outlined. It is claimed that "Mr. Sebesta indicated in his oral presentation that CN was willing to be a financial partner in the improvements." *Id.* at 3.

No citations for this expression are provided and, in fact, there is nothing whatsoever saying that in the transcript of Mr. Sebesta's remarks or in his written presentation.³ But in any event, the issue is not whether CN is willing to pay for the use of the U.S. carriers' property that it seeks to use, but why CN should be disinvesting in the area and then claiming it has need, despite its settlement in the Conrail case, for access over properties, the use of which was acquired, at significant cost to them, by the two U.S. carriers, CSX and NS.

Indeed, CN's discussion of those negotiations with Conrail simply underscores the fact of its disinvestments. CN's Comments contain a brief recital of the history of negotiations between CN and Conrail, establishing the present operating agreements. The negotiations recited (CN Comments at 2), however, were conducted in connection with CN's decision to close of its Fort Erie, Ontario, Yard, which occurred in 1989. CN provides no data concerning net investment CN has made in what we might call the "Greater-Greater-Buffalo" area, namely, the area encompassed by the Board's definition plus immediately adjacent parts of Ontario. CSX believes that any such study would indicate a twenty-year pattern of

³ None of Mr. Sebesta's remarks are disowned by CN, and except for the claim that he indicated that CN was willing to pay its share, no particular gloss on them, or specific claim that they were "misrepresented" or "misinterpreted" is made. How CSX and NS would misrepresent or misinterpret Mr. Sebesta's remarks while providing the reader a full transcript of them and a reproduction of his slide show is not explained.

disinvestment. By contrast, CSX and NS, as recorded in the Report, have made infrastructure investments in, or benefiting, the Greater Buffalo area in connection with and after the split of Conrail.

That said, CSX notes with interest the possibilities of projects of mutual benefit suggested by CN in the Comments. In this regard, CSX takes note of the wish of CN to pursue an effective rail transportation solution for Exxon-Mobil's movements of petroleum products from Hagersville, Ontario, to the Greater Buffalo Area, in replacement of their present water movement which involves use of the Buffalo River at CP Draw. CN Comments at 3-4.

CN states that it believes that open, non-confrontational dialogue between all rail carriers serving the Buffalo terminal is of high importance. CN Comments at 4. CSX agrees with that and believes that such a dialogue would have been best commenced and conducted privately, rather than in the form of a slide show at a public meeting, with baseless and cross comparisons of CSX and NS service problems with the Houston situation. CN's comments say that "CN made a formal request for a follow-up meeting with NS and CSX in which to discuss our 'submission,'" apparently referring to Mr. Sebesta's remarks. *Id.* at 4. In fact, the referenced "formal request" appears to have been a brief letter sent by Mr. Sebesta himself, expressing appreciation for the opportunity to speak and present his views

and offering to present "our suggested solutions in more detail."⁴ The letter was sent on August 16, 2000. Since CSX and NS did not see any merit in Mr. Sebesta's proposals and the proposals had been publicly made, CSX and NS determined to respond to them publicly and did so in their September 7th Report.

CSX maintains ongoing commercial relationships with CN in the Greater Buffalo area (and throughout its system), as it does also with CP, NS, and smaller carriers working there. The involved carriers make adjustments on a daily basis, recognizing that the fluidity of movements within the terminal is important to all of them. The carriers do talk to each other and cooperate with each other and CSX does not understand the CN filing to suggest anything different. If CN wishes to present suggestions of mutual benefit to it and CSX – which Mr. Sebesta's were not – outside of the every-day commercial and operational patterns, CSX would be glad to discuss them privately. Mr. Sebesta's proposals seemed to CSX, and still seem to it, to be wholly out of place in a public forum having as its topic

⁴ Addressed to the Regional V.P.'s of CSX and NS, the letter's text reads in full as follows:

I would like to thank you for the July 27, 2000 opportunity to present CN's views pertaining to rail service issues in the Buffalo area.

Canadian National would appreciate a further opportunity to meet and present our suggested solutions in more detail.

I can be reached at Toronto 905-669-3303 or by fax at 905-669-3355.

"infrastructure needs," since the topics put forth by Mr. Sebesta seemed to have little to do with that and much to do with CN's disinvestment in infrastructure in the region.

III. SB

SB is a shortline carrier and a subsidiary of Bethlehem Steel. Neither its statement at the meeting nor its Comments establish that any current operating problems in the Greater Buffalo area require some form of invasive intervention. SB's Comments say that NS and CSX "contend" that their systems are generally fluid. SB-2 at 1. SB offers no rebuttal to CSX and NS's positions in that regard.

SB repeats the same suggestion it gave at the meeting: that the Greater Buffalo area should be designated as a joint terminal area and that a "neutral" operator should be nominated to be in charge of all operations, at least those of CSX and NS, in the terminal area. SB should be that neutral operator, says SB. SB's historical mission has been to serve the Bethlehem Steel facilities in the Greater Buffalo area. There has been considerable downsizing of employment and production at Bethlehem Steel in recent years, and it may well be that SB has unused locomotive capacity which it would like to turn to account in serving as terminal operator; its proposition seems to be that of a "situation wanted" advertisement.

Building on the dubious proposition that there are major infrastructure capacity problems in Greater Buffalo, SB argues as follows: everything was fine in Buffalo when Conrail was pretty much the only U.S. carrier there; it had rationalized the facilities there which had formerly been owned by Penn Central and the Erie-Lackawanna so that they worked well as a single railroad. Now that there are two major U.S. railroads operating there, there is not enough infrastructure, but if only one railroad was the operator, everything would be better again. The one railroad to be chosen, for which SB has nominated itself, would operate for the account of two railroads, CSX and NS. The Canadian carriers would not be involved, at least in the first phase, although they might be asked in later. *See* SB-2 at 4, n.3.

No one would have taken such a proposal seriously if it had not been made by a speaker under the umbrella of a serious effort on behalf of a major Federal administrative agency. There are innumerable difficulties with SB's proposal, of which we will address only a few. First, of course, is that the premise of SB's proposal has not been plausibly demonstrated. CSX's rail system is fluid both system-wide and in Buffalo – indeed, one of its operating craft unions believes that Buffalo is operating better than under the Conrail operation. NS has proposed a second bridge at CP Draw, but has said that public funding assistance for it is needed.

It wants to have it eventually so that it can control its own movements, as any large Class I carrier might well and properly want. So the two carriers to which SB is offering its service don't want to have it and say they don't need it. In short, particularly following NS's expansion of Bison Yard, operations are good, and the infrastructure (CP Draw aside) is well in line with the two carriers' wants and needs.

Second, the real estate, track, structures, signals and other assets which SB so boldly suggests be turned over to it are, after all, private property, the operation of which was acquired by CSX and NS at no small expense.

Third, apart from that major invasion of the use of property for which CSX and NS have bought and paid, and the lack of need for such an invasion, there is an analytical flaw in SB's reasoning. Conrail has been split and SB cannot put it back together again. If the two carriers were to appoint SB as their operator, CSX and NS would still have their own agendas. They would still be competing for local traffic to the very same extent that they are now. CSX would still be running its main east-west line between New York and Chicago and intermediate points through Buffalo in competition with several lines in the NS system. NS would still be running its joint line service between New England and points west through Buffalo and Binghamton with connections to CP/D&H and Guilford, in competition with CSX's service through Buffalo or through the Greater New York area,

Selkirk, and into New England on the Boston and Albany line. Conrail in its day had all those opportunities to itself. Now there is rail competition. Having three organizations involved rather than two would not solve any problem, even if a real problem existed.

Indeed, the SB proposal would create potential operating problems by cutting a hole in the middle of CSX's main New York-Chicago line and adding yet another carrier to NS's joint-line service to New England.⁵

Apparently no other interests than SB itself is a proponent of using SB as a terminal operator – although presumably ENRS would endorse any proposal that it thought might advance its litigation agenda. What we have in SB's proposal is an unwanted "fix" for a nonexistent problem; a "fix" that would not solve any problem, but create new ones.

⁵ CSX will readily acknowledge that SB's wage rates under its labor agreements are lower than CSX's and that some labor cost savings might be realized, but this would be overriden by other operational expenses associated inevitably with the introduction of a third-party carrier into operations.

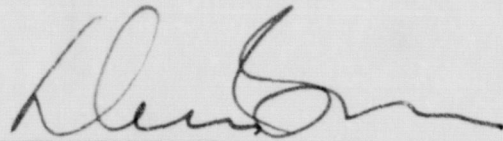
CONCLUSION

The three sets of Comments that have been filed offer no fresh insights⁶ on infrastructure in the Greater Buffalo area. For the reasons stated in the Report, and touched on herein, none of the agendas of the three commenters should receive endorsement from the Board: the "neutral" consultant analysis of infrastructure needs in the Greater Buffalo area should not be ordered by the Board; there is no basis for establishing SB as a terminal operator in the Greater Buffalo area; and Mr. Sebesta's agenda on behalf of CN should not receive Board encouragement; the making of his public proposals was, at best, an unfortunate departure from the ongoing commercial relationships that exist between carriers operating in the same metropolitan area. The Board should let those processes and other opportunities for private dialogues among carriers go forward on the carriers' initiatives as private dialogues.

⁶ The SB Comments – alone – are substantive but essentially repeat what SB presented at the meeting.

Nothing said in the three Comments distracts from the conclusions expressed in the Report concerning the new bridge at CP Draw, the only identified capacity-increasing infrastructure project in the Greater Buffalo area at the meeting.

Respectfully submitted.



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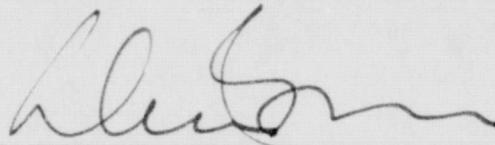
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1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795

*Counsel for CSX Corporation and
CSX Transportation, Inc.*

Dated: November 1, 2000

CERTIFICATE OF SERVICE

I certify that on November 1, 2000 I caused to be served a true and correct copy of the foregoing CSX-1, "Reply Comments of CSX Corporation and CSX Transportation, Inc.," by first class U.S. Mail, postage prepaid, or by more expeditious means, upon all parties of record in Finance Docket No. 33388 (Sub-No. 93).

A handwritten signature in dark ink, appearing to read "Dennis G. Lyons", is written over a horizontal line.

Dennis G. Lyons

STB

FD-33388 (SUB 93)

10-31-00

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2000124

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October 31, 2000

BY HAND DELIVERY

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



Re: *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company – Control and Operating Leases/Agreements – Conrail Inc. and Consolidated Rail Corporation, Finance Docket No. 33388 (Sub-No. 93) (Buffalo Area Infrastructure)*

Dear Secretary Williams:

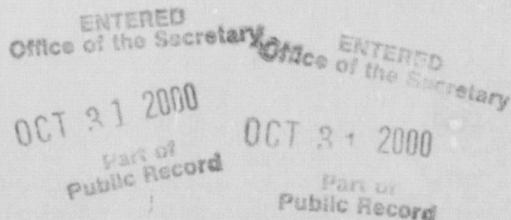
Enclosed for filing on behalf of Norfolk Southern Corporation and Norfolk Southern Railway Company are the original and 25 copies of NS-1, "Norfolk Southern's Response to the Comments of ENRS." Also enclosed is a computer disk containing the text of NS-1 in WordPerfect 5.1 format.

Please acknowledge receipt of this filing by date-stamping the additional enclosed copies of NS-1 and returning them to our messenger.

Many thanks for your assistance.

Sincerely,

Scott M. Zimmerman

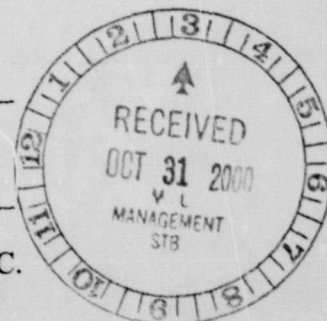


Enclosures

cc (w/ enc.): All parties of record in
Finance Docket No. 33388 (Sub-No. 93)

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET No. 33388 (Sub-No. 93)



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

(BUFFALO AREA INFRASTRUCTURE)

NORFOLK SOUTHERN'S RESPONSE TO THE COMMENTS OF ENRS

Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "NS"), hereby respond¹ to the comments filed in this proceeding on October 17, 2000 by the Erie-Niagara Rail Steering Committee (ENRS-1).²

¹ NS recognizes that the Board's procedural schedule here, unlike those established in the Conrail general oversight proceeding (Sub-No. 91) and the Buffalo rate study proceeding (Sub-No. 90), does not expressly contemplate replies by the applicants to comments by other parties. See Decision No. 1 at 3-4. As discussed further below, however, ENRS does not simply comment on CSX/NS-1, but also requests affirmative relief, including asking the Board to "compel" NS to restore service over the old N&W bridge. See ENRS-1 at 5. NS believes, therefore, that ENRS's comments are a pleading to which NS is entitled to respond under 49 C.F.R. 1104.13(a). See Finance Docket No. 33388, Decision No. 125 at 3-4, n.4 (served May 20, 1999). If, however, the Board considers this response to be instead an otherwise-prohibited "reply to a reply" under 49 C.F.R. § 1104.13(c), NS asks the Board to waive that prohibition pursuant to 49 C.F.R. § 1110.9 and permit the filing of this response. Doing so is warranted because it will permit NS an otherwise unavailable opportunity to set the record straight regarding ENRS's thinly-veiled accusations of unlawful behavior by NS and ENRS's requests for affirmative relief with respect to those accusations.

² Comments also were submitted by Canadian National Railway Company and South Buffalo Railway Company, both of whom also have sought certain affirmative steps to be taken in connection with this proceeding. Those parties' requests are addressed in the Infrastructure (continued...)

ENRS raises two points that require brief responses. As discussed below, ENRS's positions on both issues are incorrect.

The Blasdell and Gardenville Junction Connections

ENRS implies that because NS has determined that construction of connections at Blasdell and Gardenville Junction that were proposed in the Conrail control application are not in fact feasible for several reasons, see CSX/NS-1 at 19 n.13, NS is legally obligated nevertheless to spend the equivalent number of dollars (approximately \$6 million) on an "alternative approach," or else run afoul of the Board's directive to "adhere to all representations made" during the Conrail proceeding. See ENRS-1 at 3-4.

First, we do not understand ENRS to assert, nor do we believe the Board's mandate to require, that NS must spend several million dollars to construct connections that, although contemplated in the original Conrail control application, subsequent evaluation has shown to be infeasible and that therefore would not accomplish their previously-intended purpose.

NS also does not believe the Board's mandate requires what ENRS seems to assert – that the number of dollars estimated for a proposed construction project, once identified in a control application, are legally required to be spent on some sort of functionally-equivalent "alternative" project, presumably in pursuit of the same purpose as the originally-contemplated one, if subsequent events and conditions render the original project unworkable or inadvisable. ENRS cites no legal authority for that proposition, and we are aware of none. ENRS's position would amount to little more than requiring a carrier to spend money for the sake of spending it, whether

(...continued)

Report filed September 7, 2000, and NS will not separately respond further here. See CSX/NS-1 at 39-42 and 45-46.

the purpose for which it originally was intended now makes economic and operational sense or not.

In any event, NS has spent far more on capital projects in Buffalo than originally contemplated in the application. As reported in CSX/NS-1 at 19, NS has spent some \$15 million (more than twice the estimated cost of the foregone Blasdel and Gardenville Junction connections) on infrastructure enhancements in Buffalo that were not expressly contemplated in the Conrail control application, including upgrading BP Yard, expanding Bison Yard, and replacing a bridge over Clifton Street. The purpose of these projects was the same as that of the Blasdel and Gardenville Junction connections: improving operations and service and reducing congestion. As also reported in CSX/NS-1 at 19-20, NS has also spent more than \$40 million on other projects that will significantly improve NS's operations through Buffalo.

ENRS is therefore entirely incorrect in contending that, by not building the Blasdel and Gardenville Junction connections, NS has somehow "saved" \$6 million that it "has decided not to spend." ENRS-1 at 4. In fact, ENRS has it exactly backwards: Although NS concluded that the two specific connection projects it originally contemplated were not feasible (a conclusion that ENRS does not dispute), NS nevertheless modified its capital spending plans so as to spend substantially more than originally contemplated in the Buffalo area, on other infrastructure projects designed to accomplish the same ends.

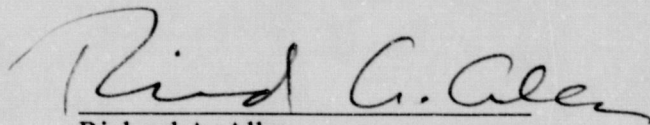
The N&W Bridge

Second, ENRS asserts that the relocation of NS's line across the Buffalo River from the old Norfolk & Western Railway Company ("N&W") bridge to the current bridge at CP Draw, discussed in CSX/NS-1 at 18, may have been unlawful because "neither NS nor any of its predecessors ever obtained authority" from the Board or the Interstate Commerce Commission to

do so. ENRS-1 at 4. ENRS states that NS "may be under a legal obligation . . . to restore service" over the old bridge, id., and asks the Board to "consider steps to compel NS" to do so. Id. at 5.

Again, ENRS is incorrect. On March 20, 1984, NS's predecessor, N&W, filed with the Interstate Commerce Commission a Notice of Exemption regarding relocation of its line from the N&W bridge to the parallel Conrail bridge over which NS now operates at CP Draw. In a decision served April 10, 1984, the I.C.C. held the relocation transaction specifically exempted from the I.C.C.'s prior review and approval under 49 C.F.R. § 1180.2(d)(5), the class exemption for "joint projects involving the relocation of a line of railroad which does not disrupt service to shippers." See I.C.C. Finance Docket No. 30442, decision served April 10, 1984. N&W properly notified the Commission and the Commission duly found the transaction exempt from prior review and approval. ENRS's allegation to the contrary and its resulting demand that the Board "compel NS to restore service" over the old bridge are baseless.

Respectfully submitted,



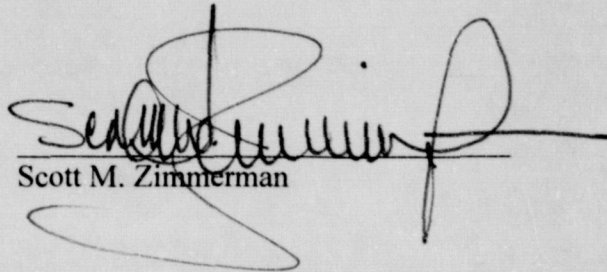
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*Attorneys for Norfolk Southern Corporation and
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October 31, 2000

CERTIFICATE OF SERVICE

I certify that on October 31, 2000, a true copy of NS-1, "Norfolk Southern's Response to the Comments of ENRS" was served by first class U.S. Mail, postage prepaid, or by more expeditious means, upon all parties of record in Finance Docket No. 33388 (Sub-No. 93) as reflected on the attached list.



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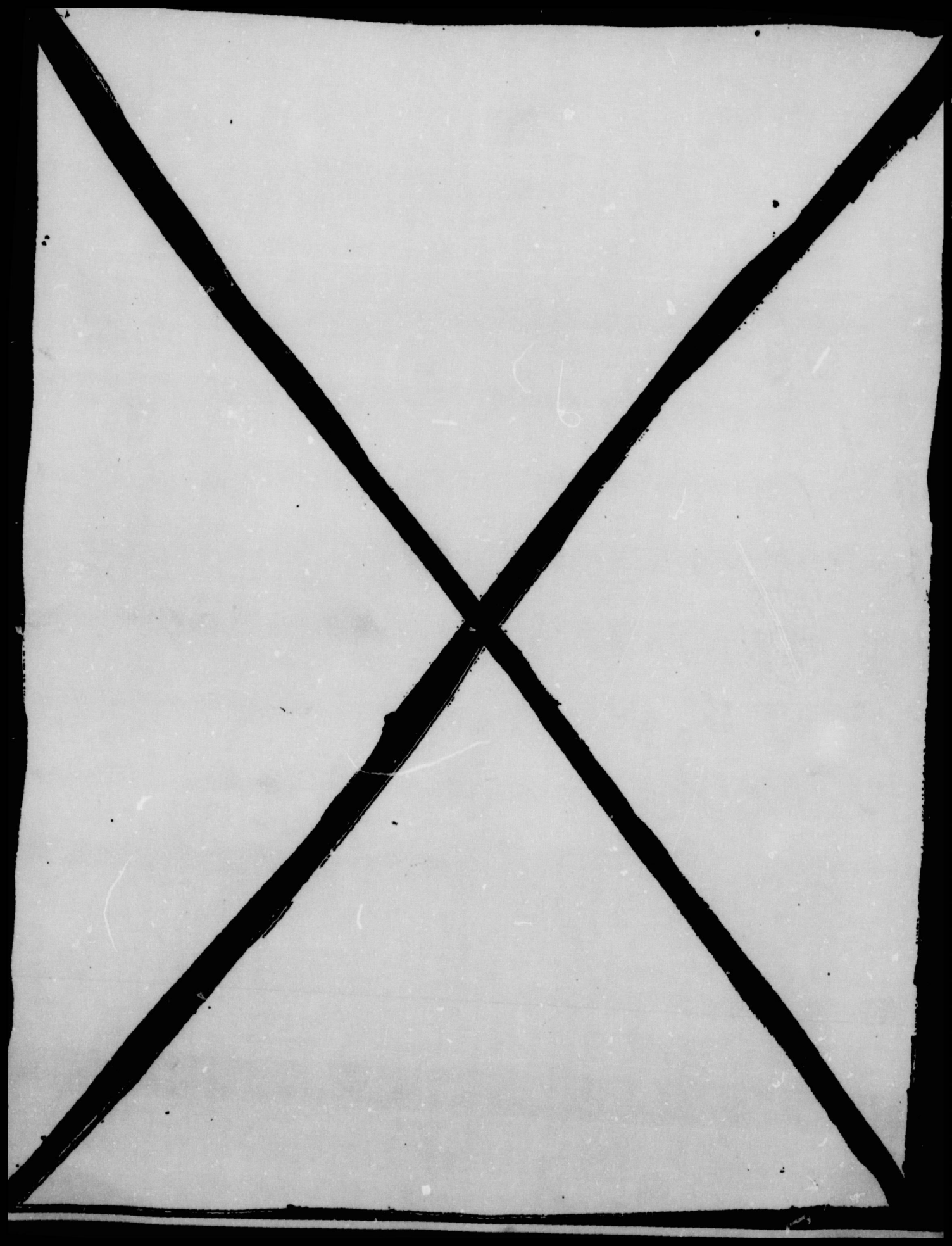
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ENRS-1

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388 (Sub-No. 93)



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

(BUFFALO AREA INFRASTRUCTURE)

COMMENTS ON BEHALF OF

ERIE-NIAGARA RAIL STEERING COMMITTEE

ENTERED
Office of the Secretary

OCT 18 2000

Part of
Public Record

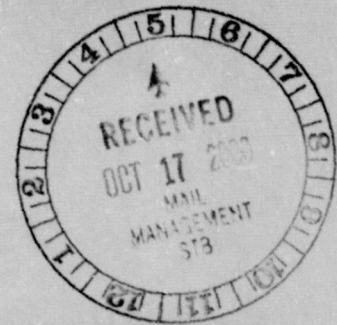
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Attorneys for
Erie-Niagara Rail Steering Committee

DATE: October 17, 2000

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388 (Sub-No. 93)



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
(BUFFALO AREA INFRASTRUCTURE)

COMMENTS ON BEHALF OF
ERIE-NIAGARA RAIL STEERING COMMITTEE

Pursuant to the Board's decision initiating this proceeding (Decision No. 1, served June 9, 2000), these Comments are submitted on behalf of the Erie-Niagara Rail Steering Committee ("Erie-Niagara" or "ENRS").

Erie-Niagara is an ad-hoc committee that was created, in response to the filing of the joint application in the principal proceeding, to represent and protect the interests of businesses located in the New York State counties of Erie, Niagara, and Northern Chautauqua that would be impacted by the acquisition of control of Conrail by CSX Corporation and Norfolk Southern Corporation. The membership of Erie-Niagara is comprised of railroad shippers, economic and industrial development organizations, public transportation representatives, and county representatives.

Apparently in response to the rail service failures that occurred as a result of the transaction it approved in Fin. Dkt. No. 33388, *CSX Corp. et al – Control and Operating Leases/Agreements – Conrail Inc. et al.*, (served July 23, 1998), the Board has decided to review the rail infrastructure in the Niagara Frontier. The decision initiating this proceeding (served on June 9, 2000) directed NS and CSX to obtain public input and submit a report to the Board on rail infrastructure issues in the Niagara Frontier. That report was submitted jointly by CSX and NS on September 7, 2000. These Comments are submitted by ENRS in response to that joint report.

Public Conference

In response to the Board's prior decision, NS and CSX conducted a public conference on July 27, 2000, in Buffalo to review the infrastructure issues. The Board's order directed NS and CSX to include in their report what changes are needed, their cost and sources of funding, and the timetable for implementing such changes. In addition, the Board encouraged "CSX and NS to reach out to all concerned parties and to work with them *to achieve the common goal of improved rail service in the Buffalo area.*" Decision 1 at 3 (footnote omitted; emphasis added).

For the most part, the Joint Report reviews the projects already completed by NS and CSX in the Niagara Frontier and elsewhere. It does discuss some specific projects, primarily the Buffalo River bridge issue discussed more fully below. However, the Joint Report responds to proposals from other interested parties with little more than criticism and rejection. Most importantly, it does not reflect any effort by CSX and NS to "reach out" to work with ENRS and other interested parties to improve service in the Niagara Frontier.

For example, at that conference, ENRS proposed that a third party be engaged to conduct an objective study of the rail infrastructure needs and funding in the Niagara Frontier. The Joint Report said that NS and CSX could not support this proposal, because they are "privately owned railroads" who apparently are the only parties who "have the experience and competence" to perform studies of rail infrastructure needs. Joint Report at 34-35. Apart from its condescending tone, this posture is most puzzling when the only infrastructure improvement identified as essential (the Buffalo River bridge project) is coupled with a plea for complete public funding.

Buffalo River Bridge

It is readily apparent from reviewing the Joint Report that the most critical rail infrastructure issue in the Niagara Frontier area is the inadequate line capacity of the Buffalo River crossing near a point known as "CP Draw." Joint Report at pages 18 and 51. At the present time, NS traffic (and traffic of other rail carriers operating in the area) crosses the Buffalo River on a two-track drawbridge that is now owned and controlled by CSX.¹ The substantial volume of both local and through trains creates significant congestion at this location.

The existence of this congestion has long been recognized. Indeed, NS obtained authority from the Board in proceedings related to the principal application to construct and operate additional connections at Blasdell and Gardenville Junction (both near Buffalo), primarily in order to alleviate congestion at the CP Draw bridge. See Decision 89 at 43, 143, 169; Application Vol. 3B at 234 and Vol. 5 at 284-308. The cost of these projects was estimated to be \$6,141,250. *Id.* Vol. 5 at 290. The principal decision included a condition requiring the

¹ This drawbridge is apparently on the former Buffalo Creek line, which became part of the Conrail system. The Board's principal decision in this proceeding directed CSX to transfer to NS certain trackage rights over the Buffalo Creek line that it acquired from Conrail. Presumably, those rights now provide the necessary authority for

applicants to adhere to all representations they made during the course of the proceeding. Decision 89 at 176, ordering paragraph 19. Applicants represented that they would address the congestion at the Buffalo River bridge by constructing the Blasdell/Gardenville connections. If they cannot do so for operational reasons, then it is incumbent on them to undertake an alternative approach.

However, NS has decided not to construct these Board-authorized connections, apparently for operational reasons. Joint Report at 19, note 13. Whatever the reason, that is more than \$6 million that NS had represented it was prepared to spend in improving infrastructure in the Niagara Frontier, primarily to address the congestion at the Buffalo River bridge, that it has decided not to spend. Moreover, that \$6 million would provide a significant portion of the cost of increasing the capacity of the Buffalo River crossing by constructing the proposed second bridge, as discussed in the Joint Report at 54-59. NS contends that it will not construct the second bridge in the immediate future without a commitment of public funding. Joint Report at 56.

ENRS would also call the Board's attention to the significant probability that NS may be under a legal obligation under the Interstate Transportation Act to restore service over the adjacent bridge. According to the Joint Report (at 18 and 54), the parallel bridge² was taken out of service in 1983 for economic reasons "but not abandoned." *Id.* at 54. Apparently neither NS nor any of its predecessors ever obtained authority from the Board or its predecessor, the Interstate Commerce Commission, to discontinue operations over the Nickel Plate bridge and to

NS to operate over the CSX bridge, even though it may not have obtained such authority in 1983 when its predecessor suspended operations over the adjacent drawbridge.

² The bridge is on a line of railroad that was part of the former Nickel Plate line from Buffalo to the west.

abandon the line. However, former 49 U.S.C.A. § 10903 explicitly required that such authority be obtained. Similar provisions now appear in new 49 U.S.C.A. § 10903.³

At the very least, the Board should require NS to explain the basis for its authority, if any, to discontinue operations over and to abandon the line of railroad over the Nickel Plate bridge. Otherwise, the Board should consider steps to compel NS to restore service over the bridge under, for example, 49 U.S.C.A. § 11702(1) and § 11901(c).

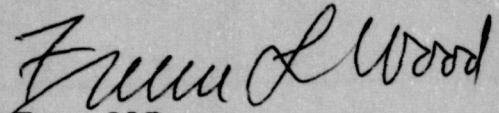
Proposals by Canadian Carriers

At the July 27 public conference, both Canadian Pacific and Canadian National offered important suggestions for infrastructure improvements in the area. See Attachments 3, 8 and 9 to the Joint Report. Both NS and CSX seem to be unwilling to enter into any meaningful dialogue with the Canadian carriers regarding these suggestions, choosing instead to engage in public critiques of the suggestions. Joint Report at 36-42. ENRS urges the Board to direct both NS and CSX to undertake meaningful discussions with both Canadian carriers for ways to identify and implement necessary improvements in the rail infrastructure to enhance the significant volume of international traffic that moves to, from and across the Niagara Frontier.

³ NS should be well aware of the need to obtain authority to abandon and discontinue service over a bridge on a line of railroad. The principal application included a related request for abandonment of 0.2-mile long bridge over the Maumee River in Toledo, Ohio (later changed to a request for discontinuance of service only). Application Vol. 5 at 84 and Decision 89 at 146, note 223.

Respectfully submitted,

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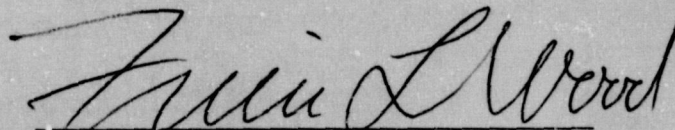


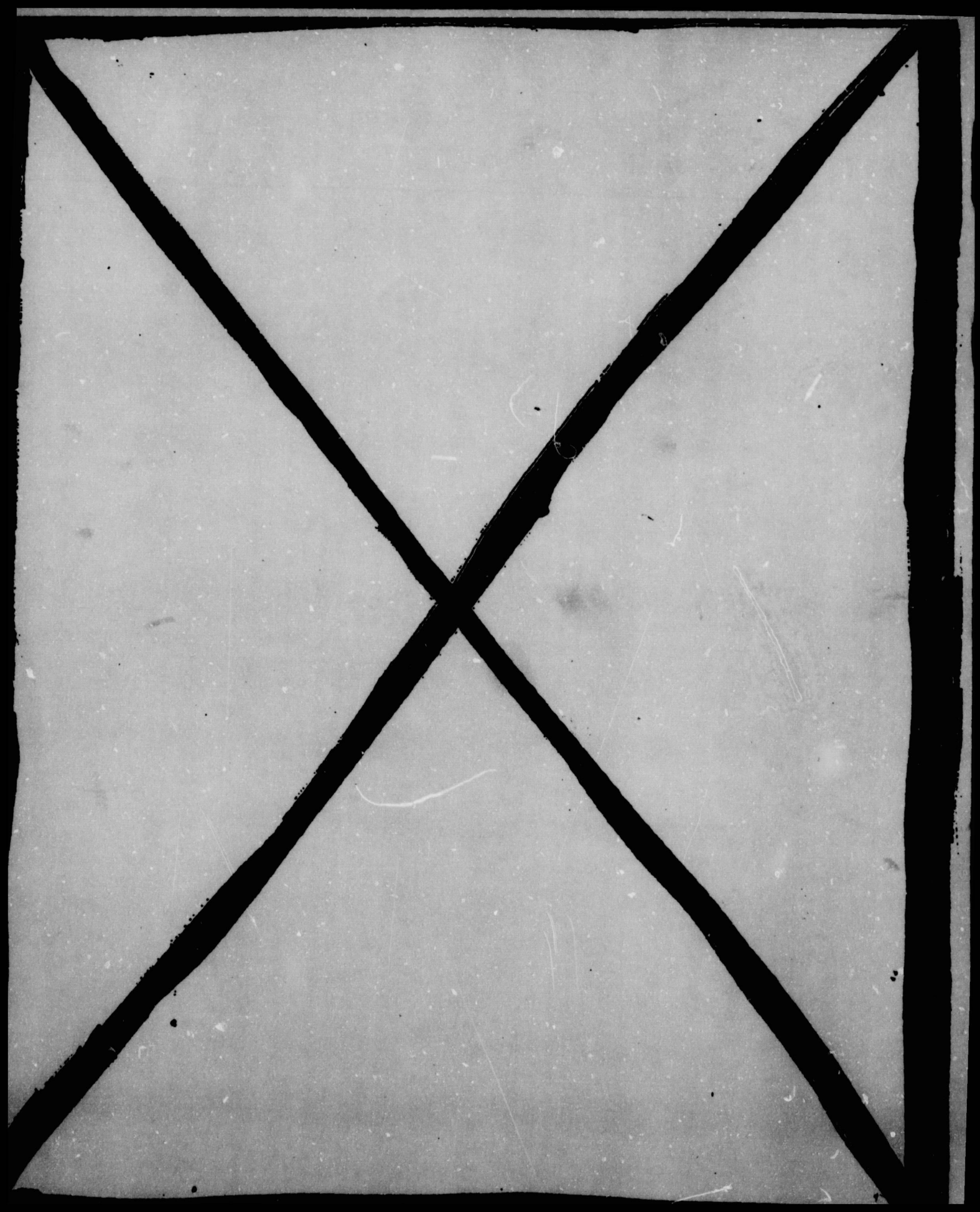
*Attorneys for
Erie-Niagara Rail Steering Committee*

DATE: October 17, 2000

CERTIFICATE OF SERVICE

I hereby certify that I have this 17th day of October, 2000, caused to be served a copy of the foregoing COMMENTS OF ERIE-NIAGARA RAIL STEERING COMMITTEE by first class mail, postage prepaid, on all parties specified in Decision 1 in this proceeding.


Frederic L. Wood



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(SUB 93)

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200038

October 16, 2000

VIA FEDERAL EXPRESS

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

ENTERED
Office of the Secretary

OCT 18 2000

Part of
Public Record

Re: **Finance Docket No. 33388 (Sub-No. 93)**
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 (Buffalo Area Infrastructure)

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of the **Comments of Canadian National Railway Company on Applicants' Initial Report Regarding Buffalo Area Rail Infrastructure**, dated October 16, 2000.

One extra copy of this transmittal letter and of the Comments are also enclosed. I would request that you date-stamp those copies to show receipt of this filing and return them to me in the provided envelope.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance on this matter. Kind regards.

Respectfully submitted,

Myles L. Tobin
Attorney for Canadian National
Railway Company

MLT:tjl

Enclosures

cc: Parties on Certificate of Service

BEFORE THE
SURFACE TRANSPORTATION BOARD



FINANCE DOCKET NO. 33388 (SUB-NO. 93)

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

(BUFFALO AREA INFRASTRUCTURE)

**COMMENTS OF CANADIAN NATIONAL RAILWAY COMPANY
ON APPLICANTS' INITIAL REPORT REGARDING
BUFFALO AREA RAIL INFRASTRUCTURE**

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**ATTORNEY FOR CANADIAN NATIONAL
RAILWAY COMPANY**

Dated: October 16, 2000

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 33388 (SUB-NO. 93)

**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**

(BUFFALO AREA INFRASTRUCTURE)

**COMMENTS OF CANADIAN NATIONAL RAILWAY COMPANY
ON APPLICANTS' INITIAL REPORT REGARDING
BUFFALO AREA RAIL INFRASTRUCTURE**

Pursuant to the Board's decision served June 9, 2000 in this proceeding, Canadian National Railway Company ("CN") hereby submits these comments on the report of CSX Transportation, Inc. ("CSXT") and Norfolk Southern Railway Company ("NS") with respect to rail infrastructure issues in the Buffalo, New York area.

On July 27, 2000, John Sebesta, CN's Director of Interline Management, Eastern Division, presented CN's views on the subject of Buffalo rail infrastructure to a panel of representatives of CSXT and NS. This presentation formed part of the public hearings convened by CSXT and NS in carrying out the Board's directive to meet with "shippers, railroads and other interested parties . . ." to discuss plans to improve Buffalo area rail infrastructure. June 9th Decision at 3.

Mr. Sebesta's presentation and his verbal testimony are both included with the joint report submitted to the Board by CSXT and NS. However, CN believes that the CSXT and

NS analysis of Mr. Sebesta's comments misrepresents and misinterprets his testimony. CN therefore presents the following commentary for the purposes of clarification and rebuttal.

CN and CSXT Share Productivity Gains

CN has an excellent reputation for the efficiency of its operations and is known for having achieved dramatic reductions in operating expense. Nonetheless, we take strong exception to the statement that CN has " . . . enjoyed the cost savings [in the Buffalo terminal] and looked to others to carry the burden." CSX/NS-1 at 41.

The current CN-CSXT operating arrangements in the Buffalo terminal were established by CN and Consolidated Rail Corporation ("Conrail") through a process of negotiation. For example, CN and Conrail jointly agreed to consolidate interchange traffic at Fort Erie, Ontario, and to close the CN-Conrail interchange at Niagara Falls. CN and Conrail jointly determined that CN trains would deliver directly into Frontier Yard, thereby eliminating the need for Conrail to incur significant expense for "puller" services in the Buffalo terminal. In acquiring the Conrail properties in Buffalo, and assuming these operating agreements, CSXT is the beneficiary of the productivity improvements generated by these agreements. It is therefore unreasonable and inaccurate to state that CSXT "carries a burden" for CN's efficiencies in this terminal area.

CN is Willing to Invest

The CSXT and NS commentary on Mr. Sebesta's presentation states repeatedly that CN is "unwilling" to invest or incur expense in order to resolve operating issues in the Buffalo terminal. This is a baseless contention, and unfortunately is indicative of the unhelpful, finger-pointing tone of the CSXT/NS report. CN's presentation to the committee does not state that CN would not be willing to contribute to the cost of an operational solution in Buffalo, nor

was this statement made during the verbal testimony. In fact, Mr. Sebesta indicated in his oral presentation that CN was willing to be a financial partner in the improvements

The CSXT-NS report states that "... infrastructure problems -- and solutions -- may require the involvement of the Canadian-based carriers". CSX/NS-1 at 41. CN agrees with this statement. CN and Canadian Pacific Railway Company ("CPR") recently concluded a coordination agreement by which CPR will be granted the use of CN's International Bridge which links Fort Erie, Ontario and Buffalo. The full implementation of this agreement is contingent upon a number of factors, including the sale of certain jointly-owned CN-CPR properties located in Niagara Falls, Ontario. The full implementation of this agreement also will require that CN and/or CPR make significant capital investments in new sidings and signalling in the Fort Erie, Ontario area, in order to permit the staging of trains for interchange with CSXT and NS in the Buffalo/Niagara Falls area.

CN is willing to consider changes in its operating practices in the Buffalo terminal. CN would also consider participating in investments in new infrastructure, in concert with the other rail users in the area, and would evaluate such investments according to normal business practices.

CN Wishes to Pursue Rail Options for Exxon Mobil

The CSXT-NS report supports the concept of a new fixed-span bridge at CP Draw, for the use of NS, and CN also supports this initiative. This new bridge, however, would potentially restrict barge service to the Exxon Mobil facility in Buffalo. The principal source of this barge traffic is Exxon Mobil's "sister" refinery in Hagersville, Ontario, which is served by CN's shortline partner, RailAmerica Southern Ontario. CN has extensive experience in the transportation of petroleum products by rail, and has successfully implemented vessel-

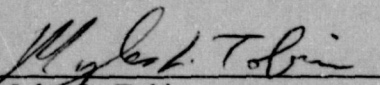
competitive short-haul movements in other corridors. CN would be very interested in participating in the development of an effective rail transportation solution that would eliminate Exxon Mobil's reliance on barge service, thereby permitting the establishment of a fixed bridge at CP Draw.

CN is Seeking an Opportunity for Dialogue

CN believes that open, non-confrontational dialogue between all rail carriers serving the Buffalo terminal is a necessary prerequisite to consistent and efficient rail service. Subsequent to the July 27 hearings in Buffalo, CN made a formal request for a follow-up meeting with NS and CSXT to discuss our submission. To date, we have not received a response to this request.

WHEREFORE, CN respectfully requests that the Board accept these comments on the Applicants' initial report regarding the rail infrastructure in and around Buffalo, New York.

Respectfully submitted,

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**ATTORNEY FOR CANADIAN NATIONAL
RAILWAY COMPANY**

Dated: October 16, 2000

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of October, 2000, a copy of the foregoing
**Comments of Canadian National Railway Company on Applicant's Initial Report
Regarding Buffalo Area Rail Infrastructure** was served by first class mail, postage prepaid, or
by a more expeditious method.:

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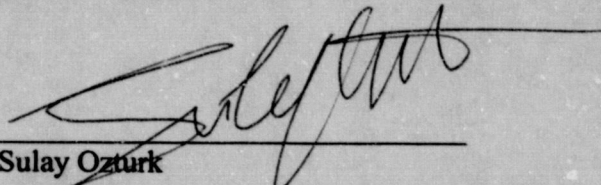
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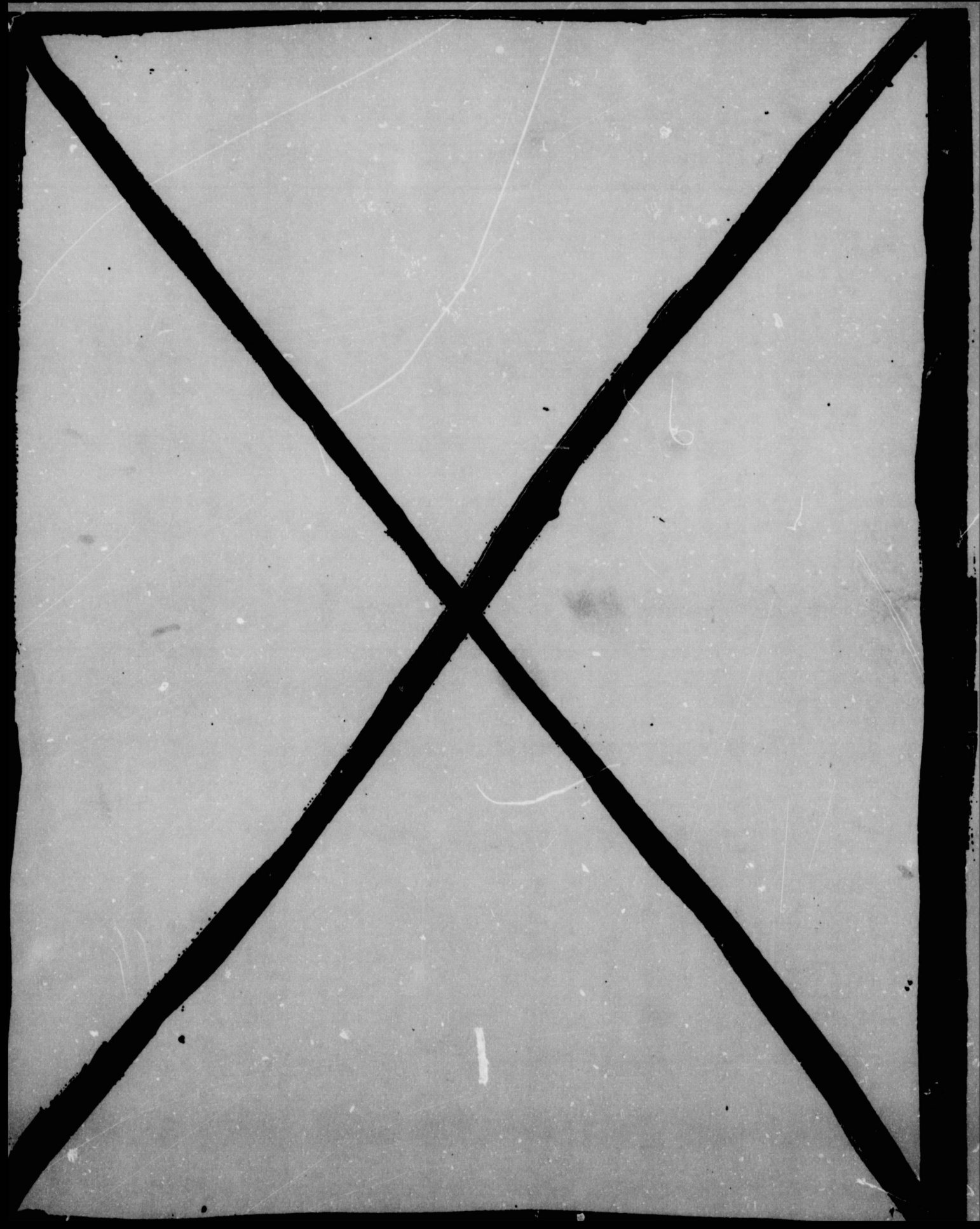
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October 16, 2000



Surface Transportation Board
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Case Control Unit
Attn: STB Finance Docket No. 33388 (Sub-No. 93)
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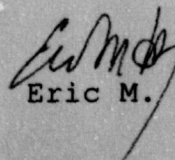
Re: **STB Finance Docket No. 33388 (Sub-No. 93)** *200025*
CSX and Norfolk Southern-Control and
Operating Leases-Conrail (Buffalo Area Infrastructure)
Comments of South Buffalo Railway Company

Dear Sir or Madam:

Enclosed for filing in the above referenced proceeding are
an original and 25 copies of Comments of South Buffalo Railway
Company(SB-2).

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.

Very truly yours,


Eric M. Hocky

Enclosures

cc: Dennis G. Lyons, Esq.
Richard A. Allen, Esq.

200025

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BEFORE THE
SURFACE TRANSPORTATION BOARD
STB FINANCE DOCKET NO. 33388 (Sub-No. 93)

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



(Buffalo Area Infrastructure)

COMMENTS OF SOUTH BUFFALO RAILWAY COMPANY

Pursuant to the decision served June 9, 2000, commencing this sub-docket, South Buffalo Railway Company ("SB") hereby files its comments to the initial report (CSX/NS-1) filed by Norfolk Southern ("NS") and CSX.

Summary of Applicants' Initial Report

As required by the Board, CSX and NS have filed a report (CSX/NS-1) addressing Buffalo area infrastructure, the needs they perceive and their plans for future investment in the area. NS and CSX acknowledge that there were service problems in Buffalo shortly after Split Date of June 1, 1999, but contend that their systems are now generally fluid. CSX/NS-1 at 29. The only acknowledged need for capacity-adding infrastructure is the construction of a new bridge by NS near CP Draw. CSX/NS-1 at 51, 59. However, not even that need will be addressed in the immediate future. NS believes it has more important infrastructure needs elsewhere on its system, and will only address the new bridge in the near term if provided with substantial public financing. CSX/NS-1 at 51.

Description of Commenting Party

SB is one of the nine subsidiary railroads of Bethlehem Steel Corporation.

Established in 1899, SB is a switching and terminal railroad operating in Buffalo and the nearby areas of Lackawanna, Hamburg and Blasdell, New York. SB has approximately 100 employees represented by four unions, it operates over 60 miles of track, and it handles over 60,000 carloads per year. SB is, by most measures, the largest "shortline" railroad in the state of New York.

SB directly interchanges traffic with:

- CSX
- NS
- Canadian National ("CN")
- Canadian Pacific ("CP") and
- Buffalo and Pittsburgh Railroad ("B&P").

SB's traffic (mostly steel related commodities, coke and auto parts) with CSX is interchanged in Seneca Yard. CSX/NS-1 at 12. SB's traffic with NS (including coal, coke and auto parts) is supported out of BP Yard. See CSX/NS-1 at 13.¹ Interchange takes place at "Station D" near Seneca Yard and at "Station C." See CSX/NS-1 at 14. SB also has the ability to interchange traffic directly with CP, CN and B&P. As such SB can be affected when any of the major carriers operating in the Buffalo area have a problem.

Comments of South Buffalo Railway

In SB's opinion, the infrastructure problems that exist in the Buffalo area are a result of the rationalization of lines by Conrail during the years prior to the split. Before Conrail was created, most of the rail infrastructure in the Buffalo area was controlled by three of Conrail's predecessor carriers, with much duplication of facilities. During its years of operation, Conrail

¹ This represents most of NS's local traffic in Buffalo. CSX/NS-1 at 13.

removed much of the duplication in an effort to streamline operations.² When Conrail was split, the remaining facilities were allocated between CSX and NS, with the majority going to CSX. NS has recently made efforts to add infrastructure, such as leasing and rehabilitating a portion of BP Yard and reopening Bison Yard. CSX/NS-1 at 19. CSX has also made some improvements to its yards to increase efficiency. CSX/NS-1 at 20. However, because CSX and NS each has only a portion of the former Conrail infrastructure, neither is able to experience the operating efficiencies that Conrail enjoyed.

The solution to operating problems that are the result of capacity constraints is either to add infrastructure or to more effectively utilize the existing infrastructure. Neither NS nor CSX currently plans to add any capacity-adding infrastructure – CSX plans only to add infrastructure that will add business, and NS does not plan to add any infrastructure unless it receives public funds to add another bridge at CP Draw.

The alternative to any continued problems, in SB's view, therefore would be to provide a more efficient way to use the existing infrastructure in the Buffalo area. SB is not suggesting the creation of a "shared asset area" that would be controlled by the major carriers, nor is it suggesting that any carrier be given access to shippers that are not already available to such carrier. Rather, SB suggests that the solution is to place the now fragmented infrastructure under the control of a single operator through trackage rights, lease or other initiative. The operator could then realize the efficiencies that Conrail once experienced. This operator should be a neutral switching and terminal operator that could serve as the pick-up and delivery carrier for all railroads in the Buffalo area (including CSX, NS, CP and CN), in addition to shuttling cars between yards and

² This historical perspective was presented by SB at the meeting convened in Buffalo by NS and CSX on July 27, 2000, and is endorsed by NS and CSX. CSX/NS-1 at 4-5.

preparing outbound trains for other railroads serving the area. This solution would improve service, and significantly reduce the need and cost for duplicate facilities or the addition of additional infrastructure.

This solution could be applied to the entire Buffalo area or to various selected yards and facilities. For instance, the solution could be applied to Seneca Yard where four Class I railroads currently converge, and where SB already operates. SB could classify, assemble and prepare outbound trains for all the railroads, including preparation and bridging of transfer blocks for movement within the Buffalo area, simplifying and reducing such movements.

SB is a neutral switching and terminal operator that currently serves the area with a proven safety record and over 100 years of experience in the industry and the area. SB has the operating and financial resources to successfully provide the local service to rail customers in the Buffalo area on trackage rights granted by the Class Is, shuttling rail cars among the major classification yards and serving customers throughout the area with scheduling flexibility not always available through a Class I operation.

CSX and NS reject SB's proposal because they believe that neither would be the master of their own movements. CSX/NS-1 at 46. NS and CSX are correct that what SB proposes does not add infrastructure; rather it provides for more efficient use of the existing infrastructure. Rather than depriving NS or CSX of control over their movements as they fear, SB, by acting as a neutral terminal and switching carrier, can act as an extension of their respective systems and provide simplified and more efficient service in the Buffalo area.³

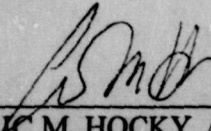
³ The service could be expanded to include the handling of traffic of the Canadian carriers. Such an expansion would extend the efficiencies available in the Buffalo area.

SB has not prepared any detailed operating plans. (Such plans cannot not be developed without the cooperation and input of all affected carriers, and as noted NS and CSX have to-date rejected SB's suggestions.) However, if the Board determines such service to be in the best interests of the public, SB is ready to proceed.

Conclusion

For the foregoing reasons, if the Board determines that the Buffalo area infrastructure is currently constrained, and that NS and CSX are not able to address such constraints in the near term, then the Board should take steps to allow for the more efficient utilization of the existing infrastructure. SB should be part of any solution ordered by the Board.

Respectfully submitted,



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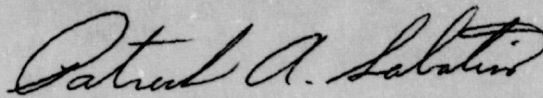
Dated: October 16, 2000

Attorneys for South Buffalo Railway Company

VERIFICATION

I, Patrick A. Sabatino, Vice President, Business Development, of South Buffalo Railway Company verify under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file the foregoing document.

Executed on October 16, 2000.

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

Patrick A. Sabatino

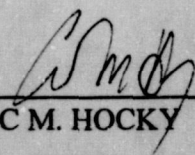
CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing Comments of South Buffalo Railway Company was served by first class mail on the following persons specified in the Board's decision served June 9, 2000:

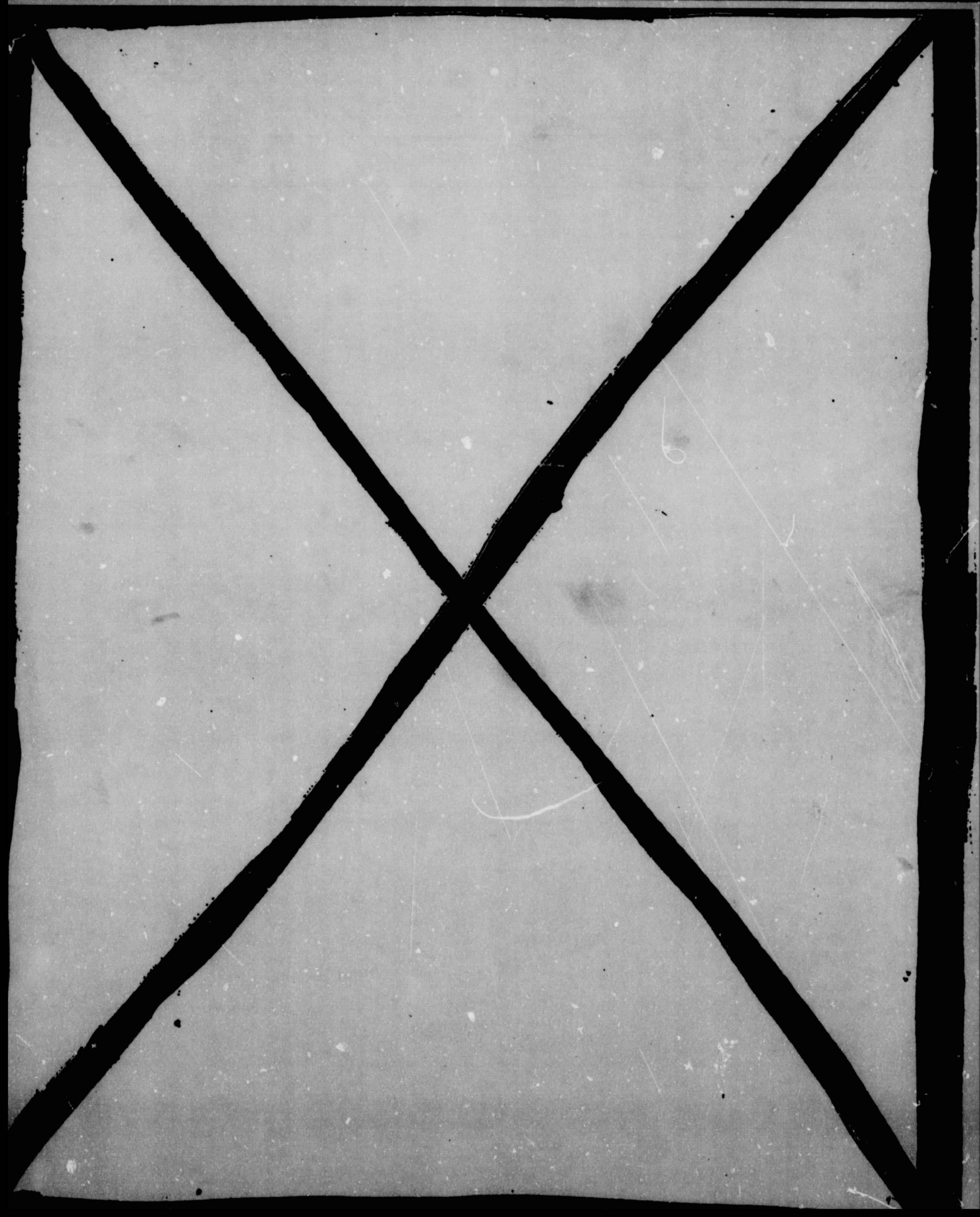
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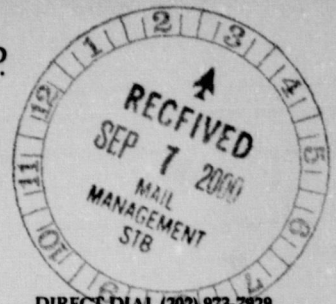
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September 7, 2000

BY HAND DELIVERY

The Honorable Vernon A. Williams
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Re: CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc. and Consolidated Rail Corporation, Finance Docket No. 33388 (Sub-No. 93) (Buffalo Area Infrastructure)

Dear Secretary Williams:

Pursuant to the Board's Decision No. 1 in the above-referenced proceeding, enclosed for filing on behalf of Norfolk Southern Corporation, Norfolk Southern Railway Company, CSX Corporation and CSX Transportation, Inc. are the original and 25 copies of CSX/NS-1, the "Report of CSX and Norfolk Southern On Buffalo Area Infrastructure." Also enclosed is a computer disk containing the text of CSX/NS-1 in WordPerfect 5.1 format.

Please acknowledge receipt of this filing by date-stamping the additional enclosed copies of CSX/NS-1 and returning them to our messenger.

Many thanks for your assistance.

Sincerely,

Scott M. Zimmerman

Enclosures

cc (w/ enc.): All parties of record in
Finance Docket No. 33388 (Sub-No. 93)

ORIGINAL

CSX/NS-1

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET No. 33388 (Sub-No. 93)

**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**

(BUFFALO AREA INFRASTRUCTURE)

**REPORT OF CSX AND NORFOLK SOUTHERN
ON BUFFALO AREA INFRASTRUCTURE**



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Dated: September 7, 2000

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET No. 33388 (Sub No. 93)

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

(BUFFALO AREA INFRASTRUCTURE)

**REPORT OF CSX AND NORFOLK SOUTHERN
ON BUFFALO AREA INFRASTRUCTURE**

I. INTRODUCTION AND SUMMARY

Pursuant to the Board's Decision No. 1 in this proceeding, NS and CSX¹ jointly submit this report addressing infrastructure matters in the Buffalo, NY area,² including NS's and CSX's views on "what changes are needed and why, how much these changes will cost, how the additional changes can and should be funded, and the possible timetable for implementing such changes." Decision No. 1 at 3.

This report will include, in Section II, a brief description of rail operations in Buffalo before the Conrail transaction (the "Transaction") and how the Transaction divided Conrail's

¹ "NS" refers to Norfolk Southern Corporation and Norfolk Southern Railway Company collectively, and "CSX" refers to CSX Corporation and CSX Transportation, Inc. collectively.

² Decision No. 1 defines the Buffalo area, also referred to as the Greater Buffalo area and the Niagara Frontier region, as the counties of Erie and Niagara and those parts of Chautauqua County that lie north or east of CP 58 near Westfield, NY. We use those references herein as having that meaning.

operations and assets. This background and the role Buffalo plays in the respective systems of NS and CSX are important to a proper discussion and understanding of the issues. The material we present demonstrates the fundamental point that the Buffalo area is not simply a local market, but is an important through point on both the NS and CSX systems. For that reason, it is crucial to understand that Buffalo area infrastructure cannot be viewed in isolation from the rest of the NS and CSX systems; infrastructure needs in Buffalo must be weighed and considered against, and in the context of, other infrastructure needs elsewhere throughout the NS and CSX rail networks.

This report then will briefly describe CSX's and NS's operations in the Buffalo area (Sections III and IV, respectively), followed by a description of other carriers' operations there in Section V. Section VI will provide a brief description of the bridges crossing the Buffalo River, a waterway bisecting rail operations in Buffalo, since the adequacy of that part of the rail infrastructure in the area has been the subject of discussion both before and during this proceeding.

In Section VII, we will outline the various infrastructure investments and improvements already made benefiting the region by NS and CSX. Both NS and CSX have made substantial investment in infrastructure, as well as several operational modifications, to address local and through market service problems in the Buffalo area, and these will be discussed.

Section VIII will discuss various initiatives undertaken by NS and CSX, before this proceeding was instituted, to consult with local interests and ensure ready and open communication between the carriers, on the one hand, and their customers, public officials, and other interested parties, on the other.

In Section IX, we will describe the actions NS and CSX have taken in response to the Board's direction in Decision No. 1, including, primarily, the conference sponsored jointly by NS and CSX on July 27, 2000 in Buffalo. We will discuss the views and positions of the non-CSX/NS participants in that meeting, and respond to the comments and suggestions made there.

Finally, in Section X, we will discuss NS's and CSX's proposals for moving forward. From NS's perspective, several major projects, such as construction of a new bridge near CP Draw, are needed to address through market service problems. As will be discussed in more detail, however, decisions on funding of infrastructure projects have been, and must continue to be, made within a context that takes into account the relevant market and its value to the railroads relative to other markets and other needs. For NS, this means that other capacity-improvement projects and choke point removal projects (such as those anticipated between Atlanta and Chattanooga,³ in the Cincinnati terminal area,⁴ and into North Jersey⁵) must take precedence for NS's capital dollars over CP Draw; as a result, the CP Draw project can be accomplished in the near term only with substantial public financing. NS is pursuing that financing, as well as the other matters required to bring the project to fruition. CSX is cooperating fully in that endeavor.

CSX's current capital plans for the Buffalo area anticipate investments of up to \$10 million over the next three years, and will enhance its service in that area. CSX currently

³ This \$60 million project involves double tracking the line between Austell and Chattanooga and triple tracking the line between Atlanta and Austell.

⁴ This \$30 million project involves reconfiguration and adding capacity in the Cincinnati terminal area where NS and CSX share mainline tracks to better utilize the Sharonville Yard and relieve a major choke point on the NS system.

⁵ This \$8 million project involves double tracking the line north of Allentown into North Jersey to relieve another choke point on the NS system.

believes that no further major capacity-increasing infrastructure projects in the Buffalo area are warranted for its system, given the adequacy of the infrastructure for CSX's present operations and immediately foreseeable growth. The area will benefit from infrastructure projects elsewhere on CSX's network, from CSX's acquisition of new railcars and locomotives, and from CSX's scheduled heavy maintenance of way in the area and elsewhere. Infrastructure needs will be kept under continuing review. CSX's present concentration in the area is on growing the rail business through industrial development and projects to replace truck movements with rail movements, such as through increased emphasis and marketing of intermodal and bulk transfer (TransFlo®) services. CSX is considering expansion of the CSX intermodal and TransFlo® facilities in Buffalo. See Section X, below.

II. BACKGROUND

A. Rail Operations in Buffalo before the Split Date

Buffalo's rail infrastructure is the result of several historical influences. These influences were, in part, succinctly described to the joint NS/CSX panel at the July 27, 2000 meeting in Buffalo⁶ by Mr. Patrick A. Sabatino, Vice President – Business Development for the South Buffalo Railway Company. As he noted, "before Conrail was created, most of the rail infrastructure in the Buffalo area was controlled by three of Conrail's predecessor carriers, with much duplication of facilities. During its years of operation, Conrail removed much of the duplication in an effort to streamline operations. When Conrail was split, the remaining facilities

⁶ That meeting is discussed in detail below in Section IX.

were allocated between CSXT and NS, with the majority going to CSXT." Transcript at 98.⁷ Mr. Sabatino also could well have noted that Conrail, in eliminating rail infrastructure redundancies in the Buffalo area, was also motivated by a desire to save on maintenance and operational expenses, and, significantly, the substantial dollars needed to pay New York's extraordinarily high taxes on railroad properties.

B. Negotiating the Split of the Conrail "X"

The division between CSX and NS of the use of Conrail's properties in the Greater Buffalo area cannot be properly understood without an understanding of the basic plan for the allocation of Conrail's overall route structure between CSX and NS. That plan was hammered out in arms-length negotiations between CSX and NS in the period March through June 1997.

Conrail's principal routes took the form of the so-called Conrail "X." The "X" was in the form of that letter, lying on its side. Cleveland was the cross-point of the "X."

The right-hand (eastern) top (northern) leg of the "X" was the old New York Central Water Level Route from Northern New Jersey, part of the Greater New York City area, north to the Albany area, and then westward through the Buffalo area and on to the Cleveland area. Part of this segment of the "X" was also the old Boston and Albany Line, connecting those two cities, and thus providing a route from New England through Buffalo to Cleveland and westward.

The right bottom portion of the "X" (the southern and eastern portion of it) consisted of the old Pennsylvania Railroad and connecting lines crossing New Jersey from the Greater New York City area through Harrisburg and Altoona in Central Pennsylvania to Pittsburgh and from Pittsburgh to Cleveland.

⁷ Any reference to the "Transcript" is a reference to the transcript of the July 27, 2000 meeting. That transcript is attached as Exhibit 3.

The left-hand top (northwestern) leg of the "X" was the portion of the Conrail Water Level route between the Cleveland area and Chicago. The left-hand bottom leg of the "X" (the southwestern part) was the Conrail route between the Cleveland area and St. Louis.

These "X" routes were Conrail's premier routes and received Conrail's highest degree of maintenance and infrastructure support. The Conrail Transaction resulted in CSX operating the route from Greater New York City and Boston through Albany and Buffalo to Cleveland, as well as the southwestern leg from the Cleveland area to St. Louis. The transaction resulted in NS operating the old Pennsylvania routes from Greater New York City across central Pennsylvania to Pittsburgh and Cleveland, as well as the northwestern part of the "X," from Cleveland west to Chicago.

Before the Conrail Transaction, neither CSX nor NS had any rail lines that reached Greater New York City or Boston. NS's lines did not reach Philadelphia; CSX's did, but only from the south at the end of the old B&O Line from Baltimore and Washington. As to presence in the Greater Buffalo area, NS's only presence was a dead-end from the west, on the old Nickel Plate Line, which reached Buffalo from Cleveland and points west. South of the Great Lakes, CSX's lines did not go east of Cleveland; at the time of the Conrail stock acquisition, CSX still maintained certain rights with respect to the routes of other carriers north of Lake Erie, through the Ontario Peninsula, to the Niagara Falls, NY area; those rights were its only presence in the Greater Buffalo area.

The split of Conrail thus gave CSX the premier Conrail line heading westward from Greater New York City that went through Buffalo, while it gave NS the premier Conrail line going west from Greater New York City that went through central Pennsylvania and Pittsburgh. Each of CSX and NS also obtained the use of secondary, alternative routes westward from

Greater New York City. NS now operates the old Erie-Lackawanna Line, or "Southern Tier Line," from northern New Jersey through Suffern, Port Jervis, and Binghamton, NY, westward through the Southern Tier of New York and then northwestward to the Greater Buffalo area. That secondary Conrail route connects with NS's historic Nickel Plate route to Cleveland.

CSX obtained Conrail's West Trenton Line, which connected the Greater New York City area to the B&O Line at Philadelphia. CSX also engaged in a massive upgrading of the portion of its historic B&O Line from eastern Ohio to Chicago.

CSX now has a primary route from the Greater New York City area to Chicago via Albany, Buffalo, Cleveland and therefrom, over the upgraded B&O Line, into Chicago. NS now has a primary route from the Greater New York City area to Chicago by way of its Pennsylvania Line across New Jersey and central Pennsylvania to Pittsburgh and Cleveland and then along the southern shores of the Great Lakes to Chicago.

While NS's primary new Conrail route between New York and Chicago does not pass through Buffalo, its secondary new Conrail route does pass through it, via the combination of the Erie-Lackawanna Southern Tier Line and the Nickel Plate Line, which in turn connects with a premier Conrail line westward from Cleveland to Chicago. CSX's new secondary route from the Greater New York City area to Chicago does not pass through the Greater Buffalo area, just as NS's new primary route does not.⁸

This division of routes was made in hard bargaining and reflected the two parties' estimation of which routes they thought would best serve their business objectives in providing

⁸ NS also acquired a secondary Conrail line running from Harrisburg, PA, to Buffalo. Essentially a north-south line, this line does access NS's primary Greater New York/Chicago line at Harrisburg.

rail service and their estimation of the relative values of those routes to them. NS paid 58 percent of the approximately \$10 billion purchase price for the Conrail stock, and CSX paid 42 percent. In the parties' negotiations they both strove to get full value for what they paid.

C. The Division of Operations in Buffalo

The allocation of Conrail's railroad properties in the Greater Buffalo area followed the basic allocation of Conrail's routes. The assets historically used by Conrail for its Water Level service from Northern New Jersey through Buffalo and Cleveland went to CSX; the facilities associated with the Erie-Lackawanna Line, including not only the main Southern Tier Line, but branch lines, went to NS. As a result, in the local market CSX has access to more customers at Buffalo than does NS. Besides access to a different number of local customers, CSX and NS have through services through the area; but CSX's service is that of one of its primary east-west routes and NS's is that of a secondary through route.

Buffalo accordingly plays a different role in the plans and operations of CSX and of NS. Moreover, reflecting the use that Conrail made of the respective routes, the Conrail infrastructure allocated to the two carriers was different both in nature, capacity, and degree of maintenance.⁹

The proposed Conrail Transaction did not pass unchanged through the Surface Transportation Board review process. A considerable number of Buffalo shippers were subject to reciprocal switching and accordingly would have access to service both from CSX and from NS. Board Decision No. 89 at 86. A settlement reached with the National Industrial Transportation League ("NITL") during the course of the proceedings greatly reduced the level of switching charges imposed by Conrail on NS and CSX, both in the Greater Buffalo area and

⁹ A rail map of the Buffalo area is attached as Exhibit 1.

elsewhere. The party to which the Conrail lines were allocated was required to charge the other party no more than the reduced rates. This significantly expanded the availability of rail service in the Greater Buffalo area, where Conrail's switching charges had often reached as high as \$450 a car.

Settlement agreements with Canadian National ("CN") and with Canadian Pacific ("CP") entered into by CSX and NS also had a favorable effect on the Buffalo area both by way of reduced switching fees and by other competitive enhancements for those carriers and their patrons. (Board Decision No. 89 at 86.) The Board also ordered that the favorable switching charges provided for in the general settlement with the NITL be applied to certain Conrail movements which Conrail had reclassified from switching movements to line-haul movements. Id. at 87. The Board said that this would broaden the "procompetitive and beneficial terms of the NITL agreement." CSX was also ordered to establish a committee to promote the growth of rail traffic to and from the Greater Buffalo area and to meet periodically with it. (Id. at 88; see Section VIII below for the history of this committee.) The position of Greater Buffalo with respect to rail service alternatives, already greatly improved by the proposed split of the lines of Conrail serving Buffalo between CSX and NS, was substantially augmented through these events in the Board's review process.

We now turn to a discussion of current CSX (in Section III) and NS (in Section IV) operations in the Buffalo area. Although both carriers suffered service difficulties in the area following the June 1, 1999 implementation of the Transaction, operations since the Split Date improved as the carriers made adjustments in their operations and service. Today, the CSX and NS rail networks are generally fluid, and both carriers believe they are positioned well for the challenges of the annual Fall surge in traffic levels.

III. CSX'S FACILITIES AND OPERATIONS IN BUFFALO¹⁰

CSX is the largest operator of through freight movements in the Greater Buffalo area. Almost all of its trains through the Buffalo area – an average of 70 per day – traverse CP Draw.

CSX's major service routes through Buffalo include their Northeastern Gateway Service Route (Greater New York/Boston to Chicago via Albany and Buffalo), the St. Louis Gateway Service Route (St. Louis to Greater New York and Boston via Indianapolis and Buffalo), and the Memphis Gateway Service Route (Memphis to Greater New York and Boston via Cincinnati and Buffalo). All of these routes use CSX's Chicago Line passing through CP Draw. A considerable amount of CSX's interline traffic with Canadian carriers is exchanged in the area.

CSX's infrastructure in Buffalo and Niagara Falls is, in its judgment, well-suited to support the dual role it plays in the CSX network: local pick-up and delivery of customer traffic and classifying through traffic moving along the Chicago to Greater New York/New England corridors.

CSX's primary yard in the area is Frontier Yard in Buffalo. This is one of the largest yards on the CSX system and is a critical node, situated as it is between the Greater New York marketplace and Chicago, as well as on a primary CSX line to consuming and producing urban areas such as Cleveland, Columbus, Detroit and Indianapolis. Buffalo and Niagara Falls themselves are also substantial areas of production and consumption.

Frontier Yard is a hump yard facility capable of classifying over 1,000 cars per day. It has 21 receiving/departure tracks and 63 classification tracks. Two yards on either side of the

¹⁰ This report's descriptions of the Buffalo area operations of CSX, NS and other carriers are intended to be merely summary in nature and do not purport to be exhaustive.

classification yard are used for both receiving and departing trains. The yard covers approximately 200 acres and extends almost 2 miles from end to end.

Frontier Yard classifies carload traffic moving between the major urban industrial centers along the corridor, as well as for the Buffalo area itself. Efficient operation of this yard is an important factor in the success of CSX's merchandise service.

A second, very important yard in CSX's network in the area is the Stockyard, located on William Street in Buffalo, immediately west of Frontier Yard. The Stockyard has 12 tracks that enable CSX to service a number of industrial customers. More importantly, the Stockyard contains the Buffalo Intermodal Yard and dry/bulk operation of CSX's TransFlo® operations. Track was added on the Intermodal side shortly after the Conrail Split. Both the Intermodal and TransFlo® operations in this yard have grown in the last year. Both are at or near capacity.

Supplementing Frontier Yard and the Stockyard within the Greater Buffalo Region are 5 other smaller yards which are worthy of note as well as numerous working tracks that support local pick up and delivery.

With 17 classification tracks and 3 receiving tracks, Seneca Yard is used to support service to the grain mills in the Ohio Street Yard complex near the Buffalo waterfront. It covers approximately 80 acres and is currently primarily used to support the storage and make-up of unit automobile trains. The function of this yard has changed dramatically since the Conrail Split. Previously, this yard was used to switch coal, coke and auto parts to the South Buffalo Railroad which serves the Ford stamping plant in Woodlawn, NY. NS has captured most of that traffic.

The Ohio Street Yard Complex has 15 classification tracks in "Middle Yard" and a number of lead and support tracks in smaller connecting yards. It supports the grain milling industry and the Buffalo waterfront.

Kenmore Yard has 20 classification tracks. It services the Huntleigh Station Power Plant plus the General Motors complex and related industries.

In Niagara Falls, Niagara Yard, which has 44 tracks, supports several important chemical customers and other miscellaneous customers in the Niagara Falls area.

Connecting these yards are over 75 miles of main line and spur tracks that traverse the area, connecting industrial facilities to CSX's network of 18,500 miles of track covering the eastern United States and portions of Canada. Over 200 bridges and structures are required to cross streams and highways in the area, all privately built and maintained at CSX expense. Of the yards mentioned, all are north and east of CP Draw except Seneca Yard.

IV. NS'S FACILITIES AND OPERATIONS IN BUFFALO

For NS, Buffalo is not simply a local market, but an important through point between the Northeast and Chicago; Buffalo, however, is not part of NS's primary east-west line to and from Greater New York (as it is for CSX). NS's lines in the area have fewer rail shippers physically located on them and at present NS's share of the local Buffalo market is considerably smaller than CSX's. Today, NS traffic represents only about 33% of the units in the Buffalo area market, while CSX traffic represents about 46% of such units.

NS had historically served the Buffalo area from the west where its Nickel Plate Line from Chicago through Cleveland terminated in Buffalo. With the Conrail Transaction, this line now is connected at Buffalo to the Southern Tier mainline that stretches east through

Binghamton, NY and on to northern New Jersey, and, via cooperative agreements with Canadian Pacific/D&H and Guilford Transportation, on to New England. Under these cooperative agreements, this new route serves as a link in New England's competitive rail alternative to the CSX (former Conrail) network. In addition, NS operates a former Conrail line south from Buffalo through Olean, NY, and on to Harrisburg, PA.

NS facilities in Buffalo east of CP Draw include the Buffalo Junction Yard, which consists of 14 tracks for classification, industrial support and interchange, and Bison Yard. Bison Yard, which NS recently has improved and expanded, includes a six-track automobile terminal, a four-track intermodal facility, a four-track bulk transfer facility, and a four-track switching and five-track train-making yard.

NS facilities in Buffalo west of CP Draw include Tifft Yard, consisting of a five-track support yard used for train makeup, and the subleased Buffalo & Pittsburgh Yard ("BP Yard"), which in 1999 was substantially upgraded and integrated into Tifft Yard. BP Yard contributes seven classification tracks and one interchange track for classification and industrial support.

Most of NS's local traffic in Buffalo consists of traffic interchanged with the South Buffalo Railway. The location of that interchange, which used to take place at Buffalo Junction yard, was shifted to west of CP Draw, supported out of the reconstructed and integrated BP Yard. NS also interchanges with CSX at Frontier Yard; with Canadian Pacific at SK Yard; with Buffalo & Pittsburgh at BP Yard; with Buffalo Southern at Tifft Yard; with Depew, Lancaster & Western at Bison Yard; and with Canadian National at CP-5.

NS's expanded yard capacity at Bison Yard also has reduced congestion at CP Draw. Previously, due to limited space at Buffalo Junction Yard, NS trains being assembled at Buffalo Junction Yard were required to "double out" over the bridge at CP Draw — that is, move out

from Buffalo Junction Yard over the bridge, and then return to the yard in order to assemble or break up trains. Now, however, NS can use the five newly-reconstructed 8,000-foot long tracks at Bison Yard to assemble trains, eliminating the need to occupy the bridge at CP Draw.

NS's train volumes through the Buffalo terminal area average approximately 13 local and 28 through trains per day. Most of those trains must cross the Buffalo River at CP Draw.

V. OTHER RAILROADS' OPERATIONS IN BUFFALO

A. Amtrak Operations

Amtrak has no operations over NS in the Buffalo area. Over CSX-operated track, Amtrak runs eight daily trains and one Sunday-only train, including the east- and west-bound Lake Shore Limiteds operating between New York and Chicago. The movements of all these trains in the United States east of Cleveland are on CSX routes. The two Lake Shore Limiteds operate through CP Draw; the seven trains other than the two Lake Shore Limiteds operate between Toronto or Niagara Falls, using the Niagara Branch (with a stop at Buffalo's Exchange Street Station), and New York City. These seven trains do not use CP Draw.

B. South Buffalo Railway Operations

The South Buffalo Railway is a local Buffalo shortline serving a Ford automobile stamping plant and Bethlehem Steel's Lackawanna Plant, among others. The company is a subsidiary of Bethlehem Steel. It interchanges with NS and CSX near Seneca Yard, and with NS at "Station C" immediately west of CP Draw and at "Station D" near Seneca Yard. South Buffalo does not use CP Draw.

C. Buffalo Southern Operations

The Buffalo Southern ("BSOR") runs between Buffalo and an interchange with the New York and Lake Erie Railroad in Dayton, NY, to the southwest of Buffalo. By agreement, NS upgraded BSOR's mainline and uses it as an additional mainline track west of CP Draw. BSOR does not use CP Draw.

D. Buffalo & Pittsburgh Operations

The Buffalo & Pittsburgh Railroad ("B&P") runs from Pennsylvania into BP Yard in Buffalo. B&P has access to Buffalo via overhead trackage rights on the NS Harrisburg line, which goes across CP Draw. B&P approaches the CP Draw area of Buffalo from the south, crossing over an NS branch as it makes its way into its BP Yard, just south and west of CP Draw. B&P interchanges traffic with NS and CSX in BP Yard. NS recently subleased from B&P and reconstructed much of BP Yard, integrating it with NS's adjacent Tifft Yard south and west of CP Draw as part of NS's overall strategic infrastructure improvement plan for the CP Draw area.

E. Canadian National Operations

Canadian National ("CN") comes to the Buffalo area but does not provide service beyond. It enters the United States via the International Bridge from Fort Erie at one of the narrow points of the Niagara River and enters slightly north of the City of Buffalo in Erie County. It maintains no yard facilities within the Greater Buffalo area. It formerly operated a yard in Fort Erie, Ontario, near the International Bridge,¹¹ but it closed that yard some years ago. In June 1999, CSX granted CN trackage rights over various former Conrail lines to enable CN to connect with NS's (former Conrail) Harrisburg Line at CP-5, southwest of CP Draw, using

¹¹ Not within the Greater Buffalo area as defined for this proceeding (see note 2, above); but operationally part of the area.

CSX's Compromise Branch Drawbridge west of CP Draw. (See Section VI below.) CN already had rights to connect to NS's former Nickel Plate Line at CP Draw. CN also connects with CP's Delaware & Hudson ("D&H"); CN brings cars going to D&H to CSX at Frontier Yard and CSX delivers them to D&H at SK Yard, north and east of CP Draw.

F. Canadian Pacific and D&H Operations

Canadian Pacific ("CP") serves the Greater Buffalo area from Canada through the Ontario Peninsula to Niagara Falls, NY, to the north of the City of Buffalo. It interchanges with CSX at Niagara Falls. The Delaware & Hudson Railroad, since 1990 a subsidiary of CP, has rights to go to Niagara Falls to connect with CP, while CP itself has no rights to go to Buffalo. The D&H has operations in the states of New York, Pennsylvania and New Jersey, largely by way of overhead trackage rights on former Conrail routes, including the Southern Tier line. Traffic coming from Canada on CP to the B&P or NS is interchanged to CSX or to D&H at Niagara Falls for movements to Buffalo. CSX performs switching for D&H under an old switching agreement with Conrail. D&H's yard in the Greater Buffalo area is the SK Yard in Erie County. D&H and CN interchange either directly via trackage rights or in CSX's Frontier Yard. D&H's interchange with B&P occurs at locations on those railroads agreed upon by them, including the SK Yard of D&H. CP itself maintains no substantial yard facilities in the Greater Buffalo area. Through a switching arrangement with Conrail (now CSX), D&H originates and terminates approximately 2,000 rail movements annually in the Greater Buffalo area.

VI. THE BRIDGES OF THE BUFFALO RIVER

An overview of the current infrastructure and of various carriers' operations in Buffalo has been provided in the previous sections. Of particular note, however, and not otherwise

previously described, are the various railroad bridges across the Buffalo River. These will be described in this section.

The Buffalo River is a waterway that flows in a generally western and northern direction and empties into Lake Erie at the industrial waterfront in downtown Buffalo. Although the Buffalo River is designated a navigable waterway, only one shipper, Exxon Mobil, uses it for transportation during the Great Lakes navigation season. Exxon Mobil's Buffalo distribution facility, located approximately one half mile upstream from the CP Draw drawbridge, receives gasoline, kerosene, heating oil and low sulfur diesel fuel by barge from Nanticoke, Ontario. (It receives the same by truck from Warren, PA.) Erie County uses a fireboat to break ice to prevent flooding during the Buffalo winter months.

Four rail bridges span the Buffalo River. Of the three in the general area of CP Draw, two are active drawbridges under the control of CSX. The third, the N&W bridge adjacent and just down the river from the CP Draw drawbridge, is an out-of-service drawbridge fixed in an upright position. The fourth rail bridge across the Buffalo River is along the NS Ebenezer Secondary, several miles southeast of CP Draw.

A. CP Draw Drawbridge

CP Draw essentially is a funnel, where NS movements through the Buffalo area from the west must share the very busy CSX Chicago Line trackage on a drawbridge across the Buffalo River. Certain NS and CSX inter-yard movements and Amtrak trains also must use the drawbridge.

The CP Draw drawbridge is double-tracked. The bridge carries through NS and CSX east-west mainline traffic, generally 100 trains (approximately 70 CSX and 30 NS) per day. It also carries the movements of the other freight rail carriers and Amtrak to the extent discussed in

Section V. Additionally, it carries CSX, NS and B&P traffic moving between Seneca Yard, Tift Yard, and BP Yard on the south and west side of the Buffalo River, and SK Yard, Frontier Yard, Bison Yard and Buffalo Junction Yard on the north and east side of the river. Operation of the CP Draw drawbridge is governed by federal regulation,¹² and the drawbridge must be opened on 4 hours' notice.

B. The Old N&W Bridge

The old N&W bridge was a double track drawbridge on the Nickel Plate system, which through Norfolk & Western was brought into the NS system. The bridge was in poor condition and in need of substantial repairs. Attempts to reduce costs in what was a declining market led to the bridge being fixed in an upright position in 1983, at which time the N&W approach tracks were reconfigured to move traffic over the adjacent Conrail-controlled bridge at CP Draw. In the years since, vandalism has destroyed the bridge operator's house and the operating machinery, and restoration is not economically feasible.

C. Compromise Branch Drawbridge

The CSX Compromise Branch drawbridge is a single-track drawbridge on a single-track route crossing the Buffalo River downstream from the CP Draw drawbridge. The bridge carries CSX traffic moving along the former Compromise Branch, which runs to the west and north of the immediate CP Draw area from Seneca Yard to the CSX route to CSX's Frontier Yard. Operation of the Compromise Branch draw span is governed by 33 C.F.R. § 117.773, which requires the draw to open on 4 hours' notice. CSX notes that this former Compromise Branch is a low speed limited capacity branch line with low clearances and tight curvatures.

¹² 33 C.F.R. § 117.773

D. Ebenezer Secondary Track Bridge

The active fixed-span bridge on NS's Ebenezer Secondary Track crosses a portion of the Buffalo River several miles southeast of CP Draw at a point already determined to be non-navigable.¹³

VII. INFRASTRUCTURE INVESTMENTS AND IMPROVEMENTS IN BUFFALO POST-SPLIT TO DATE

A. NS Investments and Changes

Norfolk Southern has undertaken several significant infrastructure improvements in Buffalo costing \$15 million. NS has completed a project to expand and improve Bison Yard, including restoration of a nine-track classification facility, covering more than 10 miles of track, adjacent to automotive, intermodal and bulk distribution facilities. That project was completed and in service as of December 1, 1999.

NS also has completed rehabilitation of the BP Yard that NS is subleasing from the Buffalo & Pittsburgh Railroad. This project included upgrading more than 10 miles of track within the yard, installation of 3.5 miles of new rail and replacement of almost 13,500 ties. NS is in the process of replacing the bridge over Clinton Street, a project performed with the approval of CP, whose access to SK Yard will be affected.

NS also has initiated or completed a number of projects, not located in Buffalo itself, that nevertheless will improve operations on its east-west routes through Buffalo. The "Cloggsville

¹³ In the application to the STB for the Conrail Transaction, NS outlined a planned construction of a CP Draw bypass that would utilize the Ebenezer Secondary bridge and new connections and upgrades to existing Conrail routes. However, further study has indicated that the grades, curvature and limited capacity of this route via CP GJ, as well as the additional transit time, make this option infeasible.

Connection," near Cleveland, OH, will create a second NS main line that will permit a reduction in traffic along the Cleveland lakefront; that project is estimated to be complete during the fourth quarter of 2000. Another project involves construction of a passing siding at Angola, NY, west of Buffalo. Additionally, NS has worked with CP and Guilford Industries to improve clearances between Ayer, MA and a connection with D&H near Albany. And on August 3, 2000 NS concluded various agreements with CSX pertaining to relocation of NS's main line in Erie, PA, which will further streamline NS's operations through Erie. The cost of the foregoing projects is more than \$40 million.

Additionally, NS continues to pursue operational agreements that can result in benefits for Buffalo area customers. For example, NS has just recently entered into an agreement with the Bessemer & Lake Erie Railroad Company ("B&LE") to permit NS to move trains over the B&LE lines from Shenango to Wallace Junction, PA. As described further in Section IX.G below, this agreement will result in better service for AES Energy, addressing some of the concerns raised in this proceeding.

B. CSX Investments and Changes

In 1999, CSX made direct capital expenditures of about \$2.3 million in the Buffalo area. These were largely service-oriented, including intermodal ramp expansion and improvements in a CSX TransFlo® facility. Other capital outlays directly in the area included rail relay in yards and in the main line and mechanical shop improvements, increasing efficiency.

CSX has also spent about \$15.9 million between Buffalo and Philadelphia to improve the capacity and speed of the CSX lines linking Buffalo to the metropolitan centers of the East Coast. In addition, to facilitate movements to and from the west of the Buffalo area that will in large part pass through Buffalo, CSX invested approximately \$200 million to double track its

historic line (the "B&O" line) from eastern Ohio to Chicago, and expanded the Willard, OH rail yard at a cost of approximately \$50 million. These improvements increase fluidity of movement on the CSX primary lines between Greater New York/New England and Chicago/St. Louis, which pass through Buffalo.

CSX has also made operating changes to increase fluidity on the main line route through Buffalo east and west. It revised its overall operating plan after the Conrail split in the direction of simplification and has reduced car handlings and blockings. Today CSX's operations in the Buffalo Terminal are fluid. Terminal dwell and on-time originations compare well with those of other major terminals on the CSX system.

VIII. OTHER COMMUNITY EFFORTS BY NS AND CSX BEFORE THIS PROCEEDING

Each of NS and CSX has been actively working, together as appropriate, with customers, government officials and other rail lines in the Buffalo area since the Split Date to address service difficulties and to develop business. These efforts have resulted in substantial improvements in service in the area.

In November 1999, at the Board's suggestion, Norfolk Southern established a "hotline" for customers in the Buffalo area to call with specific complaints. Initially, NS Customer Service personnel received approximately three to five calls per week. Recently, the number of calls received has dwindled to between zero and two calls per week. All matters arising from a call to the hot line and related to NS's service in the Buffalo area have been resolved within two weeks from the date of receipt.

On February 4, 2000, representatives of NS and CSX attended a "rail briefing" meeting of the Buffalo Niagara Partnership in Buffalo, intended to "update local, state and federal elected officials from Erie and Niagara counties regarding the rail situation in the Niagara marketplace" and attended by 23 persons. The NS and CSX representatives were invited to attend just long enough to make a presentation and then respond to questions; they were dismissed from the meeting during the presentations given by others.

NS has held other meetings with customers, area shortlines and governmental officials. On February 14, 2000, NS met with 14 Southern Tier shortlines to review its revised Southern Tier Operating Plan, discuss details of the plan and address additional issues and problems with the shortlines and their customers. Dave Wilson, Director Terminal Operations, reviewed details of improvements and changes to 10 system trains impacting Buffalo and the Southern Tier. Joe Bolick, Buffalo Trainmaster also participated to address local issues. John Kraemer, General Manager Short Line Marketing and Joe Giuliano, Group Sales Manager also participated and helped facilitate follow-up action plans, meetings and responses where necessary.

On February 15, 2000, NS met with 40 Southern Tier and Buffalo customers to update them and to address issues and problems with each customer. Don Seale, NS Senior Vice President Merchandise Marketing, opened the meeting and gave a brief overview of the status of NS operations and the several large infrastructure improvements and other initiatives being implemented to improve service on the system. Tony Ingram, General Manager-Northern Region discussed NS's commitment for continued improvement in the Southern Tier and Hugh Kiley, Assistant Vice President Transportation Services discussed and reviewed details of the revised Southern Tier Operating Plan. The remainder of the day was open for questions and answers from NS's customers. Each issue or problem that was discussed and not resolved was

written up to the National Account Manager or Account Manager for a follow-up action plan with the National Customer Service Center ("NCSC"), Transportation (local/division), Centralized Yard Operations ("CYO"), Agency Operations Center ("AOC"), Sales and/or Marketing. NS committed to a follow-up meeting, which was held May 17, 2000.

Officials from the several NS departments that affect – or are affected by – NS operations in Buffalo attended that follow-up meeting, which was held in Buffalo. The NS participants were:

Don Seale, Senior Vice President Merchandise Marketing

Lew Hale, Vice President Transportation

Hugh Kiley, Assistant Vice President Transportation Services

Dave Brown, General Manager-Northern Region, Harrisburg Division

Joe Giuliano, Director Sales - Metals & Construction

Randy Fannon, Buffalo Terminal Superintendent

Rich Timmons, Resident Vice President

Rudy Husband, Director Public Relations, Philadelphia, PA

Vince Frascino, Manager-CYO

Robert Richardson, Asst. Mgr.-CYO

Brig Burgess, Division Superintendent, Harrisburg

Don Seale opened the meeting and discussed the improved system metrics and CP Draw. He frankly advised participants that Buffalo would continue to be a "work in progress" for NS. Lew Hale discussed our Car Action Team (designed to increase car utilization) and NS's commitment to improve the consistency in service for its Buffalo and Southern Tier customers. Dave Brown reviewed the improvements in the Northern Region and the positive impact of these

improvements on Buffalo and the Southern Tier. He reviewed the challenges working with CSX, CN, CP and the shortlines and the NS TYES (NS's yard car-tracking system) installation. The NS "hiring process" to prepare for Summer 2000 was also discussed. Hugh Kiley distributed a revised Buffalo Operating Plan and discussed the details. The remainder of the day was open for questions and answers from the 37+ customers who attended the meeting. Problems and issues which were not resolved were written up to the National Account Managers and Account Managers with an "action plan" for follow-up with AOC, CYO, Transportation, NCSC and Sales/Marketing.

Like NS, CSX at the suggestion of the Board instituted a customer "hot line" in the Greater Buffalo area in November 1999. In the past 11 months, calls to the CSX Buffalo area hotline have ranged between zero and eight per week, with the average being two per week. The majority of calls were of a routine nature, such as car tracing, and were promptly resolved. Since June 2000, the average number of calls per week has dropped to less than one. As of September 6, 2000, the last call made to the hotline had occurred on August 8, 2000; thus, no calls had been received for 28 days. This steady decline in activity reflects CSX's stabilized operations in the area.

CSX has been involved in extensive contacts with the industrial, shipping, civic and governmental communities in the Greater Buffalo area. Pursuant to Ordering Paragraph No. 33 in Decision No. 89 (at 178), CSX met with regional and local authorities in the Buffalo area to establish a committee to promote the growth of rail traffic to and from the Greater Buffalo area, and has participated in the meetings of that committee, known as the "Greater Buffalo Area Regional and Local Authorities Committee." After an initial meeting in January 1999, regular meetings commenced in the Fall of 1999 and have been held every month or two thereafter, at

Buffalo or at various locations in Niagara County. Subjects discussed at one or more meetings have included operational issues, congestion problems, industrial development issues, winter service issues, customer hotlines, switching rates, technological improvements, the high rate of property taxes in the area, coordination with NS, a program of one-on-one meetings with shippers, commercial outreach issues, CP Draw, and capital projects involving grade crossings and overpasses. Besides CSX representatives and local authorities, shippers and representatives of labor have attended some or all of the meetings.

Gerry Edwards, CSX Regional Manager Industrial Development, is working with local officials and business leaders through numerous important government business organizations to develop six rail-served industrial parks in the three-county area. CSX is also working with City of Buffalo officials on their South Buffalo Redevelopment Project, a planned reuse of 1300 acres of vacant brownfields. Mr. Edwards is also a member of and routinely attends meetings of the following groups:

- a) Area Managers Group – A monthly meeting of economic development professionals hosted by Erie County Industrial Development Agency. This group includes utilities, education and training organizations plus the local municipal development groups.
- b) Greater Buffalo-Niagara Regional Transportation Council – Transportation Planning. Mr. Edwards was appointed to the 50-member Long Range Plan Community Advisory Group. CSX's efforts have focused on the subcommittee on Economic Development.
- c) New York State Economic Development Conference, a statewide organization of economic development professionals. This twice-per-year conference brings together development leaders from across the State.

In addition, Mr. Edwards maintains frequent contacts with the following economic development groups working for the benefit of the western New York economy:

- a) Buffalo Enterprise Development Corporation

- b) Buffalo Economic Renaissance Corporation
- c) Empire State Development
- d) Niagara County Department of Planning, Development and Tourism
- e) Niagara County Industrial Development Agency
- f) Erie County Industrial Development Agency
- g) Chautauqua County Industrial Development Agency
- h) Erie County Department of Environment and Planning
- i) Buffalo Niagara Enterprise
- j) Buffalo Niagara Partnership
- k) Westfield Development Corporation
- l) Hamburg Industrial Development Agency
- m) Town of Tonawanda Development Corporation
- n) Town of Lockport Industrial Development Agency

CSX has both sales and industrial development personnel based in Western New York. CSX believes that this physical presence has made CSX more accessible to Buffalo area shippers and has enhanced its ability to respond to customers' needs in that area. CSX has retained a high percentage of Conrail management, keeping the Buffalo area management teams intact. As a result, CSX has been able to take advantage of their broad range of business and community contacts and their depth of knowledge of the Western New York area.

Buffalo has been a very important market for post-split efforts to grow CSX's business. In Niagara County, CSX was able to put together an improved service package that enabled one customer to nearly double its amount of rail business, creating substantial savings and taking 750 trucks per year off the road. CSX is also actively working with four other companies seeking to locate or expand in Niagara County.

In Erie County, CSX has eight companies looking to build or expand and is actively working on a deal that will take another 500 trucks off the road. In Chautauqua County, CSX has two new companies looking to locate on rail-served sites.

IX. ACTIONS PURSUANT TO DECISION NO. 1

Following issuance of the Board's Decision No. 1, representatives of NS and CSX met to begin planning how to carry out the Board's directive to meet with "shippers, railroads and other interested parties for the express purpose of discussing more fully plans to improve the Buffalo area rail infrastructure." Decision No. 1 at 3. The agreed-upon approach was to convene a joint meeting in Buffalo to which would be invited representatives of Buffalo area shippers, economic development organizations, railroads, and government leaders. The carriers extended 298 invitations to members of the Buffalo Common Council, Erie County Industrial Development Agency, other civic groups, representatives of all railroads and rail customers in the Greater Buffalo area, and other county, state and federal agencies and legislative bodies. The invitation list is attached as Exhibit 2.

Roughly 75 people responded to the NS/CSX invitation. Moreover, all persons were welcome at the meeting, whether they responded in advance or not.

The meeting was held on Thursday, July 27, 2000 at 8:45 a.m. at the Radisson Hotel, 4243 Genesee Street in Buffalo. Almost 100 people attended the meeting, which lasted more than two hours. The meeting opened with presentations made by a panel of NS and CSX representatives.¹⁴ Thereafter, representatives of ten other parties made presentations to the joint

¹⁴ The NS/CSX Panel consisted of Richard Timmons (Norfolk Southern Resident Vice President for Public Affairs for the States of New York and Pennsylvania), James McClellan

[Footnote continued]

NS/CSX panel.¹⁵ Suggested approaches to Buffalo infrastructure needs ranged from conducting an independent study to determine those needs to turning the entire area over to a single terminal railroad. A transcript of the proceeding is attached as Exhibit 3.

At the meeting, a message from Congressman Jack Quinn (NY-30th) was read (see Exhibit 4) in which he referred to his May 2000 letter to STB Chairman Linda Morgan requesting that "NS and CSX solicit outside input on the infrastructure needs of rail users at Buffalo and Western New York." Transcript at 107. The Board in Decision No. 1 directed NS and CSX to do so, and NS and CSX organized the July 27, 2000 conference for that purpose.

Although the purpose of the July 27 meeting was to hear the public's views on needed additional infrastructure to increase rail capacity in the Greater Buffalo area, in point of fact there was very little specific input from the public with respect to that matter. There was, however, considerable discussion of past service issues and of such projects as grade crossings, pedestrian

[Footnote continued]

(Norfolk Southern Senior Vice President Strategic Planning), Dave Brown (Norfolk Southern General Manager – Northern Region), Joseph Giuliano (Norfolk Southern Director – Metals and Construction Marketing), John Casellini (CSX Resident Vice President – State Relations – New York), Derrick Smith (CSX Vice President Chemical Sales and Marketing), David Hemphill (CSX Assistant Vice President for Industrial and Economic Development), and Frank Pursley (CSX Vice President Service Design and Joint Facilities). Also present was Roger Bennett (Norfolk Southern Director of Industrial Development, Northern Region), John Cannon (Norfolk Southern Industrial Development), David Becker (Norfolk Southern Assistant Chief Engineer – Design), Brig Burgess (Norfolk Southern Division Superintendent – Harrisburg Division), Randy Fannon (Norfolk Southern Terminal Superintendant – Buffalo), Susan Bland (NS Public Relations), John Edwards (NS Law Department), Jim Decker (CSX Division Superintendent – Albany Division), Mike Bassome (CSX Assistant Division Engineer-Track), Mike Smythers (CSX Federal Affairs), Diane Liebman (CSX Vice President Railroad Federal Affairs), Peter Shudtz (CSX Vice President and General Counsel), Barbara Jenkins (CSX Chemical Sales, Buffalo), Gary Johnson (CSX Audit and Advisory), Wendy Green (CSX Account Manager, Sales and Marketing), Gerry Edwards (CSX Regional Manager, Industrial Development for Western New York), and Robert Sullivan (CSX Corporate Communications).

¹⁵ Two other parties were not represented in person at the meeting but submitted written statements.

bridges, rail bridges over streets, and the like — projects which may well be desirable but which do not increase the capacity of the railroad facilities in the area. The view was expressed, not only by CSX and NS, but by others, that as far as the Buffalo area was concerned, the initial operating difficulties that accompanied the split of Conrail were over and that operations in the area were fluid.

Despite the relatively small attention given in the public comments to infrastructure improvements to increase capacity, the meeting prompted by the Board was a success, in CSX's and NS's views: It provided a further general community contact between the two railroads and the Greater Buffalo area, at which various problems could be identified and views stated and considered, whether strictly within the agenda or not.¹⁶ Input by customers, other carriers and interested governmental officials — either under the aegis of formal proceedings such as this Sub-No. 93 proceeding or as is much more often the case through the informal consultation process that is a constant within this industry — is a necessary and valuable part of the analysis of customer needs. The Board's initiative in launching the meeting was thus unquestionably beneficial.

It is CSX's view that at the present time it needs no major capacity-increasing rail infrastructure in the Greater Buffalo area and that its capital spending in the area is being and should be primarily directed at efforts that will increase demand for rail services. Working with existing Buffalo area industries to help them expand, encouraging non-Buffalo industries to locate new factories, warehouses and commercial facilities at sites served by CSX, and

¹⁶ To be fair, it should be added that the CSX and NS speakers did not confine themselves to a discussion of infrastructure issues themselves, but ranged over operational and other topics that they knew would be of interest to shipper and community representatives.

expansion of intermodal and transload facilities to extend the economies of rail volume transportation to businesses that do not have rail sidings are CSX's capital priorities.

NS's view is that its service to Buffalo would be best enhanced by improvements and service options outside the immediate Buffalo area, in order to further develop the fluidity of its New England to Chicago through route. The primary capacity-enhancing improvement local to Buffalo would be the construction of a second bridge at CP Draw, so that each of CSX and NS would have their own bridge. A number of other participants did cite CP Draw as a point requiring new infrastructure. NS, however, is seeking public funding assistance for the CP Draw project because other important capacity improvements (such as those at Atlanta and Cincinnati and into North Jersey described in footnotes 3-5 above) simply must take precedence at this time for NS capital dollars.¹⁷

We now turn to a brief discussion of each party's presentation.¹⁸

A. Buffalo Southern Railroad

Buffalo Southern did not make a live presentation, but submitted a one-page list, without elaboration, of five requests "to improve small customer service" in western New York. See Exhibit 5. In general, however, the five requests do not pertain to infrastructure improvements that would increase capacity or relieve congestion in the Buffalo area, but appear intended simply to increase Buffalo Southern's commercial access. We discuss each below:

¹⁷ The NS budgeting process has identified other projects in need of public funds as well, such as the replacement of the bridge at Portageville on the Southern Tier.

¹⁸ The full texts of the written and/or oral presentations of the public parties are set forth in various exhibits to this report. The failure of CSX or NS to respond to any particular observation or proposal of any of the participants should not be taken to mean acquiescence in the observation or proposal.

1. "Support trackage rights from Waterboro to Jamestown and beyond, to allow direct service to Jamestown from Buffalo."

Although it is unclear what Buffalo Southern means by trackage rights from Waterboro to Jamestown and beyond, we believe Buffalo Southern seeks trackage rights to Corry, PA, on the Southern Tier Extension. The Buffalo Southern request is remarkable for several reasons. First, to NS's knowledge Buffalo Southern does not get to Waterboro to connect up with the rights requested — Buffalo Southern also would have to obtain rights over the New York and Lake Erie to access the Southern Tier Extension. Second, the line between Jamestown and Corry currently has no active rail customers, is out of service, and would require rehabilitation to reopen as a through route. Finally, Buffalo Southern gives no indication, and NS is unaware, how this request would have any bearing on relieving Buffalo-area congestion. It appears simply to be an unjustified request to extend Buffalo Southern's commercial reach.

2. "Provide three times a week pickup of unit train of gravel from Machias to Buffalo."

The Buffalo & Pittsburgh handles this traffic now, over the NS-operated Buffalo Line. B&P has rights over NS to Buffalo, and connects with BSOR at BC Junction. BSOR's request is not an infrastructure matter; it is a commercial matter as to whether B&P wants to provide this service three times per week.

3. "Transfer Abby Street Yard, if unused, to the E.C.I.D.A. [Erie County Industrial Development Agency] to better serve Buffalo Color and other small customers in that area."

Abbey Yard is on the south side of the NS line across from Buffalo Junction Yard. It consists of two tracks. BSOR's request is moot, because the yard is, in fact, being used by NS to provide service to Buffalo Colors and PVS Chemicals. Again, this request is not related to

increasing infrastructure capacity or relieving congestion. There is no basis for a "transfer" of the Abbey Yard to ECIDA.

4. "Support Buffalo Southern Railroad siding into Ravenwood/Georgia Pacific area in Hamburg to relieve traffic off of Norfolk Southern mainline."

Although it is unclear from Buffalo Southern's unelaborated request, this item appears to seek access to Georgia Pacific for Buffalo Southern; it is unclear how this proposal would relieve congestion in Buffalo. Instead, this proposal appears simply to be a request for greater commercial access for Buffalo Southern.

5. "Help co-market new aggregate and bulk storage and transload facility in Hamburg."

As with several other of BSOR's requests, this request has nothing to do with Buffalo area infrastructure improvements or relieving congestion. Rather, it is strictly a marketing matter.

B. Erie-Niagara Rail Steering Committee

Dr. Ronald Coan, representing the Erie County Industrial Development Agency and the Erie-Niagara Rail Steering Committee ("ENRS"), spoke next. Dr. Coan expressed the view that CSX and NS had divided Conrail's assets based upon market considerations without regard to operational efficiency. He claimed that as a result of the market-driven approach of the railroads there was "effectively a situation now where the infrastructure capacity is not adequate to deal with the new system that has been created as a result of the acquisition." Dr. Coan expressed the view that infrastructure improvements are "a necessity for both railroads and the region in order to remain competitive and to finance the high cost of the Conrail acquisition." Transcript at 64.

Dr. Coan, however, did not identify information in support of that conclusion or any specific

infrastructure deficiencies.¹⁹ The task of explaining in concrete terms the proposition that Dr. Coan was asserting and evidently knew intuitively — that there are infrastructure deficiencies — was to be put in the hands of “an objective third party”:

Our coalition believes strongly that the railroads should participate in an objective third-party study of the region's rail network. This study focuses on the region's and the operational efficiencies and the infrastructure. It is the first step in an overall transportation system, is to understand that system. Transportation planning is the key to that. The study should focus on the current and future needs, assess the impact of the merger on the region's rail terminal interconnections with other carriers and make recommendations as to what investments are needed.

Id. at 62-63. Dr. Coan did not specify whether the third party — presumably consultants — who would perform the study would pursue the goals of the region itself, or the efficiency of the two railroads, or the interests of shippers throughout the Eastern United States in overall efficient and prosperous rail networks.

CSX and NS are skeptical as to the wisdom of undertaking “an objective third-party study,” presumably by a consultant, of what additional infrastructure they need in order to operate and grow their businesses. Each of them has worked out internal processes to determine priorities among a great number of competing capital projects across their systems.²⁰ Moreover, any infrastructure study that is restricted to a particular region would inevitably be incomplete and very likely to reach erroneous conclusions. Railroads are networks. Operational problems,

¹⁹ Although void of specifics, and calling for a study, Dr. Coan had, in generalities, a clear view of the outcome: “Accordingly, we do believe that there is a laundry list of different types of activities and projects which ought to be a part of this plan that we call for Important infrastructure investments must be made and the railroad should produce an inventory of such improvements and a schedule for capital investments in the region.” Transcript at 64.

²⁰ These processes are outlined in Section X.

such as congestion, are commonly caused by difficulties or limitations elsewhere in the network, often very distant. (Any frequent airline passenger will recognize that bad weather in Chicago or delays in Atlanta are likely to affect air service out of Washington — airlines are networks, too.) A capacity expansion project, such as CSX's addition of sidings on its River Line, can often have much greater impact on a terminal, such as Buffalo, than more yard tracks or new signals in the terminal itself can have. Prudent management dictates that every possible capital project throughout the system must compete for priority with every other possible project.

Thus, potential infrastructure improvements in Buffalo cannot be analyzed solely on the basis of what would benefit local employment or even local shippers; local projects must be analyzed with an understanding of how those improvements will affect the totality of the NS and CSX systems. Further, each project must be analyzed with a view toward the consequences of not using those funds on a possibly higher-impact project elsewhere. Conversely, it must be recognized that improving service and efficiency in the Buffalo area is not solely dependent upon infrastructure physically located in the Buffalo area; Buffalo-area operations may be affected by operational changes and infrastructure projects hundreds of miles away. In short, infrastructure matters in Buffalo cannot be viewed in isolation from the impacts on the NS and CSX systems as a whole, nor can a "laundry list" of wished-for improvements be implemented solely for the Buffalo area without weighing the relative importance of Buffalo infrastructure improvements with other necessary improvements throughout the Eastern United States.

While CSX and NS welcome suggestions by any interested party, ultimately they are responsible to their customers and shareholders. The question is, who is to do the capital planning? CSX and NS believe that that is the function of the privately owned railroads, and that

they have the experience and competence to perform this responsibility. CSX and NS thus cannot support the proposal made by the ENRS.

C. Niagara County

Samuel M. Ferraro, Commissioner of Niagara County's Department of Planning, Development & Tourism (a member of ENRS), informed the hearing that the County had drafted a 1999 report setting forth a list of priority needs (bridges and crossings) in Niagara County, and presented a one-page list of the "highest priority rail projects in Niagara County." The written materials submitted by Mr. Ferraro are attached as Exhibit 6; the one-page list of Niagara County's priority projects is attached to Mr. Ferraro's "Rail Statement" dated July 27, 2000. The projects, totalling some \$5.3 million, are road bridge and overpass projects, grade crossing projects, and a rail bridge removal project. None, however, are rail infrastructure projects that would add capacity or are designed to address any perceived rail service deficiencies. Although each project should be reviewed on its merits through the proper channels, none relates to the purposes of this proceeding.

D. Buffalo Economic Renaissance Corporation

Peter Cammarata, Executive Vice President of the Buffalo Economic Renaissance Corporation ("BERC"), Buffalo's economic development agency, spoke on behalf of BERC and the mayor of Buffalo. Mr. Cammarata's written materials are attached as Exhibit 7. Mr. Cammarata asked NS and CSX to report to the Surface Transportation Board the suggestions made at the meeting.²¹ According to BERC, rail service performance has not been up to the levels seen under Conrail, and, as a result, there has been "far too little spawning of economic

²¹ NS and CSX are doing so, both by way of this report, as well as through the attachment of the transcript of the proceeding and copies of the written materials presented by various parties.

development There is no doubt that substantial investment needs to be made to improve Western New York's rail infrastructure to raise the overall performance goals." Transcript at 71. Mr. Cammarata further noted that "[i]nfrastructure investments by the railroads should not be driven by the amount of public funding participation, it should be driven by the demands of the customers and the business in a competitive environment." Transcript at 72.

But whereas BERC and other members of ENRS (perhaps necessarily) have only a local outlook, NS and CSX do not, and cannot. Rather, they have a clear obligation to look to their respective networks to assess the demands of their customers and the relevant business environment system-wide. Capital investment funds are limited. System-wide priorities must be set, and difficult decisions made in order to do the most with the resources that are available. Those decisions cannot be made by looking at individual geographic markets in isolation. The NS and CSX systems are large, intricate networks, and funding decisions must take into account not only local shipper needs but how various contemplated projects will affect the network as a whole, perhaps impacting customers hundreds of miles away. There are infrastructure improvement projects that, because of the finite pool of private funding available and network-wide priorities that must be set, must rely on significant public funding assistance if they are to come to fruition in the immediate future.

E. Canadian Pacific

Canadian Pacific submitted a written statement, attached as Exhibit 8. CP emphasized that it and its subsidiary D&H have a substantial stake in smooth operations in Buffalo. "CPR believes that, while local railfreight operations may have gotten off to a rocky start, the Buffalo area ultimately did not see anywhere near the magnitude of service failures as did other areas of the former Conrail. We believe that Buffalo terminal operations have improved significantly."

Exhibit 8 at 2. According to CP, the problems that still exist are "operational in nature rather than infrastructure-related." Id.

"CPR believes, in general, that any infrastructure improvements that can be made, such as increased yard capacity at Bison and Frontier as well as capacity improvements in the route structure, will bring a new level of service to both the local customers and the customers whose traffic moves through the area. * * * Accordingly, CPR supports any capacity improvement CSX and NS deem necessary, as these improvements cannot help but have a positive impact on the entire terminal." Id. CP listed improvements that it believes "are necessary for improved service throughout the area," including a new bridge at CP Draw, connecting the Bison Runner track to the Buffalo Line and connecting the Howard Runner to Bison and installing a siding at Bison Yard. Id. at 3.

CP "point[s] out the impact that operations outside the terminal area has on Buffalo . . . specifically [the] network inadequacies such as physical constraints in Selkirk and Binghamton and route structure constraints over the Water Level route and the Southern Tier. While these may not be visible local infrastructure projects they would have a direct impact on Buffalo operations." Id.

NS agrees with CP on a number of points, including the view that infrastructure matters cannot be viewed from the perspective of local customer service alone, but must be assessed from a network perspective as well; additionally, NS also agrees that service-related issues can and should be worked out among the affected parties on an ongoing and informal basis.

With respect to specific infrastructure suggestions CP raises, NS notes that the proposed bridge project at CP Draw is among the projects under serious consideration by NS, as will be discussed further in Section X, below. The second project CP suggests, connecting the Bison

Runner to the Buffalo Line and connecting the Howard Runner to Bison, is intended to allow two routes to CP Draw. The CP Draw project under consideration by NS would, in fact, accomplish the goal of providing for two routes to CP Draw. Finally, NS believes that the third project CP suggests, installing a siding at Bison Yard, is not necessary because the problem for which it would be a solution no longer exists; although sidings at Marilla and Attica were blocked during the period immediately following the Split Date, those sidings have been clear since December of 1999.

CSX similarly believes that there is much to agree with in the statement filed on behalf of CP/D&H. However, the CP statement appears to focus largely on operational issues rather than infrastructure. As to the latter, CP "supports any capacity improvements CSX and NS deem necessary." CP specifically mentions the proposed second bridge at CP Draw "if economically feasible."

Like its Canadian competitor, Canadian National, CP discusses infrastructure additions that might be undertaken by other railroads, but is silent as to the infrastructure, or lack of it, that it provides itself in the area. We make some further observations concerning this in the discussion of the CN presentation.

CP quite correctly realizes that constraints and problems in one part of a rail network may affect another part of the network. But as to CP's assertions concerning physical constraints at Selkirk Yard and route constraints over the Water Level route, CSX would comment that in its judgment, Selkirk Yard is operating efficiently, and CSX calls attention to its recent and continuing improvements on the River Line, one of Conrail's two premier routes out of the Greater New York area and CSX's primary route in that regard.

F. Canadian National

John Sebesta, Director of Interline Management – Eastern Division, for Canadian National made an oral and visual presentation to the panel on behalf of CN. See Exhibit 9. He stated that about 25% of all rail traffic through the Buffalo terminal area is moving to or from Canada. Transcript at 76-77. As a result of the CN/IC merger and the CN/IC-KCS alliance, he stated that the Buffalo gateway has gained increased importance as a new market and as an important service hub. Transcript at 75. As a result, CN supports efforts to obtain public funding for CP Draw – it is a project that makes sense to CN. Transcript at 76. But, according to Mr. Sebesta, it is congestion on the Belt Line, in Frontier Yard and over CP Draw that impedes the flow of this traffic. The solution, according to Mr. Sebesta, is for CN to be given new operating rights over other carriers in Buffalo. Mr. Sebesta said that CN does not seek new commercial access. He closed by saying that if carriers in a terminal area experience extreme congestion, they should, according to Mr. Sebesta, grant access along the lines set forth in the “Houston Emergency Order” and the Rail Industry Agreement.

Apart from Mr. Sebesta’s evocation of Houston, he proposed: restoring Niagara Branch for freight use; granting CN trackage rights over the Niagara Branch to Niagara Falls, creating an alternative route from Canada; and direct physical delivery to alternate locations or customer sidings, specifying as examples Kenmore and Ohio Street Yards.

CN’s presentation did not propose any infrastructure improvements other than clearance work on the Niagara Branch, to be discussed below, and CN’s (noncontributory) support of an additional bridge at CP Draw. Its main proposals are a series of new operating rights it would like to have within the Greater Buffalo area.

Certain silences in CN's presentation (as well as in CP's presentation) highlight a large gap in the scope of this infrastructure proceeding. The identification of that gap may be, paradoxically, one of the important lessons learned from the proceeding.

Mr. Sebesta's presentation for CN indicated that about 25% of all rail traffic through the Buffalo Terminal area is of Canadian origin or destination – Mr. Sebesta says “from Canada.” Transcript at 76-77. This high volume was apparently attributed by CN to the effects of the North American Free Trade Agreement (“NAFTA”). Id. at 74. Whether the traffic going to or coming from Canada through Buffalo is of ultimate Canadian destination or origin may or may not be the case. With CN's recent acquisition of the Illinois Central and its recent alliance with the Kansas City Southern, one would certainly expect that much of the “new” traffic may be U.S. origin and destination traffic which formerly moved through the traditional key transcontinental gateways at Chicago or on the Mississippi River, but which is now being rerouted through Canada.

In any event, it is evident that there is a considerable gap between the 25% share of traffic passing through the Buffalo Terminal that is enjoyed by the Canadian carriers, and the almost nonexistent investment in Buffalo area infrastructure by those carriers. This gap is found even if one looks beyond what is technically the Greater Buffalo area²² and also includes adjacent areas in Canada operationally related to Greater Buffalo.

CN has no yard facilities in the U.S. Greater Buffalo area. It closed its Fort Erie Yard in Fort Erie, Ontario, across the river from Buffalo, over a decade ago as a cost-cutting measure. If increased traffic through Buffalo, however generated, creates a situation where congestion in the

²² In this proceeding, the “Buffalo area” is defined as two and a half counties in New York State; no part of nearby Ontario is included. See note 2 in Section I, above.

Buffalo Terminal area were to reach Houston-style proportions – a situation which certainly is not present at this time – the suggestion that CN offers is the grant of widespread trackage rights to other carriers – presumably including CN – to reach shippers. Id. at 85. Mr. Sebesta says that this is “not self-serving.” Id. But for a major user of the infrastructure in the Greater Buffalo area to make a public presentation that shows not the slightest hint of the gap in contribution to the area’s infrastructure contribution is itself “self-serving.”

The fact of the matter is that over the past 20 years CN has actively and significantly reduced its asset base in the Buffalo region (including the Canadian side). It has enjoyed the cost savings and looked to others to carry the burden. The presence or absence of infrastructure immediately across the national border from the Buffalo area is a critical part of the picture that cannot be ignored. The lesson to be learned from CN’s presentation is that any infrastructure problems – and solutions – may require the involvement of the Canadian-based carriers. The proverb that one should not reap where he does not sow may well be applicable.

CN claims that it needs new rights to make interchange with other carriers in Buffalo. Mr. Sebesta says that “all our traffic has to go into Frontier Yard.” Transcript at 81. But CN already has rights of interchange at various locations with other railroads that do business in the greater Buffalo area; it has more than sufficient interchange opportunities for a carrier that brings scant infrastructure to the picture itself.²³

Other proposals by CN have equally little merit. CN proposes that the Niagara Branch be restored for freight use and that CN be given trackage rights over it. In CSX’s experience, there

²³ It also seems a bit incongruous for CN to suggest new operating rights to address a congestion problem (which only it sees) by proposing additional train movements on the same tracks.

are limited clearances on the Niagara Branch, and the Branch is only of marginal use. Multilevel cars will not clear. CN offers no budget and no proposal for contribution to the cost of the upgrading that would be necessary. Moreover, the north end of the Branch, which would have to figure in any freight use, is currently "passenger only," an arrangement under which Amtrak pays 100% of the maintenance costs. The line operator, CSX, would have to pay a substantial portion of the maintenance if these arrangements were changed by freight use in the northern segment. Rather than an increased emphasis on Niagara Falls entry to and exit from the United States, CN might do well to develop the gateway via Fort Erie, with the construction of appropriate infrastructure there.

CN next proposes direct physical delivery to alternate locations, including Kenmore Yard and Ohio Street Yard, for interchange with CSX. These yards are industrial yards, and their use for interchange purposes with CSX does not fit into the overall operating plan although CN might realize some cost savings at CSX's expense.

Any future congestion that CN expresses concern about might be handled, not only through an increase in CN's own infrastructure in or across from the Greater Buffalo area, but by rerouting through traffic around Buffalo. Shifting or reshifting traffic, where appropriate, to other gateways, such as Huntingdon (in Quebec, south of Montreal near the U.S. border), Chicago, and elsewhere, might very well be advantageous. Freight cars that neither start nor end their journey at Buffalo industries, but have to be bridged there, certainly add little to the Buffalo area economy, while adding to the demands on the area's rail infrastructure. The basic point, however, is that CN's concerns, if real, might best be handled through some initiatives of its own – capital expenditures for its own infrastructure or territorial reroutings that reduce potential congestion – rather than a portfolio of requests for concessions by others.

G. AES Energy

AES Energy, AES Somerset and Somerset Railroad Corp. ("AES") were represented by Mr. Gary Edwards, who provided written materials that are attached as Exhibit 10. Mr. Edwards told the panel that car cycle times were not down to pre-Split levels and noted his view that NS and CSX seem to continue to suffer from crew and locomotive shortages. He reiterated the suggestion, made previously by AES in written comments in the Conrail general oversight proceeding,²⁴ that traffic be rerouted over the former Erie Lackawanna line between Hubbard, OH, and Hornell, NY. AES also suggested installing a siding at its Cayuga facility to accommodate the storage of two or three locomotives while unit trains are unloaded. Transcript at 94-95.

The Erie Lackawanna line is not a viable routing alternative because NS does not own the entire route and because track conditions along the line preclude this from being a cost-effective alternative. As discussed above, however, NS has just recently entered into an agreement with the Bessemer & Lake Erie Railroad Company to permit NS to move trains over the B&LE lines from Shenango to Wallace Junction, PA. This agreement will cut several hours out of the transit time for unit trains moving to AES by shortening the distance traveled, cutting out a run-around move at Ashtabula, and avoiding a portion of the Ashtabula to Buffalo line that AES characterized as congested in its submission in the Conrail general oversight proceeding.²⁵

²⁴ Finance Docket No. 33388 (Sub-No. 91).

²⁵ In NS-2, Reply of Norfolk Southern Corporation and Norfolk Southern Railway Company in the Conrail general oversight proceeding (Finance Docket No. 33388 (Sub-No. 91), submitted August 3, 2000), NS replied to the concerns AES raised in that proceeding – nearly identical to those raised here – with the (necessarily) somewhat elliptical statement that "NS is instead working to secure an alternative route that will provide a less congested path for the AESE unit trains." NS-2 at 7. The recently-signed NS-BL&E trackage rights agreement referenced in the text was the alluded-to alternative.

AES also proposed that CSX leave power at Somerset on a routine basis and "investigate the possibility of a long-haul crew to run between Somerset and Ashtabula." Transcript at 95-96. AES's suggestions concerning CSX, as are the rest of its suggestions, are aimed at operational issues. AES makes no suggestions or comments on infrastructure per se. It suggests that CSX should leave locomotive power at its plant after delivering inbound loaded unit trains so that the empty cars can be moved back toward the mines more quickly once the plant has unloaded the train. AES's comment is a good one, as far as it goes. If the train is unloaded promptly (and AES has a good record in this regard) and if the mine is in a position to reload upon arrival of the empties (which has often not been the case) and if the power situation locally permits CSX to keep the units at the AES plant, then the practice suggested by AES has operating merit. And AES acknowledged that CSX does follow that practice at times. CSX notes, however, that even if AES is able to unload in 12 hours, the daily utilization rate on those locomotives drops to 50 percent on the days in question.

On the other hand, if the mine will not be able to load, or if AES shipping volumes at that time of year are such that the locomotives will remain idle at the plant for an unreasonable period of time, it is simply not prudent management for CSX routinely to short other trains handling freight for other customers. Also, some of the operational savings AES suggests could be achieved by avoiding Frontier Yard would also impose costs invisible to AES. Specifically, the locomotives are serviced in Frontier Yard. Changing the operating plan to avoid Frontier Yard would mean the power would have to be run to Cumberland, MD, for service – an inefficient move at best. AES also has suggested that CSX call crews to report at their plant and operate the train all the way to Ashtabula. If it were possible to simply dedicate locomotive power to the AES trains, there might be some potential in AES's suggestion. But absent such a state of

affairs, locomotives would still have to be brought to the plant, necessitating a crew for that sole purpose, with no real savings. CSX is willing to analyze ideas that can improve the operation of its network, but it is important to remember that each customer's service patterns must be designed to fit within the service patterns for all other customers. An ideal plan for one customer may not be efficient for the operation as a whole.

The point of this discussion is not that AES is not interested in efficiency, for clearly it is. Rather, CSX welcomes customer suggestions, particularly ideas from knowledgeable, sophisticated customers like AES who are often aware of matters not evident to railroad managers. CSX merely wishes to show how well-intended ideas that might appear to be common sense do not prove to be efficient or prudent when the many complexities of railroad operations are factored in.²⁶

H. South Buffalo Railway Company

Mr. Patrick Sabatino, Vice President – Business Development, spoke for the South Buffalo Railway Company. He was clear that imposition of a Shared Assets Area is not appropriate for the Buffalo terminal area. He believed, instead, that the area should be placed “under the control of a single terminal operator through trackage rights, lease or other initiative” that can act as a neutral party for all carriers reaching the terminal area. Transcript at 99. Mr. Sabatino volunteered the services of South Buffalo itself to serve as the “single terminal operator.”

²⁶ AES complains about having to divert limestone shipments from CSX to truck following a proposed CSX rate increase. CSX understands that rate issues are not within the purview of the present proceeding; they are handled in Sub-No. 90 of Finance Docket No. 33388, the Buffalo Rate Study.

With great respect to South Buffalo's capabilities and those of its rail shipper parent, Bethlehem Steel, CSX and NS cannot support this idea. The proposal does nothing for any possible lack of infrastructure in the Greater Buffalo area. Indeed, by removing the right of exclusive use of the parties' investments in infrastructure, future capital expenditures for infrastructure would be discouraged. NS supports the construction, with public funding assistance, of an additional bridge adjacent to the present bridge at CP Draw, in part so that NS will be in a position to be master of its own movements, a desire which all railroads have. CSX supports NS's proposal in that regard. The effect of the proposal put forward by South Buffalo would be to make neither of the two major U.S. railroads involved in the Buffalo area masters of their own movements in the area. Indeed, although we cannot tell from Mr. Sabatino's statement, it appears that the proposal may be to have South Buffalo control the movements through the Buffalo terminal area of Canadian carriers as well. The proposal moves in exactly the wrong direction.

I. Brotherhood of Locomotive Engineers

Mr. Robert Godwin, General Chairman of the Brotherhood of Locomotive Engineers for the former Conrail locomotive engineers on the CSX Northern District, spoke on behalf of those members of the Brotherhood. He stated that for the first six months following the Split Date, CSX experienced delays, lack of locomotive power and railcars, and gridlock in some rail yards. That, however, is no longer the case. "In the last seven months, the northern region from Boston and New Jersey to Cleveland and to Chicago and St. Louis, the trains are running on time." Transcript at 102. Mr. Godwin noted that dwell time is down, and local service has improved. "In fact, today the CSX Buffalo terminal has surpassed the best Conrail service." Id. at 103.

Mr. Godwin further sated that “[t]he CSX facilities in Western New York are capable of handling the business it [CSX] has today.” Id. CSX has the physical resources sufficient to expand its facilities to handle new business in Buffalo and Western New York as well. Id. at 104-105.

CSX’s views are similar to those of Mr. Godwin just noted.

J. Congressman Jack Quinn

Mr. Ron Hayes from the office of Congressman Quinn presented a statement on Congressman Quinn’s behalf. See Exhibit 4. That statement noted that “NS and CSX are to be commended for their efforts to recover from the system-wide congestion problems which resulted from the acquisition of Conrail,” and that “outreach [by CSX and NS] to the local rail user community and willingness to address their needs are responsible for this recovery.” Transcript at 106-107.

Congressman Quinn stated that infrastructure improvements in the Buffalo region “cannot be the responsibility of NS and CSX alone,” and notes that he has “worked with Governor George Pataki and United States Department of Transportation Secretary Rodney Slater in an attempt to obtain funding for railroad infrastructure projects in the Buffalo area;” Congressman Quinn “believe[s] that we will be able to secure state and federal funding for certain projects.” Id. at 109.

Congressman Quinn specifically referenced the proposed additional bridge construction at CP Draw, and asked that NS and CSX evaluate “the use of the Buffalo & Pittsburgh rail line which may soon be abandoned”; “the implementation of all infrastructure investments committed to by NS and CSX as part of the acquisition proceeding”; “priority improvements

detailed by Niagara County and Erie County"; and "specific recommendations highlighted at this morning's conference." Transcript at 110.

NS believes that the CP Draw project, which is discussed further below, would significantly improve operations in the Buffalo terminal area, and NS is continuing to pursue that option. As discussed further below, however, NS funding priorities for its system lie elsewhere at this time. For example, removal of choke points at Atlanta and Cincinnati and into North Jersey must take precedence for NS capital dollars. For that reason, construction of a new bridge at CP Draw cannot be accomplished in the foreseeable future without a substantial contribution of public funds.

Congressman Quinn's reference to the Buffalo & Pittsburgh rail line may be to a line segment between Buffalo and Ashford Junction. In 1997, B&P entered into a trackage rights agreement with Conrail that enabled B&P to move its traffic from the Buffalo to Ashford Junction and Ashford Junction to Salamanca lines to the parallel Conrail (PRR) line.²⁷ As a result of this movement of traffic, B&P sought to abandon both of the referenced segments, an abandonment that the Board denied.²⁸ The second segment, from Ashford Junction to Salamanca, has recently been rehabilitated. The other section, from Buffalo to Ashford Junction, probably is still in danger of being abandoned. Neither NS nor CSX has rights over the line, and even if either did, there is not sufficient reason to send any through or local traffic over that line.

²⁷ See Buffalo & Pittsburgh Railroad, Inc. – Trackage Rights – Consolidated Rail Corp., STB Finance Docket No. 33514 (served Dec. 4, 1997).

²⁸ See Buffalo & Pittsburgh Railroad, Inc. – Abandonment Exemption – In Erie and Cattaraugus Counties, NY, STB Docket No. AB-369 (Sub-No. 3X), 1998 STB LEXIS 247 (served September 18, 1998).

As discussed throughout this report, CSX and NS have reviewed and evaluated, as Congressman Quinn urged, the various comments and proposals raised by the parties at the July 27th conference. Specifically with regard to the priority projects identified by Niagara County, we have noted that each of the crossing or bridge projects identified should be reviewed on its merits in the normal course, but these are in the category of situations where rail lines and streets or highways cross or pass over or under one another, for which there are established channels of handling. None relate to the purpose of this proceeding of addressing infrastructure matters that would add capacity or smooth the flow of rail traffic through the Buffalo area.

K. Erie County

Mr. Kenneth Swanekamp, Director of Business Assistance for the Erie County Department of Environment and Planning, stated that Erie County understood the need for public funding for certain projects.²⁹ On the other hand, he stated that Erie County will not support the expenditure of public funds unless and until it can be shown to have a local effect in either safeguarding or increasing employment or industry. Transcript at 113. Erie County supports the ENRS proposal for a third-party infrastructure study. Id. at 114.

As discussed further below, one of the proposed projects – CP Draw – can provide an improvement in traffic flows in the Buffalo area which would inure to the benefit of local shippers by assisting NS in providing more efficient rail service. Progress on the CP Draw project, however, will depend upon whether substantial public funding for the project can be

²⁹ Erie County is the owner of two shortlines in the Buffalo area: the Depew Lancaster & Western Railroad Company and the Buffalo Southern. Transcript at 112. The Buffalo Southern's submission is discussed above in Section IX.A.

secured. The propriety of the ENRS proposal for a third-party infrastructure study is discussed above in Section IX.B.

L. Southern Tier West Regional Planning and Development Board

Mr. Donald Rychnowski, Executive Director of the Southern Tier West Regional Planning and Development Board ("STW"), appeared on behalf of STW. STW's written comments are attached as Exhibit 11. Mr. Rychnowski argued that "infrastructure improvements and operating changes relating to Norfolk Southern's Southern Tier Extension would positively impact the ability of Norfolk Southern to provide better service in and around the Buffalo area." Transcript at 115. The suggested route would be NS – Erie (via trackage rights over the Allegheny and Eastern that NS does not now have) – Corry, PA – Southern Tier Extension – Hornell, NY – Southern Tier.

In the Conrail general oversight proceeding, STW submitted written comments similarly focused largely on the Southern Tier Extension, which was allocated to NS in the division of Conrail routes. There, STW stated, among other things, that "the Board should be aware of the role the Southern Tier Extension could play in relieving congestion in Buffalo."³⁰ As NS said in response to STW in that proceeding, NS will work in good faith to implement the settlement agreement it entered into with STW. But some 95 miles of the Southern Tier Extension have been out of service since 1991, and the major investment that would be required to restore service on the Southern Tier Extension can only be justified by realistic prospects of traffic over

³⁰ See Finance Docket No. 33388 (Sub-No. 91), STW-1 (filed July 14, 2000) at 3.

it. There are, however, few active rail shippers on the line and the lack of prospects for traffic may ultimately render the restoration of service infeasible.³¹

STW also again raised, as it did in the general oversight proceeding, concerns regarding the increase in rail traffic in the City of Dunkirk by NS, reflecting comments that STW previously submitted in the Conrail general oversight proceeding. Those matters are not related to the purpose of this proceeding; nevertheless, NS reiterates that, as stated in its reply comments in the general oversight proceeding,³² it is concerned about the safety of the citizens of Dunkirk and believes that the steps it has proposed reflect that concern.

X. NS'S AND CSX'S POSITIONS

A. NS's Position

Having considered the input from customers, economic development organizations, political leaders, and other interested parties, NS believes that the most important local Buffalo project to address Buffalo-area congestion is to construct a second bridge at CP Draw to provide additional dedicated capacity at the choke point located over the Buffalo River. Nevertheless, infrastructure, routing and financial considerations preclude the likelihood that NS will be able to fund that project – estimated to cost in the area of \$35 million – in the immediate future. Instead, other significant infrastructure investments necessary to the maintenance and development of the NS system, such as the removal of choke points at Atlanta and Cincinnati and into North Jersey must take precedence. Therefore, NS seeks public funding assistance in order to bring the CP Draw project to fruition in the near term. CSX puts forward no proposals for public assistance in

³¹ See Finance Docket No. 33388 (Sub-No. 91), NS-2 (filed August 3, 2000) at 65-67.

³² See Finance Docket No. 33388 (Sub-No. 91), NS-2 (filed August 3, 2000) at 43-44.

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the area that it would prioritize over these and is committed to cooperating with NS's proposal as to CP Draw.

In the following pages, NS will first describe its infrastructure review process. Two significant Buffalo-area infrastructure projects – the reconstruction of Bison Yard and the rehabilitation of BP Yard – passed that infrastructure review process and the beneficial results are now being realized in both the local Buffalo and through Buffalo markets. NS will then address the next significant Buffalo-area infrastructure project having value to those markets — the construction of a new bridge at CP Draw.

1. NS Infrastructure Review Process.

NS has set up a dedicated Infrastructure Team consisting of Senior Vice Presidents and Vice Presidents from Field Transportation, Network Transportation and Maintenance of Way, Intermodal, Coal and Merchandise Marketing, Finance and Planning. This cross-functional team is coordinated by Jim McClellan, Senior Vice-President of Strategic Planning. The goals of the Infrastructure Team are three-fold: 1) steer limited investment dollars to the right locations on the network at the right time and in the right amount; 2) set priorities based on projected volume, revenues and profits; and 3) remove all bottlenecks on the system. Investment in infrastructure is only part of the NS strategy to add fluidity and capacity to the system, and to grow revenues.³³ For example, NS also recently has invested heavily in acquiring locomotives (leased and purchased) and on hiring new crews. Important in the evaluation of all these matters are sources of funding, the traffic, revenues and markets affected and, in the case of industrial development

³³ On this, Dr. Ronald Coan of ENRS said it well: "Infrastructure, rail rates and service are all linked." Transcript at 63.

projects, the opportunities for additional traffic, revenues and markets, and the costs involved, including taxation levels.

The NS Infrastructure Team always looks to the network as a whole, and individual geographic regions as they fit into that network. This is only reasonable, as any particular infrastructure improvement such as eliminating a bottleneck can have substantial positive impacts several hundred miles down the line.

As is relevant here, the NS Infrastructure Team sees a very important need for public funding — public funds can speed implementation of projects that otherwise would not get done quickly due to competition for NS capital dollars. A few good examples of this are the Pennsylvania clearance program, the Chambersburg, PA track relocation, and the Erie, PA track relocation project. Each of these projects had to compete with the reconstruction and expansion of Bison Yard and the rehabilitation and integration of BP Yard into Tifft Yard in Buffalo,³⁴ double tracking sections of the Bellevue to Columbus, OH mainline, and the important Cloggsville (Cleveland) Connection. Each of these latter projects was completed without public funds.³⁵ Each of these also must compete with the developing needs of the NS system. The

³⁴ These two projects were completed despite the punitive levels of New York property tax because of their importance in serving the local Buffalo and through Buffalo markets.

³⁵ Other significant infrastructure projects completed or anticipated to be undertaken without public funding, together with those specified in the text totaling over \$100 million in infrastructure improvements, include: the construction of the Rutherford Intermodal terminal in Pennsylvania, double tracking at Decatur, IL, installation of interlocking signals at Bellevue, OH, installation of a new connection at Lock Haven, PA, and double tracking at CP Capitol in Harrisburg, PA. Another \$100 million in infrastructure capacity improvements are currently underway. These include terminal improvements at Livernois and Oakwood Yards at the Detroit, MI terminal; the development of an intermodal facility at Maple Heights, OH; the development of an intermodal facility at Austell, GA; and passing tracks on the West Virginia Secondary.

removal of choke points in Atlanta and Cincinnati and into North Jersey, discussed elsewhere, are excellent examples of a demand for substantial NS capital dollars to further develop the fluidity of the NS system.

2. CP Draw Project.

As previously discussed, NS believes that the construction of a second bridge at the CP Draw choke point over the Buffalo River would be an important addition to NS's capacity to provide local and through Buffalo service. To be effective, the construction of the new bridge must be combined with several other elements to result in the separation of NS and CSX operations in Buffalo, and the entirety of this project, described in detail below, are herein referred to as the "CP Draw Project." It is this project that NS proposes to advance as its next significant local Buffalo infrastructure project, though with public funding.

As described above in Section VI.A., there already exists one drawbridge at CP Draw. That drawbridge, however, must handle an average of 100 trains per day, primarily those of CSX, which controls the bridge, but also those of NS. A second drawbridge, at one time, was in active use there.

The second drawbridge crossing the Buffalo River at CP Draw, immediately downstream of the active CP Draw drawbridge and owned by N&W, was taken out of service, but not abandoned, because traffic did not justify the rehabilitation expense. N&W redirected its traffic over the active CP Draw drawbridge and approach tracks instead.³⁶ It is at this site that NS proposes to construct a new bridge. Under the current CP Draw Project proposal, that new

³⁶ NS now pays a portion of the maintenance expense for the CP Draw drawbridge. One result of this reconfiguration was that it caused Buffalo Junction Yard to become an "island" yard – essentially on the wrong side of CSX-operated tracks.

bridge would be transferred to CSX for its use, and new bridge approach tracks would be constructed to directly connect the double tracked bridge to CSX's east and west Buffalo facilities. CSX would transfer the existing CP Draw bridge to NS for its use, and the current CP Draw bridge approach tracks would be reconfigured to permit a direct double track connection between Tifft and BP Yards and Bison Yard. Buffalo Junction would, as a result, be eliminated, and NS and CSX operations in the area of CP Draw would be physically separated. Schematic drawings of the present configuration of CP Draw and the proposed CP Draw project are attached as Exhibit 12. The cost of this CP Draw Project proposal is likely to be in the \$30 million to \$40 million range.³⁷

NS proposes the site of the N&W drawbridge as the preferred site for the new bridge for several reasons:

- Placing the new bridge at the site of the N&W drawbridge would reduce the new regulatory authority needed to resolve the problem at CP Draw.
- No new land acquisitions would be required. The entire rail project, track reconfiguration and bridge construction would take place on property already controlled by the rail carriers.
- CSX operations flowing over the new bridge would be physically separated from those of NS flowing over the current CP Draw drawbridge.

³⁷ The final cost of the project depends upon whether a fixed or draw span is used, the amount of the present bridge that can be salvaged, the type of alternative delivery service developed for Exxon Mobil (discussed further below), as well as several other matters. Not included in this estimate is the additional tax burden resulting from this extensive addition of infrastructure. Also not included in this estimate is the added burden on NS to cover all maintenance on the CP Draw existing bridge. If the Buffalo River is redesignated as a non-navigable waterway, then the existing CP Draw drawbridge can be fixed in a down position, obviating the need to maintain the lift mechanism.

Absent a change in the designation of the Buffalo River as a navigable waterway, the new bridge over the Buffalo River must be a drawbridge. The cost of a drawbridge is substantially higher than that of a fixed span bridge.³⁸ Therefore, NS will attempt to obtain federal legislation to have the waterway declared nonnavigable.

Public funding is essential for any CP Draw improvement project to move forward at this time. The option just mentioned, although preferred by NS and less expensive, cannot be justified as a capital investment funded completely from private funds. NS uses its routes east of CP Draw for four major purposes: (i) as a secondary mainline route into and out of Northern New Jersey, (ii) as a route to Harrisburg to connect with the NS Penn Line into the southeast, (iii) in combination with D&H and Guilford as a competitive alternative to CSX into New England, and (iv) over CSX to reach connections into Canada. Since this traffic also must help support NS's Southern Tier Line between Buffalo, Binghamton and Northern New Jersey, as well as NS's \$15 million investment in new Buffalo yard activities, further investment by NS in a new bridge must be partnered with public funds in order to make the investment feasible, given other priority capital funding needs.³⁹

³⁸ A draw span requires a substantially greater capital outlay initially, substantially more maintenance on an ongoing basis, the availability of a bridge tender, and more complicated communications and signaling infrastructure. It is also more prone to mechanical problems, with the potential for reducing the transportation benefits for Buffalo-area shippers that a fixed span would provide.

³⁹ While the timing is uncertain, NS is hopeful that public funding is and will be available for this project. For example, NYSDOT Commissioner Boardman has described several new funding initiatives and expanded existing rail programs in the New York State Budget that Governor Pataki specifically intended to address physical problems encountered during the transition from Conrail to NS and CSX. NS intends to work with Commissioner Boardman, the State of New York and Federal agencies to enlist their help in bringing this public project to fruition. Additionally, in general, New York state's property tax system taxes railroad right-of-way improvements on a reproduction cost new less depreciation basis. This means that the CP Draw Project improvement will necessarily involve a substantial increase in the carriers' tax bill

[Footnote continued]

It should be noted that NS has studied an alternative proposal for a new fixed bridge — one with enough clearance to avoid the need to reclassify the Buffalo River as non-navigable — just upstream from the current CP Draw drawbridge. Although it is possible that this site would satisfy the basic objective of the proposed project — dedicated bridges and separated operations for CSX and NS — the option is not viable in NS's judgment. Preliminary studies indicate that constructing such a bridge would result in excessive grades due to multiple vertical restrictions east of the Buffalo River. Additional land, not owned by NS or CSX, would have to be acquired.

NS has evaluated several other different possible bridge configurations as well, but the desired option continues to be a fixed, double-tracked bridge. As mentioned above, the exact configuration would depend, however, on the success of the legislative initiative to have the Buffalo River declared nonnavigable, and the public support toward building a new bridge.

As discussed above, under current law, the Buffalo River is assumed navigable, and the Coast Guard regulates the configuration of any structure over the waterway that may interfere with that navigability. Should the legislative initiative to redesignate the Buffalo River as non-navigable not be successful, NS's next preferred option would be to receive an exemption from the Coast Guard in order to put into place a draw span bridge without the primary draw mechanism, leaving open the option to have the exemption withdrawn at a later date should the need arise. The cost to construct an entirely new double track lift span bridge with an operable

[Footnote continued]

as well. Indeed, the State of New York's extraordinarily high property tax rates on rail properties are a strong disincentive to investment in rail infrastructure in New York, as was recently noted in an editorial in the Buffalo News. See "Runaway Tax Rates," Buffalo News, August 7, 2000, attached as Exhibit 13.

mechanism, however, would be substantially higher than for a fixed span bridge – up to \$35 million, including the cost for track, communication and signaling.

Exxon Mobil is the only company currently using the Buffalo River for transportation of products. Exxon Mobil receives petroleum products via barge, although the winter weather in Buffalo does affect Exxon Mobil's ability to send and receive by water. NS understands that the frequency of these deliveries has been waning recently.

NS understands that Exxon Mobil has no objection to the fixed span proposal, provided its transportation needs currently handled by water are adequately addressed. There are several options available to replace the water route, including pipeline and rail options. NS and Exxon Mobil have committed to working closely together to develop one or more of those options, if the fixed bridge option is pursued.

NS believes that substantial public funding can be available for the CP Draw Project. It has been working with the State of New York to obtain funds for the project, and the State itself has recognized the project's merit. For example, as a result of the 1999-2000 New York State Budget, the New York Department of Transportation conducted a survey of New York State rail freight operators to determine rail capital needs. NS submitted details concerning the CP Draw Project as part of its response to this survey, and that response, in part, seems to have led to the inclusion of the project in the 2000-2001 budget.⁴⁰ As mentioned in the submission of New York State's Department of Transportation to the Board in the Conrail general oversight proceeding (NYS-2, submitted July 14, 2000), New York has authorized "\$80 million over 5 years for general rail facilities improvements, including CP Draw in Buffalo, NS' Southern Tier

⁴⁰ NS identified replacement of the Portageville Bridge, southeast of Buffalo on the Southern Tier, as a significant New York rail capital need as well.

Mainline, and improved clearances on New York City routes." NYS-2 at 6. NS anticipates filing for a portion of these funds to help pay for the CP Draw Project.

B. CSX's Position

As noted above, CSX believes that its infrastructure in Buffalo is well-sized for the volume of business it is handling today and that its infrastructure has the capacity to permit growth. CSX has no major rail capacity-increasing projects which it would propose for public funding, although it is discussing public funding support of Buffalo projects that would increase its intermodal and TransFlo® infrastructure. CSX supports NS's proposal for a CP Draw second bridge, with each of NS and CSX having its own bridge, and is committed to cooperating with NS and the public authorities, notwithstanding its belief that the benefits to be obtained from the project will be solely NS's.

Just as NS has described its capital planning and budgeting processes, a brief description of CSX's processes in that regard seems appropriate. CSX has an established management process for its ongoing capital planning. CSX's capital budget for the year 2000 is approximately \$900 million; this level of money, or anything close to it, mandates a structured analytical approach to decisionmaking. Even with such substantial sums available for investment in rolling stock, new infrastructure and technology, the list of potential projects greatly exceeds the capital available. Accordingly, careful analysis and prudent decisionmaking is critical to the long-term competitiveness of the company.

Key departments in the capital planning process are Marketing, Transportation (both headquarters and field), Engineering, Finance, and other departments as appropriate for specific projects. These groups all play a role in identifying potential capital projects, evaluating the return on investment of each, and prioritizing potential projects according to the operational and

commercial needs of the company. Of course, capital solutions to limitations in the CSX network are often less desirable than operational solutions. The trade-offs are made with consideration given to financial implications and service consequences. Obviously any consideration in making capital improvements must balance the benefits from the improvement with the costs, not simply costs of acquisition or construction and of operation, but costs of ownership, such as real property tax obligations associated with ownership.

The analysis of capital projects is not limited to localized effects. Indeed, the most significant justification for capital expenditure is often found in anticipated effects elsewhere on the network. For example, a new passing siding project now underway near Canoe, AL will ease congestion on the very heavily-used line between Mobile and Birmingham, but the most significant effects may well be the expected relief at the Nashville and Atlanta terminals.

CSX is a private, for-profit corporation and as such invests in infrastructure designed to serve its customers and return the maximum benefit to its shareholders. To maximize the benefits of the Conrail transaction, CSX invested over \$500 million in private capital to "fit" the Conrail routes it now operates into the CSX network and to accommodate the changes in traffic patterns brought about by the division of Conrail's routes.⁴¹ Some of these projects included:

- Double tracking the B&O main line from Greenwich, OH, to Chicago;
- New intermodal and finished auto terminals in Chicago, IL (59th Street) and Fairburn, GA;

⁴¹ This figure does not include over \$100 million invested in design of new information systems to integrate Conrail computerized support functions with those of CSX.

- Expanded intermodal and finished auto terminals at Chicago, IL (Bedford Park & Forest Hill); Little Ferry, NJ; Cleveland, OH; and Marysville, OH;
- New connections between the Conrail routes and CSX at: Sidney, OH; Greenwich, OH; Chicago, IL (Lincoln Avenue); Haley, IN; Marion, OH; Crestline, OH; Rock Island Jct., IL; Tolleston, IN; Willow Creek, IN; Little Ferry, NJ; and Philadelphia, PA (Eastwick);
- Expansion of Greenwich Yard in Philadelphia; and
- Reconfiguration and expansion of Willard Yard, OH.

Industries shipping to and from the Buffalo area have been important beneficiaries of the new high speed rail corridor CSX has put in place between the Greater New York area and the nation's major rail hub at Chicago. Located mid-way between the nation's most important consuming market (the East Coast) and the gateways to the west, Buffalo is strategically positioned to avail itself of the improved steel road. Few industrial cities are as well-positioned as Buffalo to take advantage of the over \$200 million investment in double track west of central Ohio and the new capacity CSX is now putting in place on its River Line leading into the Greater New York City market.

CSX's current capital plans for 2001-2003 call for nearly one-fourth of all New York State capital rail projects to be in Buffalo, including:

- Expansion of William Street intermodal yard;
- Improvement of freight car repair shop;
- Power system upgrade;
- Installation of a state-of-the-art hump computer system to operate Frontier Yard.

Total: \$10 million over three years.

The capital spending already made directly in the Buffalo area by CSX has been discussed in Section VII.B. above, and has involved service-oriented ramp expansions and improvements in one of the TransFlo® facilities, as well as efficiency-creating machine and mechanical shop improvements and rail relay in yards and on main line. Probably even more significant to Buffalo have been the improvements that have strengthened the historic Conrail access via the Water Level Route from the East to Buffalo and have improved conditions on the former B&O west of Buffalo. The Water Level Route improvements, touched on in Section VII.B., are continuing at the present time, and the very large projects involving the line between eastern Ohio and Chicago doubletracking and the expansion of the Willard Yard in eastern Ohio are completed.

CSX's capital budgeting regularly includes substantial sums for new rail cars and locomotives, as well as for scheduled heavy maintenance of way throughout its system. These additions and improvements promote the efficiency of operations throughout CSX's entire network, including the Greater Buffalo area. At the present time, CSX's specific focus in Buffalo is not in generally increasing rail capacity, but in making fuller use of existing capacity through service improvements, attracting additional potential users of rail service to establish facilities on its lines or on the lines of its connecting carriers, and in moving business from trucks to rails through expanding intermodal service and bulk transfer ("TransFlo®") services. As noted above, in the light of the success of CSX in expanding its intermodal, including bulk transfer (TransFlo®), operations in the Buffalo area, CSX is giving attention to further investments in those facilities.

CSX believes that the track and yard infrastructure in the Buffalo area is adequate to meet existing traffic volumes and patterns, both for local origin or destination traffic and for traffic flowing through the area. With the intermodal yard expansion already done and that planned, the Buffalo infrastructure should be able to meet the growth CSX hopes to accomplish in the area for the next several years. If growth continues, there may be need to expand in places and ways impossible to predict now and those needs will be addressed as they develop.

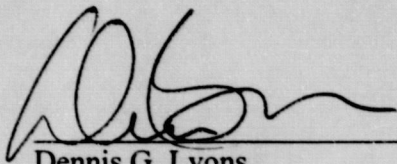
There are occasional situations where the present benefits of a potential project to CSX are insufficient, as a stand-alone matter, to support a capital investment; yet, the benefits to specific entities (individual shippers, governmental entities, ports, commuter operations, etc.) are substantial. In such cases, CSX has accepted public or other sources of funding under agreements to bring projects to completion where they would not otherwise have been justified at the time.

The CP Draw bridge project that has been promoted by local authorities is a good example of such a situation. CSX believes that its current operating situation is fluid and that extensive capital expenditures would bring CSX essentially no value. On the other hand, given the NS desire to separate its operations out and given the apparent strong public support for the project, CSX would certainly not stand in the way of such a project, even though it could be said that its cooperation simply improves the position of its chief competitor. CSX's premise in that cooperation is that funding for the completion of the second bridge project, including the installation of lift mechanism if necessary, will be provided without CSX contribution. Accordingly, CSX has met with NS and will continue to cooperate in design and public dialogue on the proposed project, but it must emphasize nonetheless that it gains no benefit (and in a competitive sense could be said to be somewhat harmed) by the project.

Finally, through the processes outlined above, CSX will continue to study not only local infrastructure projects in the Buffalo area but those elsewhere on its system which will benefit the Buffalo area.

CONCLUSION

The conclusions of NS and CSX as to infrastructure projects in Greater Buffalo are set forth in Section X. A discussion of some issues raised by speakers and other public parties at the meeting called for in this proceeding is presented in Section IX.



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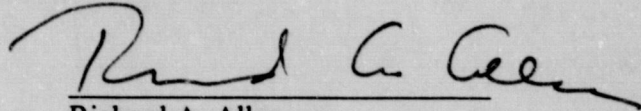
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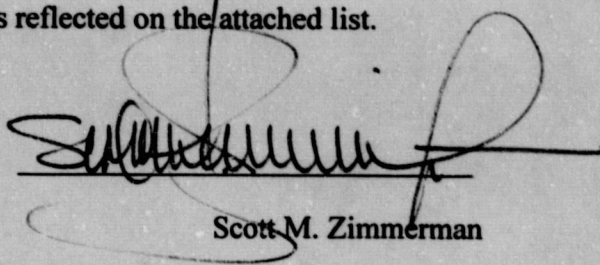
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Dated: September 7, 2000

CERTIFICATE OF SERVICE

I certify that on September 7, 2000 I caused to be served a true and correct copy of the foregoing CSX/NS-1, "Report of CSX and Norfolk Southern on Buffalo Area Infrastructure" by first class U.S. Mail, postage prepaid, or by more expeditious means, upon all parties of record in Finance Docket No. 33388 (Sub-No. 93), as reflected on the attached list.



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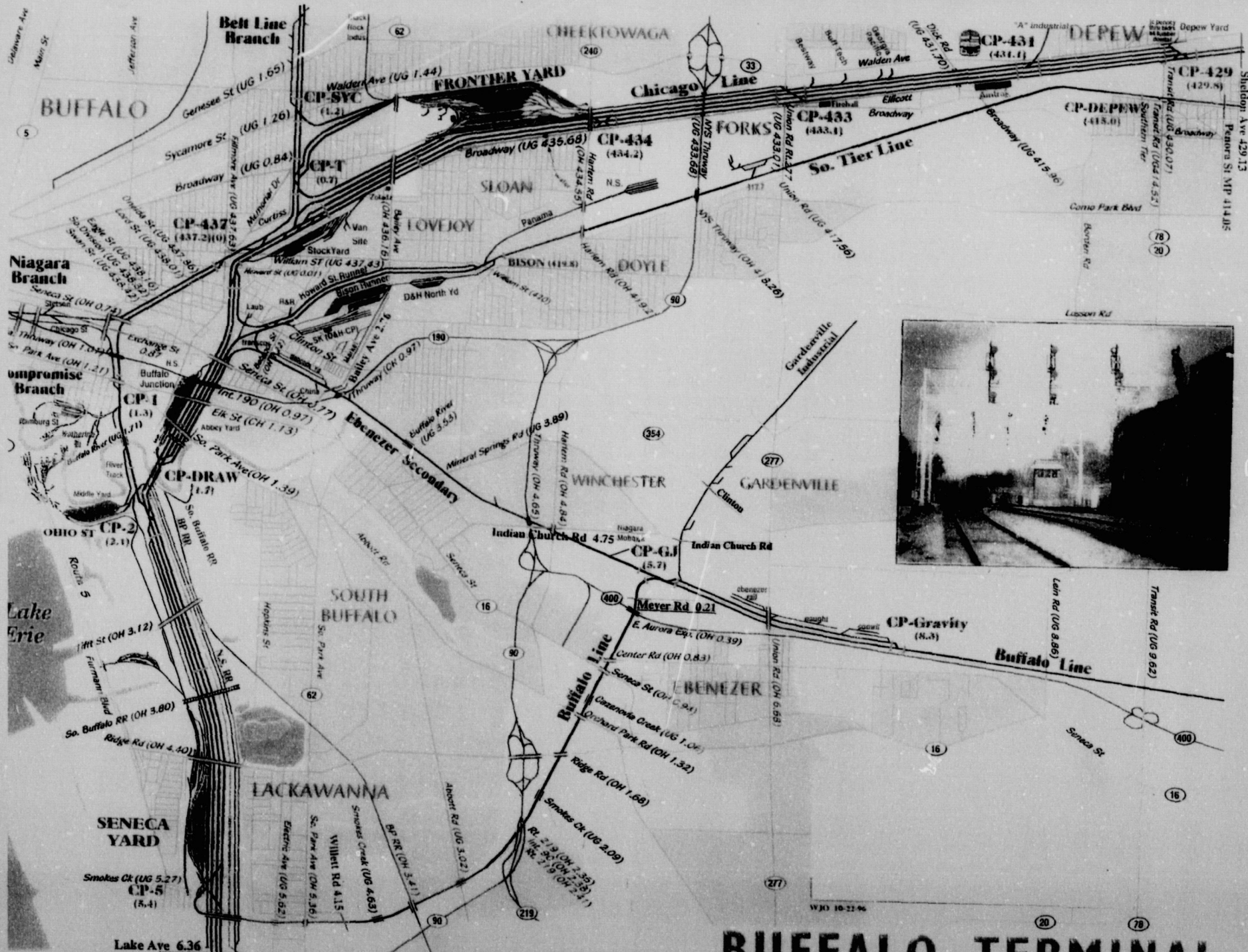
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LIST OF EXHIBITS

- Exhibit 1: Rail map of the Buffalo area
- Exhibit 2: List of invitees to the July 27, 2000 NS/CSX meeting in Buffalo, NY
- Exhibit 3: Transcript of July 27, 2000 meeting
- Exhibit 4: Statement of Congressman Quinn
- Exhibit 5: Materials presented by Buffalo Southern
- Exhibit 6: Materials presented by Niagara County
- Exhibit 7: Materials presented by the Buffalo Economic Renaissance Corporation
- Exhibit 8: Materials presented by Canadian Pacific
- Exhibit 9: Materials presented by Canadian National
- Exhibit 10: Materials presented by AES Energy
- Exhibit 11: Materials presented by Southern Tier West Regional Planning and Development Board
- Exhibit 12: CP Draw project drawings
- Exhibit 13: "Runaway Tax Rates," Buffalo News, August 7, 2000.

US OFFICE PRODUCTS



BUFFALO TERMINAL

US OFFICE PRODUCTS

Title	FirstName	LastName	Company	City	State
Councilman	Beverly	Gray	Buffalo Common Council	Buffalo	NY
Councilman	James	Pitts	Buffalo Common Council	Buffalo	NY
Councilman	Rosemari	LoTempio	Buffalo Common Council	Buffalo	NY
Councilman	Marc	Coppola	Buffalo Common Council	Buffalo	NY
Councilman	Barbara	Miller-Willia	Buffalo Common Council	Buffalo	NY
Councilman	Karen	Ellington	Buffalo Common Council	Buffalo	NY
Councilman	Richard	Fontana	Buffalo Common Council	Buffalo	NY
Councilman	Byron	Brown	Buffalo Common Council	Buffalo	NY
Councilman	Dominic	Bonifacio	Buffalo Common Council	Buffalo	NY
Councilman	Joe	Golombek	Buffalo Common Council	Buffalo	NY
Councilman	Betty Jean	Grant	Buffalo Common Council	Buffalo	NY
Councilman	Charley	Fisher	Buffalo Common Council	Buffalo	NY
Councilman	Mary	Martino	Buffalo Common Council	Buffalo	NY
Mr.	Paul	Leone	Erie County Industrial Development Agency	Buffalo	NY
Mr.	Chris	Jacobs	County of Erie	Buffalo	NY
Mr.	Christoph	Wood	NYSEG	Binghamton	NY
Mr.	Diego	Sirianni	NYSEG	Lancaster	NY
Mr.	Jeffrey	Wereski	Benderson Development Company	Buffalo	NY
Mr.	Christoph	Jacobs	County of Erie	Buffalo	NY
Mr.	Kenneth	Swanekamp	County of Erie	Buffalo	NY
Mr.	Thomas	Kucharski	Buffalo Niagara Enterprise	Buffalo	NY
Mr.	Kalman	Elek	South Buffalo Railway Company	Buffalo	NY
Mr.	John	Cappellino	Erie County Industrial Development Agency	Buffalo	NY
Mr.	Robert	Miller	Greater Buffalo-Niagara Reg. Trans. Council	Buffalo	NY
Mr.	Nicholas	Monafo	Lackawanna Community Development Corp.	Lackawanna	NY
Mr.	Mark	Tytka	City of Buffalo	Buffalo	NY
Mr.	Charles	Frederiksen	Niagara Frontier Transportation Committee	Buffalo	NY
Mr.	Drew	Shapiro	Lackawanna Economic Development Zone	Lackawanna	NY
Mr.	David	Sengbusch	City of Buffalo	Buffalo	NY
Mr.	Eugene	Nowicki	NY State Department of Transportation	Buffalo	NY
Mr.	Michael	Huvane	New York Power Authority	New York	NY
Mr.	George	Moore	Chautauqua County IDA	Jamestown	NY
Mr.	Lewis	Rich	Empire State Development	Buffalo	NY

Title	FirstName	LastName	Company	City	State
Mr.	James	Allen	Amherst IDA	Amerst	NY
Mr.	Ronald	Coan	Erie County IDA	Buffalo	NY
Mr.	Robert	Dimmig	Town of Tonawanda Dev. Corp.	Kenmore	NY
Mr.	George	Gasior	Town of Lockport IDA	Lockport	NY
Mr.	Alan	Hamilton	Town of Lockport IDA	Lockport	NY
Ms.	Marilyn	Higgins	Niagara Mohawk Power Corporation	Syracuse	NY
Ms.	Julie	Marshall	Allegany County Office Dev. Plan. & Tourism	Belmont	NY
Mr.	Daniel	Murphy	Niagara Mohawk Power Corporation	Buffalo	NY
Mr.	Anthony	Raffa	Chautauqua County IDA	Jamestown	NY
Mr.	David	Chiazza	North America Center	Cheektowag	NY
Ms.	Patricia	Rehak	Buffalo Niagara Partnership	Buffalo	NY
Mr.	Richard	Tobe	County of Erie	Buffalo	NY
Mr.	Joseph	Russo	Niagara Mohawk Power Corporation	Syracuse	NY
Mr.	Donald	Rychnowski	Southern Tier West Reg. Planning Board	Salamanca	NY
Mr.	John	Simon	Niagara County IDA	Niagara Fall	NY
Mr.	Timothy	Spellman	Niagara Mohawk Power Corporation	Buffalo	NY
Ms.	Shari	Waldo	Town of Lockport IDA	Lockport	NY
Mr.	Richard	Redadow	NYSEG	Lancaster	NY
Mr.	David	Lawrence	West Seneca Development Corporation	West Senec	NY
Mr.	Michael	Bartlett	Hamburg Industrial Development Agency	Hamburg	NY
Mr.	Gerry	Edwards	CSX Transportation	Buffalo	NY
Mr.	Jack	Fuhrman	The Red Wing Company, Inc.	Fredonia	NY
Mr.	Tim	Voegele	General Mills	Buffalo	NY
Mr.	Gary	Edwards	NYSEG/Somerset	Barker	NY
Mr.	A.L.	Cohen	Exolon-ESK Company	Tonawanda	NY
Mr.	Robert	Theriault	Goodyear	Niagara Fall	NY
			Nabisco	Niagara Fall	NY
Ms.	Shirley	Toenies	General Mills	Golden Vall	MN
Mr.	Joe	Casagni	Buffalo Color	Buffalo	NY
Mr.	Daryl	Bish	PVS Chemical	Buffalo	NY
Mr.	Dick	Garmon	Buffalo Crushed Stone	Buffalo	NY
Mr.	Sherm	Wilkens	EASTCO	Buffalo	NY
Mr.	Peter	DelGobbo	Agway	Syracuse	NY

Title	FirstName	LastName	Company	City	State
			Ford Motor Company	Buffalo	NY
			Bethlehem Steel Corporation	Buffalo	NY
Ms.	Donna	McGrew	Quebecor Printing Buffalo, Inc.	Depew	NY
Mr.	Gerard	McGonigle	Delphi	Lockport	NY
Mr.	Anthony	Rongo	Delphi	Lockport	NY
Mr.	Christoph	Daniels	Dupont	Niagara Fall	NY
Mr.	Tom	Braun	Stetson Chemical	Buffalo	NY
Mr.	Leo	Wasescha	General Mills	Golden Vall	MN
Mr.	Richard	Hall	Olin	Niagara Fall	NY
Mr.	Anthony	Ballesteros	General Mills	Buffalo	NY
Ms.	Kathleen	Kunde	ConAgra	Buffalo	NY
Mr.	George	Sirades	ConAgra	Buffalo	NY
Mr.	Mark	Winstel	Olin	Niagara Fall	NY
Mr.	John	Stinson	Bestway Dist.	Cheektowag	NY
Mr.	Donald	Abrahamso	OxyChem	Niagara Fall	NY
Mr.	David	MacDonald	American Axle & Manufacturing	Buffalo	NY
Mr.	Frank	Talarico	Washington Mills	Niagara Fall	NY
Mr.	Gary	Asbach	Washington Mills	Niagara Fall	NY
Mr.	James	Bangle	Dunlop Tire Corp.	Buffalo	NY
Mr.	Larry	Long	3M	Tonowanda	NY
Mr.	Vernon	Markant	Dupont	Niagara Fall	NY
Mr.	William	Gibson	OxyChem	Niagara Fall	NY
Mr.	Brad	Heald	ADM Milling Co.	Buffalo	NY
Mr.	Ray	Stoos	Sonwil Dist.	Buffalo	NY
Mr.	David	Collins	Rochester & Southern RR	Rochester	NY
Mr.	Karl	Demay	Ontarior Midland RR	Sodus	NY
Mr.	Chuck	Riedmiller	Depew, Lancaster and Western RR	Batavia	NY
Mr.	Kevin	O'Gorman	Buffalo Southern	Eden	NY
Mr.	John	Robertson	South Buffalo Railway	Buffalo	NY
Mr.	William	Pauly	Erie County Legislature	Buffalo	NY
Ms.	Lynn	Marinelli	Erie County Legislature	Buffalo	NY
Mr.	Frederick	Marshall	Erie County Legislature	Buffalo	NY
Mr.	Raymond	Dusza	Erie County Legislature	Buffalo	NY

Title	FirstName	LastName	Company	City	State
Mr.	Barry	Weinstein	Erie County Legislature	Buffalo	NY
Mr.	Michael	Ranzenhofe	Erie County Legislature	Buffalo	NY
Mr.	Dale	Larson	Erie County Legislature	Buffalo	NY
Ms.	Jeanne	Chase	Erie County Legislature	Buffalo	NY
Mr.	George	Holt	Erie County Legislature	Buffalo	NY
Mr.	Charles	Swanick	Erie County Legislature	Buffalo	NY
Mr.	Michael	Fitzpatrick	Erie County Legislature	Buffalo	NY
Mr.	John	Greenan	Erie County Legislature	Buffalo	NY
Ms.	Judith	Fisher	Erie County Legislature	Buffalo	NY
Mr.	Gregory	Olma	Erie County Legislature	Buffalo	NY
Mr.	Albert	DeBenedetti	Erie County Legislature	Buffalo	NY
Ms.	Crystal	Peoples	Erie County Legislature	Buffalo	NY
Mr.	Edward	Kuwik	Erie County Legislature	Buffalo	NY
Ms.	Mary	Brennan-Ta	Congressman John . LaFalce	Buffalo	NY
Congressman	Thomas	Reynolds	United States Congress	Williamsville	NY
Mr.	James	Kane	U.S. Senator Daniel P. Moynihan	Buffalo	NY
Mr.	Ronald	Hayes	Congressman Jack Quinn	Buffalo	NY
Mr.	Jack	O'Donnell	U.S. Senator Charles E. Schumer	Buffalo	NY
Mr.	Melvin	Clemens	Surface Transportation Board	Washington	DC
Congressman	John	LaFalce	United States Congress	Buffalo	NY
Congressman	Jack	Quinn	United States Congress	Buffalo	NY
Mr.	William	Clyburn	Surface Transportation Board	Washington	DC
Mr.	Wayne	Burkes	Surface Transportation Board	Washington	DC
Ms.	Linda	Morgan	Surface Transportation Board	Washington	DC
Senator	Daniel	Moynihan	United States Senate	Washington	DC
Senator	Charles	Schumer	United States Senate	Washington	DC
Congressman	Amo	Houghton	US House of Representatives	Washington	DC
Mr.	R.	McVeen		Syracuse	NY
Mr.	James	Brunkenhoe	United Transportation Union	Washington	DC
Mr.	R.W.	Godwin		Buffalo	NY
Mr.	Sam	Nasca		Albany	NY
Mr.	Jeff	Zavitz	National Distribution Services	Sloan	NY
Mr.	Tony	Jolly	Pillsbury Company	Minneapolis	MN

Title	FirstName	LastName	Company	City	State
Mr.	Gregg	Bodine	Phelps Supply, Inc.	Phelps	NY
Mr.	Frank	Lazarowicz	Lafarge Corporation	Buffalo	NY
Mr.	Mark	Winstel	Olin Corporation	Niagara Fall	NY
Mr.	Rick	Hall	Olin Corporation	Niagara Fall	NY
Ms.	Leona	Brady	3M Canada, Inc.	Havelock	ON
Mr.	Don	Smith	Lafarge Corporation	Southfield	MI
Mr.	Brad	Heald	ADM Milling	Buffalo	NY
Mr.	Robert	Walrod	Monofrax, Inc.	Falconer	NY
Mr.	Don	Abrahamso	Occidental Chemical Corp.	Niagara Fall	NY
Mr.	Brian	Litke	Niagara Distribution Services	Niagara Fall	ON
Mr.	Mark	James	NY Farm Bureau	Seneca Fall	NY
Ms.	Noreen	Coneys	Pittsburgh Corning Corp.	Port Allegan	PA
Mr.	Tedd	Zirzogel	Noranda Metallurgy Inc.	Toronto	ON
Mr.	James	Weglick	Rail Services, Inc.	Okemos	MI
Mr.	Jeffrey	Cassim	Nutrite (Liquid Products)	Waterloo	NY
Mr.	Tom	Feeney	Occidental Chemical Corp.	Niagara Fall	NY
Mr.	Dan	Peters	Laub International, Inc.	Buffalo	NY
Mr.	Patrick	Gonda	3M Logistics	St. Paul	MN
Mr.	Michael	LaVerne	Solvay Paperboard	Syracuse	NY
Mr.	Carl	Myers	Sweetners Plus	Lakeville	NY
Mr.	Larry	Burdzy	Synchronous Support Ctr. of Buffalo	Blasdell	NY
Mr.	Steve	Scott	Synchronous Support Ctr. of Buffalo	Blasdell	NY
Mr.	Dave	Dillon	Terry Forest Products Ltd.	Niagara Fall	ON
Mr.	Tony	Scherer	Terry Forest Products Ltd.	Niagara Fall	ON
Mr.	John	Bloomer	U.S. Salt	Watkins Gle	NY
Mr.	Paul	Titus	U.S. Salt	Watkins Gle	NY
Mr.	John	Hudson	3M Canada, Inc.	Havelock	ON
Mr.	Vern	Miller	U.S. Sugar Co., Inc.	Buffalo	NY
Mr.	John	Hamm	The Procter & Gamble Co	Cincinnati	OH
Ms.	Kelley	Minnehan	Rail Services, Inc.	Okemos	MI
Mr.	John	Zielinski	Rail Services, Inc.	Buffalo	NY
Mr.	Tony	Zielinski	Rail Services, Inc.	Buffalo	NY
Mr.	Jim	Crain	Guardian Industries Corp.	Geneva	NY

Title	FirstName	LastName	Company	City	State
Mr.	Rick	Redino	R&R Salvage Inc.	Buffalo	NY
Mr.	Mark	McNamara	Lackawanna Products	Clarence	NY
Mr.	Ronald	Razzolini	PVS Chemicals, Inc.	Buffalo	NY
Mr.	Michael	McGuirk	PVS Chemicals, Inc.	Detroit	MI
Mr.	William	McDaniel	U.S. Sugar Co., Inc.	Buffalo	NY
Mr.	Dave	Wolfe	Bowater Pulp & Paper Canada Inc.	Burlington	ON
Mr.	Morley	Daehn	Interstate Commodities, Inc.	Troy	NY
Mr.	Keith	Kemp	American Rock Salt	Groveland	NY
Mr.	Dan	Eagan	American Rock Salt	Groveland	NY
Mr.	Earl	Wokutch	Auburn Steel Company, Inc.	Auburn	NY
Mr.	Jeffrey	Stanes	Baillie Lumber Co., Inc.	Hamburg	NY
Mr.	John	Stinson	Bestway Distribution Services	Cheektowag	NY
Mr.	Paul	Mendy	Bethlehem Steel Corp.	Lackawanna	NY
Mr.	Bill	Whitney	Blue Seal Feeds, Inc.	Londonderry	NH
Mr.	Larry	Milliken	American Rock Salt	Groveland	NY
Mr.	Jack	Collins	Bowater Pulp & Paper Canada, Inc.	Thunder Ba	ON
Ms.	Kathleen	Dietz	Goodyear Dunlop Tires N.A. Ltd.	Buffalo	NY
Mr.	Rob	Jackett	Bowater Pulp & Paper Canada Inc.	Burlington	ON
Ms.	Alisa	Piccirilli	Eastman Kodak Company1	Rochester	NY
Ms.	Linda	Kelley	Eastman Kodak Company1	Rochester	NY
Mr.	Sherman	Wilkens	Eastco Bulk Commodities	Buffalo	NY
Mr.	Tom	Pellington	The David J. Joseph Co.	Cincinnati	OH
Mr.	John	Armstrong	Corning Inc.	Corning	NY
Mr.	George	Siradas	ConAgra, Inc.	Buffalo	NY
Mr.	Dave	Brotherton	Bowater Inc.	Greenville	SC
Mr.	Marc	Shuttleworth	Buffalo Distribution, Inc.	Buffalo	NY
Mr.	Mike	Driver	Blue Seal Feeds, Inc.	Arcade	NY
Mrs.	Pat	Soper	GE Capital Railcar	Sayre	PA
Mr.	Bob	Irish	Irish Carbonic	Buffalo	NY
Mr.	Byron	Stewart	Feed Ingredients Trading Corp.	Delmar	NY
Mr.	Victor	Oberting	Interstate Commodities, Inc.	Troy	NY
Ms.	Natalie	Harder	Buffalo Niagara Partnership	Buffalo	NY
Ms.	Colleen	DeGaynor	Guardian Industries Corp.	Auburn Hills	MI

Title	FirstName	LastName	Company	City	State
Mr.	Jim	Bangle	Goodyear Dunlop Tires N.A. Ltd.	Buffalo	NY
Ms.	Kathleen	Dietz	Goodyear Dunlop Tiers N.A. Ltd.	Buffalo	NY
Mr.	Gary	Payne	Georgia-Pacific Corp.	Blasdell	NY
Mr.	David	Denué	Esco Sales	Buffalo	NY
Mr.	Leo	Wasescha	General Mills	Golden Vall	MN
Ms.	Laurie	Jones	Irish Carbonic	Buffalo	NY
Mr.	Dennis	Farder	General Mills	Golden Vall	MN
Mr.	Pat	Janosko	GE Capital Railcar	Sayre	PA
Mr.	Wally	Haggerty	GE Capital Railcar	Sayre	PA
Mr.	Mark	McGiveron	Ford Motor Company	Buffalo	NY
Mr.	Peter	DelGobbo	Agway Agricultural Products	Syracuse	NY
Mr.	Jack	Bouquard	Ford Motor Company	Buffalo	NY
Ms.	Lynn	Wilkinson	Republic Technologies Intl.	Buffalo	NY
Ms.	Susan	Lerch	American Refining Group	Bradford	PA
Mr.	Gerald	Schomer	Georgia-Pacific Corp.	Blasdell	NY
Mr.	David	Collins	Buffalo & Pittsburgh Railroad, Inc.	Rochester	NY
Mr.	David	Todd	Canadian National	Ottawa	Ontar
Mr.	Michael	Zaia	South Buffalo Railway Co.	Bethlehem	PA
Mr.	David Mon	Verde	Delaware Lackawanna Railroad Co., Inc.	Batavia	NY
Ms.	Dale	Williams	Canadian National	Montreal	Queb
Ms.	Linda	Kempf	Arcade & Attica Railroad	Arcade	NY
Mr.	Steve	Fisk	Canadian Pacific Railway	Clifton Park	NY
Mr.	Bert	Feasley	Buffalo Southern Railroad	Eden	NY
Mr.	Richard	Robey	Wellsboro & Corning Railroad Co.	Northumberl	PA
Mr.	Ronald	Haise	East Erie Commercial Railroad	Erie	PA
Mr.	William	Burt	Livonia, Avon & Lakeville Railroad	Lakeville	NY
Mr.	Robert	Dingman	New York & Lake Erie Railroad	Gowanda	NY
Mr.	Walter	Rich	New York, Susquehanna & Western Railroad	Cooperstow	NY
Mr.	Mike	Smith	Finger Lakes Railway	Guilford	NH
Mr.	Gary	Edwards	Somerset Railroad Corporation	Barker	NY
Mr.	Donald	Brown	Ontario Central Railroad Corp.	Victor	NY
Mr.	Steven	May	Owego & Harford	Owego	NY
Mr.	Joel	Giambra		Buffalo	NY

Title	FirstName	LastName	Company	City	State
Supervisor	Dennis	Gabryszak	Town of Cheektowaga	Cheektowag	NY
Mayor	Anthony	Masiello	City of Buffalo	Buffalo	NY
Assemblyman	Robert	Daly	Assembly of New York	Niagara Fall	NY
Assemblyman	Brian	Higgins	Assembly of New York	Buffalo	NY
Assemblyman	Richard	Smith	Assembly of New York	Blasdell	NY
Assemblyman	Daniel	Burling	Assembly of New York	Warsaw	NY
Assemblyman	Sandra	Wirth	Assembly of New York	West Senec	NY
Assemblyman	David	Seaman	Assembly of New York	Lockport	NY
Assemblyman	Sam	Hoyt	Assembly of New York	Buffalo	NY
Assemblyman	Catherine	Young	Assembly of New York	Olean	NY
Assemblyman	William	Parment	Assembly of New York	Jamestown	NY
Assemblyman	Sheldon	Silver	Assembly of New York	New York	NY
Assemblyman	James	Hayes	Assembly of New York	Williamsville	NY
Assemblyman	Arthur	Eve	Assembly of New York	Buffalo	NY
Assemblyman	Robin	Schimminge	Assembly of New York	Kenmore	NY
Assemblyman	Paul	Tokasz	Assembly of New York	Buffalo	NY
Assemblyman	David	Gantt	Assembly of New York	Rochester	NY
Assemblyman	Herman	Farrell	Assembly of New York	New York	NY
Mr.	Charles	Lattuca	The State Capitol	Albany	NY
Mr.	Jack	Guinan	NY State Department of Transportation	Albany	NY
Senator	Dale	Volker	Senate of New York	Depew	NY
Senator	Caesar	Trunzo	Senate of New York	Hauppauge	NY
Senator	Patricia	McGee	Senate of New York	Olean	NY
Senator	Joseph	Bruno	Senate of New York	Saratoga Sp	NY
Senator	Ronald	Stafford	Senate of New York	Plattsburgh	NY
Senator	William	Stachowski	Senate of New York	Buffalo	NY
Senator	Alfred	Coppola	Senate of New York	Buffalo	NY
Senator	Mary Lou	Rath	Senate of New York	Williamsville	NY
Senator	George	Maziarz	Senate of New York	Lockport	NY
LTC	Mark	Feierstein	Department of the Army	Buffalo	NY
Supervisor	Steven	Richards	Town of Niagara	Niagara	NY
Mr.	Michael	Ziolkowski	US DOT, FRA Office of Safety	Buffalo	NY
Supervisor	Ronald	Moline	Town of Tonawanda	Kenmore	NY

Title	FirstName	LastName	Company	City	State
Mr.	Tim	Trabold	Greater Buffalo-Niagara Reg. Trans. Council	Buffalo	NY
Deputy Mayor	George	Lee	Village of Blasdel	Blasdel	NY
Mayor	Mary	Kabasakalia	City of North Tonawanda	N. Tonawanda	NY
Mayor	Thomas	Sullivan	City of Lockport	Lockport	NY
Mayor	Alice	Roth	City of Tonawanda	Tonawanda	NY
Mayor	John	Kuryak	City of Lackawanna	Lackawanna	NY
Mr.	Charles	Steiner	Niagara Falls Area Chamber of Commerce	Niagara Falls	NY
Mr.	Kurt	Alverson	Chamber of Commerce of Tonawanda	North Tona	NY
Mr.	David	Kinyon	Eastern Niagara Chamber of Commerce	Lockport	NY
Mr.	Kevin	Shuler	Niagara Business Alliance	Lockport	NY
Mr.	Kenneth	Swanekamp	County of Erie	Buffalo	NY
Mr.	Alan	DeLisle	Buffalo Econ. Renaissance Corp.	Buffalo	NY
Mayor	Irene	Elia	City Hall	Niagara Falls	NY
Ms.	Holly	Sinnott	Empire State Development Corp.	Buffalo	NY
Ms.	Natalie	Harder	Buffalo Niagara Partnership	Buffalo	NY
Mr.	Ronald	Coan	Erie County Industrial Development Agency	Buffalo	NY
Mr.	Anthony	Schill	Niagara Frontier Trans. Authority	Buffalo	NY
Mr.	Kurt	Felgemache	NY State Department of Transportation	Buffalo	NY
Mr.	Steve	Slavick	NY State Department of Transportation	Albany	NY
Mr.	Sam	Ferraro	County of Niagara	Lockport	NY
Mr.	John	Maser	Thompson Hine & Flory LLP	Washington	DC
Mr.	Sergeant	Wise	Livonia Avon & Lakeville Railroad Corp.	Lakeville	NY
Mr.	Richard	Wilson	Vuono & Gray LLC	Pittsburgh	PA
Mr.	William	Whitehurst	W W Whitehurst & Associates, Inc.	Cockeysville	MD
Mr.	Paul	Smith	US Department of Transportation	Washir.gton	DC
Mr.	Richard	Slattery	Amtrak	Washington	DC
Mr.	William	Mullins	Troutman Sanders LLP	Washington	DC
Mr.	Gordon	MacDougall		Washington	DC
Mr.	Paul	Lambole		Washington	DC
Ms.	Erika	Jones	Mayer Brown & Platt	Washington	DC
Mr.	Eric	Hocky	Gollatz Griffin & Ewing	West Chest	PA
Mr.	R.A.	Edwards	Eastern Transport	Cincinnati	OH
Mr.	Kelvin	Dowd	Slover & Loftus	Washington	DC

Title	FirstName	LastName	Company	City	State
Mr.	David	Reeves	Troutman Sanders LLP	Washington	DC

US OFFICE PRODUCTS

IN THE MATTER

OF

SURFACE TRANSPORTATION BOARD

BUFFALO MEETING

BUFFALO, NEW YORK

JULY 27TH, 2000

Minutes of Proceedings conducted at the
Radisson Hotel, 4243 Genesee Street, Buffalo, New
York, on Thursday, July 27, 2000,
commencing 8:45 A.M.

JEC:pw

1 MR. TIMMONS: Good morning, ladies
2 and gentlemen. On behalf of Norfolk and
3 Southern and CSX, let me welcome you to this
4 meeting this morning, really intended to listen
5 to your thoughts and your observations as it
6 concerns infrastructure in and around the
7 Buffalo area, obviously with the intention to
8 help us work, service efficiently these areas.

9 I am Rich Timmons, resident Vice
0 President for Public Affairs for the State of
1 New York and myself and John Casellini, my
2 counterpart from CSX will be moderating this
3 morning.

4 Our team members are from both the
5 Norfolk Southern and CSX. I will introduce
6 them at this time. To my left is Mr. Jim
7 McClellan, Senior Vice President Strategic
8 Planning; Dave Brown to his left, General
9 Manager, Northern Region and to Dave's left
0 is Joe Giuliano, Director, Metals and
1 Construction.

2 We have some other Norfolk Southern
3 reps in the audience and I would ask them

at this time to stand and identify themselves.

MR. BENNENT: Roger Bennent, Director of Industrial Development, Northern Region.

MR. CANNON: John Cannon, Industrial Development primarily for the State of New York.

MR. BECKER: I am David Becker, Assistant Chief Engineer Design.

MR. BURGESS: Brig Burgess, Division Superintendent on the Harrisburg Division.

MR. FANNOR: Randy Fannor, Terminal Superintendent, Buffalo.

MR. TIMMONS: Okay, folks, thanks. The CSX team has, as I mentioned, this is John Casellini. To my immediate right, Mr. Derrick Smith, Vice President Chemical Sales and Marketing. To Derrick's right, David Hemphill, Assistant VP for Industrial and Economic Development and on the far end is Frank Pursley, Vice President Service Design and John Facilities.

Now, as you all may recall, the Surface Transportation Board in Washington

1 published a directive on the 7th of June
2 requiring Norfolk Southern and CSX to review
3 and receive recommendations on infrastructure
4 issues in Buffalo and that is the purpose
5 today, is to take a look at that from your
6 perspective and then on the 7th of September we
7 are required to render a report of our review
8 and your comments back to the Surface
9 Transportation Board.

10 Now, this slide captures what the STB
11 directed us to do in two contexts: One, hold
12 meetings with the individuals such as yourself
13 and then review your comments, review our
14 infrastructure issues in and around this
15 area then provide information in a report back
16 to the STB.

17 Now, our procedure this morning will be
18 outlined like this: As soon as I finish these
19 preliminary remarks, Norfolk Southern will make
20 a presentation, relatively short, probably 20
21 to 30 minutes, followed by CSX who will do the
22 same and we will talk about the status of the
23 railroads and where we think we are headed in

1 the future.

2 Now, following those presentations, the
3 list of individuals that I'm going to outline
4 now will be requested to come forward and
5 provide prepared remarks.

6 As you all recall, about a month ago
7 John Casellini and I sent a letter of
8 invitation to approximately 300 individuals
9 with interest in the Buffalo area and to date
10 we received replies from about 75 of those
11 individuals that they would attend this
12 function and at least 11 people asked to make
13 presentations in a formal sense before this
14 panel.

15 So, the individuals that I will call
16 forward in just a few moments are Kevin
17 O'Gorman and/or Bert Feasley from the Buffalo
18 Southern; Ron Coan, Erie Niagara Rail Steering
19 Committee; Alan DeLisle and/or Pete Cammarata,
20 Buffalo Economic Renaissance Corporation; Steve
21 Fisk, Canadian Pacific Railroad; John Sebesta,
22 Canadian National; Gary Edwards, AES Energy;
23 Pat Sabatino, South Buffalo Railway Company;

1 Councilmember Charley Fisher, Buffalo Common
2 Council; Bob Godwin, Brotherhood of Locomotive
3 Engineers, CSX and Ron Hayes, Congressman
4 Jack Quinn's representative at this proceeding
5 this morning.

6 Now, that sequence was directed based
7 on the order in which these requests were
8 received and so there is no inference on how
9 these people are going to make their
10 presentation today.

11 Now, after these individuals have
12 concluded their remarks, others who choose
13 to make impromptu comments or who did not RSVP
14 earlier that want to make remarks are certainly
15 welcomed to make comments and there is a
16 sign-up sheet at the rear of the room when you
17 entered the room and we ask that you sign that
18 presentation sheet up there and in the order
19 in which you sign those sheets, we will ask
20 you to come forward and you too can make some
21 comments.

22 I also would indicate there's a general
23 attendance sign-up sheet back up there and we

would request that all of you sign in there too.

Now, the duration of the presentations we hope to be no longer than ten minutes and that is in the interest of equity and fairness so that everyone will get an opportunity to make comments and then at the end of the day if we have other observations or commentary, we will certainly entertain that.

The moderator's duties this morning will alternate between John and myself. We've decided there will be no breaks. We are going to press on forward and so you will have to duck out on your own as required. If you are going to make comments or present information, please let me ask that you please clearly state your name and your organization so that the stenographer can capture all of that in a timely way and also before you leave, that you provide the panel with any prepared remarks, slides or other materials that were presented for our use as we consider what you have recommended and it will help us prepare for

the September report.

Lastly, I provided you with a letter from Ms. Linda Morgan of the Federal Surface Transportation Board, the Chairman who sent a letter that is available for you. The letter went to David Goode and John Snow, Chairmen and CEO of NS and CSX respectively. That's available at the back table as you came in. So, at her request we made that available. Please take copies of those as you see appropriate.

Now having laid all of the foundation and rules out, we are ready now for the first presentation.

Susan, if you would put that slide on, shift over to the computer and Mr. Jim McClellan, Senior Vice President Strategic Planning will start off and he will be followed by Dave Brown.

MR. McCLELLAN: Good morning. As Rich just told you, CSX and NS received the letter from Linda Morgan, Chairman of the Surface Transportation Board in an effort to bring some

1 coordination to all of our expenditures in the
2 infrastructure area. This has resulted in
3 negotiations and in essence to make a lot of
4 investments system-wide in anticipation of
5 Conrail and have continued to make
6 investments but we do concede this morning
7 that work needs to be done.

8 We had a lot of special problems in
9 Buffalo which is essentially a dead-end
0 railroad and when we acquired our part of
1 Conrail, in this part of the world it was
2 essentially the southern tier line which those
3 of you who know railroad business, those are
4 the lines that have suffered from decades of
5 neglect.

6 I want to point out that we got an
7 awful bad start and I want you to know that
8 but we have recovered pretty nicely. As you
9 can see from our June numbers, this is the
0 first month we have had to compare when we had
1 all of the Conrail and we had all the Conrail
2 in June of '99 and all of Conrail in June of
3 2000 and as you can see, we have had a fairly

1 reasonable growth in both volume and revenues
2 and our marketing people tell me that
3 essentially most of the traffic that was
4 diverted to highway is back and then some.

5 We do have some softness in certain
6 areas but our intermodal growth has been
7 notably strong. We had a lot of delays in
8 the railroad last year that lasted through
9 October. We began to come out in October.
0 Since then we have made progress and you can
1 see we have the highest traffic levels we've
2 experienced. The railroad is running overall
3 on the network fine. It's not to mean that
4 every piece of railroad is running well and I
5 will say that there were portions of Conrail
6 that didn't work too well but they are
7 relatively small in comparison to our overall
8 operation and we are finding solutions.

19 Fairly important is the money. Money is
20 where it starts and money is where you get
21 interest and if you don't have the money, you
22 don't have infrastructure. That's it, bluntly
23 and the company has come out of its financial

problems. We are at 30 cents a share in the second quarter of which 26 was operating profit and that's an important number. Without the stream of that income, there will be no further investments. That's a reality.

We have an infrastructure game plan and it's this simple, we have started some years ago and we have refined it. On a systematic basis we have been and we will continue to invest in infrastructure, removing choke points and add terminal capacity with the goal of improving revenues. Improving revenues are very important.

Next, infrastructure is, of course, only part of the total equation. NS has spent a huge amount of money on locomotives, both purchased and leased equipment and we have committed a tremendous amount of money to finding, hiring and training people but again our goal is revenue growth. That's what it's all about. Without the revenue growth, we cannot justify all those people, all that track and locomotives.

1 We have had some problems that actually
2 predated Conrail. We've had some problems
3 within the commercial side and the operating
4 side and finance. So, in October of 1999,
5 David put together a team of senior operating
6 officers from all three areas, general
7 merchandising, the person that controls the
8 money and myself as Chairman and we have
9 structured this team and we have gone in and
0 created new processes basically dealing with
1 infrastructure issues throughout the Norfolk
2 Southern system.

3 I emphasize that when we looked at the
4 infrastructure issues, it was on a network
5 basis. Therefore, we were considering choke
6 points throughout the network. In many cases
7 an investment made 300 or 400 miles from
8 Buffalo may have positive impacts on Buffalo.
9 Our job was to identify all those choke points.
0 We have done that within our infrastructure
1 and we released the first parcel of money
2 which we have, \$50 million a year in
3 infrastructure improvements and in areas such

as CP Draw, things like that would fit into this budget but the \$50 million, in this context, last year we had \$700 million in total capital expenditures. That includes money dedicated to renewal of track structure et cetera and with a big system like ours, that money gets spread pretty thin.

With the new systems and procedures we have today, we can give the operating guys a better sense of where traffic is coming in the future. We can also, and this is very important, tell our commercial people where we have to have more capacity and that's where we got into trouble on the Conrail transaction. We got into trouble before the Conrail transaction because there were some disconnects and sometimes we promised things that basically we couldn't deliver. So, we are trying to tighten that process so that we can do what we say we are going to do.

The next slide, this deals with a lot more than just the choke points, it deals with adding new capacity, transfer of lines

1 to short lines, passenger issues and a lot of
2 the passengers want to use railroad tracks
3 these days and that's almost always bad for
4 freight capacity.

5 We have in the last three years
6 invested more money in new capacity than we
7 invested in the prior 15 years of Norfolk
8 and Southern's existence. The railroad
9 industry has been in a growth mode clearly
10 in the Eastern United States. There was a
11 substantial investment in capacity for a
12 period of roughly 1970 through about 1993,

13 '94. Only in those years the railroad started
14 adding capacity and we have been accelerating
15 that process of investment in the last three
16 years. The fact remains that there is a
17 substantial amount of catching up to be done.

18 Buffalo is one of those issues. We have
19 supplemented our own private funds with the
20 use of public money. Many of our projects
21 probably would have been accomplished with
22 private funding but would have been delayed
23 often for many years and our soliciting of

public funds would match our needs with the public sector needs and in an effort to accelerate the implementation of the projects that we would have been doing on our own. The public funding would accelerate that.

Now, the next three slides gives us a sense of, and they are in no specific, particular order here, this shows you how extensive our infrastructure investment is.

The next slide continues to be and then we continue on the to the next, illustrating the amount of money being allocated into the infrastructure. It's a long-term deal.

At this point I would like now to turn it over to Dave and he will deal with some of the specifics.

MR. BROWN: I am David Brown, General Manager, Northern Region and I will talk a little bit about, going to the next slide, the infrastructure improvements that have already been made and what our plans are. Of course, where we have to get to which is why we are here today.

1 Just to give you a view here of the
2 territorial area we are talking about, I want
3 to emphasize that as Mr. McClellan said, we
4 are talking about a network situation.
5 Buffalo is a part of a through-route
6 incorporating the Northern Region and
7 interfacing with the former Conrail and you
8 can see that a through-routing includes those
9 principally between Cleveland and Buffalo and
10 into the northeast through Binghamton. So,
11 it's not just Buffalo infrastructure issues
12 that affect the operation of the Norfolk and
13 Southern through Buffalo. The through-route
14 involves these many improvements because it
15 was, from Conrail's standpoint, from an east
16 to west point, it was their third alternative
17 route and by that I'm speaking of the southern
18 tier. It was maintained accordingly.

19 So, of course, those are the issues we
20 are dealing with on a going-forward basis.

21 The Buffalo service issues in Buffalo
22 infrastructure investment depend on continued
23 evolution of this route as a through-route

1 within the United States.

4 Again emphasizing that Buffalo was a
6 dead-end but since Conrail, it has certainly
7 changed in that sense and we are going to
9 depend on that through-route in Buffalo being
11 sort of an integral part of that through-route
13 to further develop our service capabilities
15 into the northeast in the future.

17 A little bit about some of our past
19 infrastructure investments which we told you
21 a little bit about the route that Buffalo
23 plays within the network as a through section
25 point but we have also made significant
27 investments already to take advantage of this
29 area to establish the new service including
31 an extensive project in Cleveland which we
33 call the Closetville Section which allowed
35 us to go from Cleveland to Chicago and make
37 include high-capacity-type movements between
39 those areas and up through the former NS
41 route which is our connection between Cleveland
43 and Buffalo.

23 As you know, NS had formally had

1 trackage between Cleveland and Buffalo but
2 again we redefined that trackage by making it
3 part of the through-route that extended through
4 Buffalo. Other projects for a new siding
5 along that route between Cleveland and Buffalo
6 called Angola siding is a bypass which put us
7 in a better route situation and took us out
8 of a major street railroad operation which had
9 diminished our ability to operate efficiently
0 on that route and we established some better
1 clearances between Binghamton and Boston so
2 that we could improve our service into the
3 New England market.

4 All these represented a significant
5 investment shown of 40,000 plus miles that have
6 taken place to date.

7 Future investments, Greater Buffalo
8 area investments have occurred in the past are
9 also listed here and that's the intermodal
10 multiple-level terminal that has been
11 constructed. We did work in partnership with
12 the B & P Yard in the Greater Buffalo area
13 and of course most notably and now basically

the hub of our operation in Buffalo is the new Bison Yard. We constructed and funded in record time late in 1999 certainly the key to our improvement in our operations in the Buffalo area.

Some future investments that we have or are in the process of considering and with more capital funding will be accomplished are the eventual replacement of the Portageville Bridge. This is something we are studying and which will have to be replaced in the near term to continue our service of the southern tier route.

The East Binghamton Yard capacity which is necessary to further grow our business in partnership with CP and our service into New England as well as some changes in the Albany intermodal facility that allows us to better serve the intermodal customers in the New England market over the Buffalo route and the southern tier.

Other Greater Buffalo area improvements that are being considered, of course, is the

1 CP Draw. We are currently studying the
2 alternatives there and I think we are all
3 familiar with the cost implications. That's
4 a very high-cost project and the best
5 alternative and cost continues to accelerate
6 every day and we continue to look at
7 alternatives. Additional track capacity in
8 the Bison Yard is something we also considered
9 but again, efficient operations and funding are
10 the issue and certainly we have to make those
11 two meet in terms of what can be accomplished,
12 given the funding sources that may be available
13 and also the Ebenezer connection is a lower
14 priority project that we have in consideration
15 that would allow us to enhance the efficiency
16 of our operations in the Buffalo area.

17 Again, just to reflect again on the
18 routes that we are talking about, I hope you
19 can see this pointer, Buffalo is the center of
20 the route that we are discussing, the southern
21 tier portion, Binghamton, continuing into
22 North Jersey, that's a lower-use part of the
23 route and then the market we are developing

is into New England and over the Binghamton partnership and an arrangement for the CP Railroad.

The Cleveland to Buffalo portion, this route was preexisting as an NS route. We didn't receive any capacity from Conrail to operate in this area. The new capacity was from Buffalo to Binghamton which was the former southern tier and the Binghamton to Albany and northeastern portion involved a partnership with the CP Railroad and Guilford Industries.

Your other key east/west route is depicted here which connects us from our lines that go between Chicago and Cleveland. We split at Cleveland and now go to Jersey and then New York market, Philadelphia, all the northeastern markets on the Penn route, Harrisburg, Cleveland so those are the primary east/west routes that we are dealing with that are providing alternatives to serving the various markets we are talking about today.

So, it's certainly not a Buffalo-only

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issue when we talk about infrastructure at Buffalo. It was an NS network, a multi-route option issue that when we talk about applying capital dollars to projects, we have to look at it on the basis of what does it mean, how does it impact this entire network and the routes that are depicted here.

Some local area items I would point out here on the local map, when we talk about some of those projects, the Bison Yard project, this is the location of the Bison Yard. The primary route from Cleveland to Buffalo is depicted kind of north and south on this map and CP Draw being the point where we transition over to what NS acquired where it was allocated there from Conrail which essentially allows us over a couple of runner tracks to access what is now the southern tier and is known as the green line here, Ebenezer connection or the secondary is shown here and attaches to the Buffalo line which is our connection from Buffalo to Harrisburg.

So, within the Buffalo area, this is our

1 infrastructure. This is the trackage and the
2 capacity that we are dealing with and the
3 subject matter today. It was available to us
4 to serve a local market as well as the through
5 customers that depend upon us and it is the
6 areas that we have available to us to craft
7 through infrastructure improvements and it may
8 benefit both local and through customers.

9 The project I spoke of earlier being
10 completed, the Bison Yard, we invested in the
11 redevelopment of that yard taking in an old
12 yard and bringing it up to standards and the
13 new NS Bison Yard will be the local shipping
14 yard that we have built as well as the
15 location where we have an intermodal and
16 multi-level facility.

17 The new Ebenezer connection we
18 discussed would go in that corner right in
19 here between Ebenezer and the Buffalo line and
20 of course CP Draw here is shown here over
21 Buffalo Creek by the arrow. That's in the
22 vicinity there so that's some of the local
23 area projects that we will talk about, some

1 of the local area improvements that we have
2 either implemented or are considering.

3 Again, the subject matter comes around
4 to sources of funds and I think Mr. McClellan
5 spoke to that in terms of NS has applied a
6 substantial amount of funds and you saw the
7 numbers on the slides. Millions of dollars
8 have already been spent in the Buffalo area
9 within the network areas that apply to the
10 through-route through Buffalo and speaking of
11 Cleveland in particular and other railroads
12 are participating to the extent that we have
13 partnered with the railroads and have
14 participated in joint improvement projects
15 that benefit more than one carrier and that's
16 certainly the sort of funding that we look to
17 and public funding is another area where those
18 important changes that may come in the future
19 in terms of infrastructure investment,
20 especially those that require the greater
21 amounts of investment will certainly be
22 looking for public funding as a source.

23 When we talk about timing and any

1 questions come up about how soon we will
get these infrastructure changes, these are
projects that are competing with many other
4 projects as Mr. McClellan mentioned and
some are more important ones and they are
all competing for a limited number of
7 investment capital dollars and certainly
we expect over the next five to eight years
9 to continue to evaluate these same projects
and look at them to see if they are justified
for funding and applying funding as
2 appropriate.

Again, things change over time and
certainly there were a lot of unknowns prior
5 to the Conrail transaction. The data has now
become defined. We know a little bit more
7 what our traffic base is and certainly we
know where our traffic base resides and what
we expect it will do and we have to look to
the future to the fact that things do change,
0 new customers come on line and we are hoping
as business grows, we will see more benefit
13 to some of the projects that certainly enhance

our ability to attract funding required to implement those projects.

Traffic level is an important factor as we have previously stated, revenues and profits are a key to investment and other public issues come into play as we venture into the future and look for opportunities to further improve our service through infrastructure investments.

Thank you again for your time and I will now turn it over to Mr. Timmons.

MR. TIMMONS: Thank you, Dave. I appreciate those comments. We will now hear from CSX and I will turn it over to John Casellini and have him introduce the folks from CSX that are in the audience.

MR. CASELLINI: Thanks very much, Rich. I am John Casellini. It's a pleasure to be back in Western New York again, the place where I have spent enough time that I believe I would qualify as a constituent to Mr. Tokaz and to be able to continue this dialogue that we have had out here with you

on the issues that we face in Western New York.

The panelists from CSX on the dias here have been introduced but I would like to take an opportunity if we could to introduce the members of the CSX team who are in the audience. If you would stand up and clearly identify yourselves for the audience and for the stenographer, that would be appreciated.

MR. DECKER: Jim Decker, Division Superintendent, Albany Division.

MR. DICEN: Mike Dicen, Regional Engineer of Traffic for the East Region.

MR. SMITHERS: Mike Smithers, Federal Affairs, Washington.

MS. LIEBMAN: Diane Liebman, Vice President Railroad Federal Affairs.

MR. SHUDTZ: Pete Shudtz, Vice President and General Counsel.

MS. JENKINS: Barbara Jenkins, Chemical Sales, Buffalo, New York.

MR. JOHNSON: Larry Johnson, Audit and Advisory, Philadelphia.

1 MS. GREEN: Wendy Green, Account
2 Manager, Sales and Marketing.

3 MR. EDWARDS: Gerry Edwards, Regional
4 Manager Industrial Development for Western
5 New York.

6 MR. SULLIVAN: Bob Sullivan, Corporate
7 Communications.

8 MR. CASELLINI: Thanks, very much,
9 everybody. We would like to commence our
0 presentation with somebody who has been
1 spending as much time as I have in Western
2 New York, that is Derrick Smith, Vice
3 President of Chemical Sales and Marketing.

4 MR. SMITH: Thank you, John and
5 good morning everyone. It's a pleasure to
6 be here in Buffalo and the Niagara Falls
7 Region.

8 Our focus within the CSX is looking
9 for opportunities by which to try to grow
10 traffic and we really do believe it's very
11 important, though, as we start to talk about
12 growth, that we just briefly just take a look
13 at where we have been and where we are

1 regarding service and some of the issues that
2 have come up in working with our individual
3 customers so that we can then start talking and
4 looking forward as far as the future goes here
5 in this area.

6 Just to step back, we have aggressively
7 tried to attack a lot of service issues that
8 have developed in the Buffalo and Niagara Falls
9 area. We have done some things that have been
10 frankly somewhat unprecedented for our system.
11 We established a special team with our audit
12 and advisory services group back in October of
13 1999 and what we did was they reviewed a lot of
14 the procedures that we had to work while
15 customers for organized trafficking and
16 handling rail cars as well as taking a look at
17 our own internal processes. We designed and we
18 implemented a process to try to derive
19 service improvements. We started out by
20 looking at what were some of the causes that
21 were resulting in some of the service problems.
22 We tried to determine the severity of the
23 problem, what was systematic as opposed to

1 what was just a one-time event and we tried
2 to make some specific recommendations in
3 terms of problem resolution.

4 Now, we worked with all the customers
5 that are here in this area and those customers
6 that were identified on the slide over to my
7 left and we tried to work with them as best
8 we could proactively and we did so on an
9 individual one-on-one session. We really
0 wanted to emphasize open communication and
1 again that route cost analysis, we tried to
2 develop some very specific action plans that
3 were tailored to the situation of those
4 individual customers and during the course
5 of those discussions identify what would be
6 appropriate follow-up.

7 Fortunately there are some signs of
8 significant improvement that have begun to
9 take place. We are not necessarily here to
0 declare total success but I think that there
1 has been clearly some positive gains that
2 have been made in terms of service and
3 service reliability and it's not just us

1 saying so. I mean, we have gotten feedback
2 from our customers that have acknowledged
3 those improvements.

4 Recently at one of these meetings that
5 John made reference to that I was up here at,
6 we noticed that the actual customer turnout
7 in those sessions which at one time was
8 considerable, has started to wane somewhat and
9 we are looking at that as being somewhat
10 indicative of progress that is being made here
11 in the Niagara Frontier and as I'm sure that
12 Frank Pursley will talk about in his remarks,
13 that the average dwell time at our terminal,
14 the time at which the cars are actually idle
15 and awaiting their next movement has decreased
16 considerably.

17 Now, we remain pretty active and we will
18 continue to remain very, very active in
19 working with our customers to try to address
20 service issues. We have maintained involvement
21 and high attention of our local operating
22 stuff and as you see by the number of my
23 colleagues that have turned out today from

1 various different departments and functions
2 within CSX, it really does show the seriousness
3 that CSX has taken to try to address the
4 service here in this area. We continue to
5 try to provide some additional tools to help
6 customers in the area of car ordering and
7 tracking and we are using web- based technology
8 through some systems that we have developed
9 in order to handle that.

10 We also are measuring transit times
11 and dwell times not just here locally but for
12 cars that are either inbound or cars that are
13 originated from this area as well and now we
14 have fortunately progressed to the point where
15 we are talking to customers about trying to
16 address the cycle times and particularly for
17 those customers that are providing their own
18 fleets, adjusting their fleet sizes so really
19 it's a win/win situation here for both of us.

20 Service consistency is important across
21 the entire railroad but certainly given the
22 heightened awareness and sensitivity that has
23 occurred as a result of some of the problems

in the past, it will continue to be a high priority in the Niagara Frontier for CSX. We recognizes that our customers face a lot of pressures internally and they try to explain situations that develop as a result of a rail delay or some form of rail disruption that has impacted on the facility. We definitely share the sense of urgency in terms of trying to resolve those issues as quickly as we can and we are presently in the process of trying to transition from micro tracking a lot of exceptions to the point in which we really have standard processes in place that customers can count on and we can count on in terms of being reliable.

It's obvious that we need to maintain the confidence of our customer base here in this area as service improves because the important thing we really want to focus on is growth and we hope that we realize growth in this area.

Now, you might ask, well, where do you think the growth is going to come from? Well,

1 what I have tried to provide for you is just
2 a sample of some different areas commercially
3 that we see that are some opportunities to
4 grow that base and some that we have actually
5 started to experience.

6 First in our intermodal area we have
7 seen traffic that has actually doubled over
8 the past year and that is really forcing us
9 to take a look at the options in order to
0 expand capacity because this is alone one of
1 our best routes in terms of our entire system
2 and so we are optimistic that we are going
3 to continue to see intermodal growth.

4 Out bulk transfer facilities where we
5 are taking materials from rail cars and
6 transferring them to trucks for local
7 delivery through our transflo terminals
8 of which we have actually two here in the
9 Buffalo area, one is for dry product and one
10 is for liquid in our northeast market, it
11 has created a need to evaluate capacity and
12 we actively have some studies underway looking
13 to see what we can do in terms of expanding

1 our capabilities.

2 We have had some success in converting
3 some traffick off of the highways onto rail
4 and just a couple of quick examples that I
5 would cite, although I would encourage you
6 not to mix the two, would be beer that would
7 actually originate here in the Buffalo area
8 going to various destinations and asphalt
9 that would be coming into this particular
0 area as well and you know this was one of the
1 things that was really talked about as being
2 the primary benefit from the integration of
3 Conrail which was to try to convert truck
4 traffic to rail and again we are actually
5 seeing that.

6 We also have seen the opportunity of
7 increasing the number of inputs coming into
8 Buffalo, not through the port of Buffalo
9 necessarily but through other points in our
0 system where the material would actually be
1 used here in the area of metals. We are
2 looking at products such as copper ingots
3 which we understand to be a substantial amount

1 of traffic that is coming into the Buffalo
2 area. This is all against a backdrop of a
3 pretty solid base of automotive and coal
4 traffic for which we see there is a continuing,
5 steady demand.

6 Now, we intend to fulfill our
7 commitment to customers in this region, not
8 only to capitalize on some of the opportunities
9 that I mentioned but because we believe it's
0 absolutely the right thing to do and how we
1 are going to do this is we are going to
2 continue to communicate openly and in order
3 to try to establish the appropriate level
4 of expectations and especially about service
5 and of course trying to gather feedback.

6 As I have stated, we are meeting
7 individually with customers to discuss
8 specific issues of concern and certainly
9 while at public forums, they have been very
0 helpful in terms of trying to raise the
1 attention and the importance of what this
2 region has regarding rail service and some
3 of the difficulties in the past. We really

feel that we have kind of turned the corner and we are really hopeful that as we continue to work with customers individually, we will actually see some very positive things develop.

We also bear the responsibility in terms of providing very timely information about any sort of operational or for that matter organizational changes that would occur within CSX. We want to share some very relevant service performance measures. I mean, we could inundate everybody in this room with all sorts of graphs and charts and statistics which may not really mean a whole lot but we do think that we have the capability of sharing some information that would be pertinent and really give you a very clear understanding of how performance is going on our railroad and of course we want to work closely with customers to try to formulate and then implement improvements.

So finally, we hope that by working with customers and certainly I don't mean to

overlook the community officials, that we have to have their support and involvement as well, we really believe that business can increase.

Again, we want to try to define what are the appropriate service requirements for that new business. We want to develop as a infrastructure that is necessary to support these volumes and we want to utilize our industrial development expertise to attract new industries and/or facilitate expansions and on that last point, I would like to turn things over to David Hemphill who is again the Assistant Vice President Industrial and Economic Development.

MR. HEMPHILL: Thank you, Derrick.

A lot of words today about future growth and I think that it would be appropriate from an industrial development point of view to share with you how we see our function and our role to facilitate that growth and to meet the new customer needs here in Western New York.

We have a program that is going along

all of our region and it's based on the idea of think rail because we believe that our network is as important to bringing new customers of the Buffalo and Western New York area is a lot of other key criteria that is so necessary in such a competitive environment like economic development. We are competitive. We are safe. We are environmentally friendly and in many cases the products we move, we are the low-cost carrier. That's been our trend over the last five years. Whereas earlier in the 1990s, one out of ten projects would require rail, what we are seeing from our customer base is now three to four projects out of ten are asking for rail and we think this is a healthy increase.

Usually the projects that we are handling on a system basis as well as upstate New York are basically large manufacturing, big box distribution types of projects that bring very good jobs and investment to the local area. Our approach to industrial development is to work as part of the network.

1 We understand that there are very few lone
2 rangers out there. We cannot bring industry
3 to Western New York on our own. It takes
4 short lines. We work very well with, in fact
5 our local person, Gerry Edwards, he has
6 incentive as much to locate industry on short
7 lines as he is to locate them on CSXT. We
8 work closely with the local and state
9 economic development agencies as well as
0 property owners, real estate brokers and we
1 have a very close network of site
2 consultants that typically bring us a lot
3 of projects as well as the utilities. We
4 work well in this environment and we do so
5 because we are adding value to that
6 economic development process.

7 Now, you might ask, what is the value
8 added that CSXT can bring? We have listed
9 them here. The first three bullet points
0 basically can be wrapped around an attractive
1 transportation package. We will work with
2 the customers to develop their service
3 requirements. We will provide them with the

rolling stop necessary to move their product and we also have, I would say, one of the key criteria is providing them with transportation pricing to get their product from either their manufacturing point to their distribution point or vice versa. Typically we work very closely with our marketing group. Derrick's group, if it's chemicals can develop the transportation package and we try to be extremely competitive in that environment.

Site development, we feel as if we know our dirt here in Western New York. Our local representation is such that he has got a long history and understands what is available. It's very important that we continue to update our site in our sites in Western New York and we spend a great deal of time doing that.

We have the capability to do industrial track design, both providing the feasibility of how to get rail into a site as well as providing cost estimates and importantly

1 we provide incentives. Typically they are
2 performance based and have to be economically
3 justified and recently because of some of the
4 choke points on our system and we would also
5 offer this up in Buffalo, we are prepared to
6 make investments in our own property in order
7 to handle the additional growth that will be
8 coming to us. This would include additional
9 switch yards, set off tracks, whatever is
0 necessary and can be justified to support
1 that new customer's location on CSXT and
2 typically one of the key things that we can
3 bring to Western New York is the fact that
4 we have got a network of sales and marketing
5 folks who deal with thousands of customers.
6 Typically we will bring more leads to the
7 area than the area is able to bring to us.
8 Currently we are working approximately 350
9 active projects.

0 Our team in Western New York as is
1 shown here, I mentioned Gerry Edwards who
2 is in the audience right now, he is motivated
3 to locate industry in Western New York. He

is a one-stop shop in that he can bring together all of the other groups that are necessary to present the total transportation package and that includes sales and marketing operations, engineering and real estate.

We like to promote ourselves from the standpoint that we are easy to do business with on the front end and we try very hard to make that apparent with our customers.

You can see Gerry's responsibilities. On the other side of the house, the person that kind of implements projects once they have announced on CSXT and has the engineering experience to be able to work through internally all the requirements that are in place to build new track is Fran Giancoma, both Fran and Gerry are former Conrail folks and are very familiar with upstate New York and we are very pleased that they are part of the team.

Our key long-range corporate strategy, you can see down there in the mission statement for our group is to grow revenue

1 by building a strong customer base.

2 Specifically what we are seeing in
3 the climate of Western New York right now is
4 that CSXT is well positioned with a very
5 healthy railroad system that can handle the
6 current growth projections that we have.
7 Our infrastructure is not a limiting fact
8 in growing the customers but where we are
9 limited is the number of good rail source
0 sites that we have in this area and it's
1 true in a lot of areas throughout our system.
2 Sites are becoming dear and much more
3 difficult to find and then to preserve.
4 Typically there are competing use demands
5 for sites and in many cases when we have
6 located a good site, we end up giving it up
7 to commercial development or residential
8 development which is a sad thing to say and
9 a sad thing for us because that just requires
0 us to go out and find additional sites.

1 In order to handle the site requirement
2 program as well as to just work closely with
3 our short lines, we see that key to growth

1 in Western New York is working with our
2 direct short line connections. They are a
3 group of professionals who operate publicly
4 owned railroads, rights of way and we look
5 at them as an extension of CSXT.

6 We currently are handling approximately
7 13 potential rail served projects in Western
8 New York, we could describe as active projects.
9 You can see the breakdown here. Four are
0 warehouse, three are chemicals, one of which
1 is a very attractive plastics project. We
2 have got several manufacturing products which
3 include paper and lumber and a scrap metal
4 project as well.

5 We are busier now than we were prior
6 to the Conrail split date. We have got more
7 projects and are developing more leads and
8 are applying more resources to Western New
9 York than Conrail did the year before the
0 split date.

1 To conclude, I would like to simply
2 say that we want to be your partner. We want
3 to be here for the long haul. We want to be

a catalyst for growth. It's a win/win situation. We develop new business in this location and Western New York develops new jobs and investment base. We want to be a partner for success and we think we have assembled a professional team that will be able to implement and gather the kind of growth that both you and we would like to see. Thank you.

And now Frank.

MR. PURSLEY: Thank you, Dave.

Can you hear me? Is the speaker on?

Okay. Each time I come to Buffalo, it reminds me of an experience I had back in the winter of 1978. I was in Evansville, Indiana. Evansville is about 300 miles south of Chicago and one afternoon there we had 13 inches of snow. The wind was blowing hard and pretty well paralyzed the city and we couldn't go home from work that night and we walked up to a hotel about a half a mile away and I will never forget, I walked into my room and the first thing I did was turn the

1 television on and the first announcement on
the television was, Buffalo, New YORK had
25 inches of snow and I thought to myself,
4 those poor souls up there.

I certainly didn't anticipate at that
time that in my career I would be one of those
poor souls that would be up here. If you have
25 inches of snow, don't call me. I don't
9 think I can help you.

I think you have already figured out
I'm probably from South Carolina or somewhere
close and we don't see a lot of snow in that
area but it was an interesting experience and
I have never forgotten it and I think of it
5 each time I come here.

I am responsible for the design of
the service network on CSX for operations
planning, specific capital projects or
improvements in infrastructure that deal with
capacity and then joint facilities which is
our interrelationship with the other
railroads whereby they operate over us and
13 we operate over them and there are significant

arrangements for doing that.

We at CSX have spent a lot of money. We have planned two years very thoroughly and I think it's the most intensive, extensive and exhaustive planning I have ever been through in planning for this merger and we know that Norfolk Southern went through the same thing and we did spend quite a bit of money in improving our infrastructure prior to this merger. We improved line capacity specifically between Cleveland, Ohio and Chicago to deal with the trains that we were going to move over through the northern tier and through Buffalo and out of New Jersey or through Buffalo and on into Chicago and Saint Louis. We spent \$150 million on one line double tracking of the B & O between Willard and Chicago. We spent another 50 double tracking between Cleveland and Willard and we spent \$50 million in a yard, building a yard at Willard which was going to be our block swap yard for the merger.

Immediately after this, after the

merger, we had some bumps in the road and I know you're aware of those bumps as well as we are and we recognize that we were going to have to do a lot of planning and we have done all of the infrastructure improvements were made and that we did have to do something a little differently and I think what made this acquisition so complicated is the true value or understanding of the traffic flows were two and three months after the acquisition before we understood and got a feel for what the traffic flows were going to be and how we need to operate our trains with the infrastructure that we had and then we immediately went to work, working on an operating plan or redesign of the operating plan to move the trains across New York and into Chicago and Saint Louis.

We can change that. We can improve the infrastructure in Buffalo. As an example, we can build another yard. We can build more main line tracks et cetera but the answer for us in this situation is that we need to change

our operating point. The plan that we counted on from day one, that we planned on using Selkirk, New York, the yard there and Albany and our yard here in Buffalo and then our yard in Willard, all make a specific block for the western connection and it became apparent to us that what we were doing was creating a lot of extra work all the way across the northern tier of our railroad and in the redesign what we did was we went in very quickly, we struck the automotive network totally from the merchandise, no longer ran over humps at Willard and at the same time we decided rather than Willard being a block swap yard which was heavily dependent on our plan, we decided it's going to be the westbound hump and we no longer bring cars from Selkirk into Buffalo to re-switch and take to Willard to get into our block swap train. We would flow traffic coming out of New Jersey east of Albany, directly to Willard. We would flow all westbound traffic out of Buffalo directly to Willard and then we would make our

Chicago and Saint Louis classifications from that point.

Without question, we saw significant improvement as soon as we made this change in the operating plan and more specifically we recognized that the improvements we made to the infrastructure really were the right ones, the correct ones and that they worked and we saw an immediate improvement in the velocity of the trains between Selkirk and through Buffalo improved by 20 percent, about seven miles per hour. We saw immediate improvement in Buffalo in the terminal dwell time. That improved 17 percent immediately and has continued to improve and we are at about 34 percent improvement today. In fact, Buffalo today is one of the lowest terminal dwell terminals we have on our railroad.

In essence what we did was we concentrated on Buffalo, protecting our customers in Buffalo. They can do the switching for the inbound connections coming in, classify the cars to go to the customers

and classify those cars out of Buffalo and we didn't depend on them for the overhead traffic and in the meantime we reduced our handlings of cars, the intermediate handlings, that's the number of times we switch a car from the time the car is at the yard to destination by 14 percent.

Going on, in addition to the improvements in the infrastructure, in 1999 in New York on the Albany Division we hired 200 locomotive engineers and conductors and we are continuing to hire locomotive engineers and conductors and crews are critical. We have got to have crews to man the train and continue to move the trains because every time we stop a train, there's a potential problem and it creates a need for more infrastructure and we stepped up to the table. We've done the hiring in New York and specifically in Buffalo, we have hired 60 new engineers and conductors since 1999 and we have hired an additional 40 this year that we think will be adequate in protecting our demand.

The situation in Buffalo today is that we have a standard in this facility in the Frontier Yard where our infrastructure can protect us switching 2,200 cars a day on a standard. We have been at about 1,500 since we made the change to the operating plan and in early January, late December and on into early January and more recently we have been at about 900 cars a day. The Frontier Yard certainly protects the business level that we have in this area and we have no concerns with that.

Now I would like to focus a little bit on the map and I think this certainly depicts for you the importance of Buffalo and the State of New York and how Buffalo itself is an integral hub on our network. If you think of an imaginary line that Philadelphia or anything north of Philadelphia that we run to our westbound connection, we come up through Albany, through Buffalo and then onto Chicago or Saint Louis and all of our traffic in both directions moves over this route and

comes to Buffalo. We presently operate about 70 trains a day through Buffalo. There are 26 intermodal, 27 merchandise, 10 automotive. We have a couple of coal trains and in addition there are four passenger trains. So, we have a significant amount of traffic through the city and our velocity continues to improve.

In addition to that we have a good customer base, a heavy industry base that we appreciate and certainly will look for every opportunity to serve.

The next chart that I would just review very quickly with you is a chart that we give to the STB and I will call your attention to the percent improved layover, two hours before they leave the terminal and you can see that we have had about a 57 percent improvement in that category. This is in Buffalo.

The average terminal dwell times, year to date is down three hours and that's a ten percent improvement and like I said earlier, that's year to date. The last two months we have been performing at 26 hours.

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infrastructure to protect volumes but it is a key driver in the equation.

When we look at our \$900 million of capital, we spent \$60 million of added capacity, adding capacity to our network. The track portion you see here is replacing track that we have worn out. It's replacing cross ties and surfacing tracks et cetera but I think it's important to point out that we will spend this year \$60 million just adding infrastructure to our property to protect the additional business.

The next slide states what our 2002 to 2003 plan is in the State of New York. We plan to spend \$44 million, of which \$23 million will be in yards, intermodal facilities is a million and a half and line capacity improvements which will occur primarily on the river line between Jersey and Selkirk, will be 19.2 million and I think Jim McClellan made a good point that in many cases we will spend money on infrastructure many miles from Buffalo that will have a significant impact

on Buffalo itself and I think it's important for us to remember that and with the expansion or the improvements we will make on the river line, it will certainly help us with the timing of our trains coming into and out of Buffalo and the reliability of those trains.

Buffalo itself and the 2003 plan, we expect to spend \$10 million. We have a joint project with the state on expanding Williams Yard. We put a million and a half in this year and we will put another million and a half in that project and the state is also putting \$3 million into this facility. We have two million in shop improvements, that's our car shops in Buffalo and in addition to our locomotive servicing facility and improving our pits.

Our power upgrade system which is the electrical lines under the yard to support the power for the various yard functions, we are replacing all of those this year and will spend a million doing that.

Frontier Yard, the hump operation,

1 computer control there. We right now have
2 plans to spend \$5 million replacing that
3 system. The system is operating fine today. We
4 expect it to operate fine but in the world of
5 technology today, obsolescence gets us and
6 we will get to the point in a few years where
7 we can't get parts for that system and it will
3 become more unreliable. So, we anticipate
9 that we will spend five million replacing that
0 control.

1 In closing, I would like to assure you
2 that Buffalo has been and will continue to be
3 an integral part of our network. We have
4 made significant investments in people,
5 physical plant and technology on our railroad
6 in the past. We are doing that this year and
7 expect to do it in the coming years, again,
8 depending on the volumes, economic growth of
9 the country and our company and then these
0 investments coupled with the continued
1 improvements we expect to make in service
2 design, I think we will continue to smooth
3 the operation and improve the service that

we will provide.

Thank you, very much.

MR. TIMMONS: Thank you, Frank. In the interest of moving right along, the first requested presentation from Buffalo Southern, either Mr. Kevin O'Gorman or Mr. Bert Feasley. Are you here?

(No response.)

We will go to the next presenter and if they come in, we will give them the opportunity. Mr. Ron Coan, Erie Niagara Rail Steering Committee. Are you here, sir?

MR. COAN: Thank you for giving us the opportunity to make a presentation today. We are anxious to communicate our thoughts to you, the thoughts of the Erie Niagara Regional Steering Committee. This is a committee which unabashedly works to enhance and protect the opportunities of our area shippers upon which our manufacturing and distribution based economy rely.

You are important to us. We wish to work with you and we wish to enhance the

1 services and very simply we welcome this
2 opportunity to make some comments regarding
3 the possibility of enhanced infrastructure in
4 the area.

5 I have with me today, I don't know where
6 he is, behind me some place, no doubt a
7 thousand percent is Sam Ferraro who will share
8 my time. As well he is a Commissioner of
9 Planning for Niagara County and he will make a
0 follow-up second-part presentation as will
1 other speakers that are located in your agenda
2 who are also members of the Erie Niagara
3 Regional Steering Committee.

4 My presentation, my part of the
5 presentation consists of providing a
6 perspective for you and that perspective
7 starts with the initial acquisition of Conrail
8 by CSX and NS upon which some of the
9 infrastructure situation is presently based.

0 The acquisition of Conrail by CSX and
1 NS brought with it the promise of new
2 competition and improved service to the
3 northeast. Both railroads touted the benefits

1 of the merger, indicating that creating two
2 railroads from one Conrail system would
3 inject new competition and provide better
4 opportunities for both railroads and
5 shippers. The ERIE Niagara Railroad Steering
6 Committee asked the STB to consider during
7 this process implementing a shared access
8 area that would enhance the benefits of
9 competition to area shippers. The STB did
0 not grant that relief and currently the ENR
1 has a court action before the US Court of
2 Appeals.

3 However, during that process, it became
4 quickly apparent to us at least that the
5 dominant thinking of the railroads in
6 splitting Conrail and acquiring Conrail was
7 based on dividing up the regional revenue
8 allocations of the different regions of the
9 affected areas. In effect what was
0 discussed was, CSX would get one lucrative
1 shipper area based on revenue in one region
2 and then NS would get others. They were
3 tradeoffs.

1 The result, however, is very important
2 to our infrastructure discussion. The basis
3 of this split of the merger and acquisition
4 was not railroad efficiencies, operational
5 but was market areas. We have effectively
6 a situation now where the infrastructure
7 capacity is not adequate to deal with the
8 new system that has been created as a result
9 of the acquisition and to overcome the
0 deficiencies of the earlier decision, public
1 funds are now requested to alleviate these
2 inconsistent and improper decisions that were
3 based on market realities, not infrastructure
4 capacities.

5 Accordingly, our coalition believes
6 strongly that the railroads should participate
7 in an objective third-party study of the
8 region's rail network. This study focuses
9 on the region's and the operational
0 efficiencies and the infrastructure. It is the
1 first step in an overall transportation system,
2 is to understand that system. Transportation
3 planning is the key to that. This study

should focus on the current and future needs, assess the impact of the merger on the region's rail terminal interconnections with other carriers and make recommendations as to what investments are needed.

The result of the merger with several different competing carriers in the area has been a major restructuring of the region's rail network and it will have impact far into the future. A serious study to look at the regional rail terminal infrastructure makes sense and must be undertaken.

Infrastructure, rail rates and service are all linked. To look at one without looking at the other is ridiculous. We are considering today the impact of infrastructure.

Infrastructure needs users. Users need cost efficiencies. Cost efficiencies if not provided to shippers will result in them switching from rail to truck. That is happening today. We are well aware that within the last weeks, there has been a major carrier which will speak today which received

rate increases of upwards of 50 percent and has now switched to truck.

Very simply, if we are going to plan for infrastructure and we are not going to reduce the fees that our shippers bear, then maybe we don't need as much infrastructure because our shippers won't be using it. It's that simple.

In CSX switching forward, it's very clear in any case that the infrastructure is not adequate at present. Accordingly, we do believe that there is a laundry list of different types of activities and projects which ought to be a part of this plan that we call for. Very simply, infrastructure improvements is a necessity for both railroads and the region in order to remain competitive and to finance the high cost of the Conrail acquisition. Important infrastructure investments must be made and the railroad should produce an inventory of such improvements and a schedule for capital investments in the region.

We from the public side of our coalition will begin to provide you some perspective on those rail and infrastructure projects which we believe should be included in this list and for that, the beginning comments on that, I turn to Sam Ferraro.

MR. FERRARO: Thank you very much, Ron. Good morning. My name is Sam Ferraro. I'm the Commissioner of Niagara County's Department of Planning, Development and Tourism. I appreciate the opportunity to be here today to address issues regarding railroad infrastructure needs in Niagara County.

Before I begin, I wish to acknowledge the hard work by the Erie County Industrial Development Agency in bringing our region together on several railroad issues. The ECIDA has acted in a completely unbiased capacity regarding rail problems, whereby, I strongly endorse the comments made today by that organization. Please note Niagara County has been working closely with the ECIDA as a member of the Erie Niagara Rail Steering

1 Committee. Our work has focused on rail
2 service and infrastructure projects that we
3 hope will be addressed as a result of this
4 meeting this morning.

5 The purpose of my remarks today deal
6 directly with infrastructure needs in Niagara
7 County. In December of 1999, our department
8 prepared a report outlining railroad needs in
9 Niagara County. Specifically, the report is
0 a comprehensive priority list of railroad
1 bridges and railroad crossings throughout the
2 county, including cost estimates. The report
3 was presented to our federal, state and
4 local representatives as well as
5 representatives from the railroads.

6 Subsequent to the release of the
7 report, we were asked to prioritize the rail
8 projects by community in Niagara County. The
9 priority list includes nine projects totalling
0 \$5,332,000. These projects represent the
1 highest priority rail projects in Niagara
2 County.

3 On February 1, 2000 the Niagara County

Legislature adopted a resolution supporting these projects as well.

The Niagara County report and priority list of rail projects are attached to my statement for your information.

Please be advised there are currently some 80 major businesses in Niagara County that rely on some form of rail transportation for their economic existence and competitiveness. We are also working with new businesses that may require some form of rail service for the transportation needs.

Specifically, the Niagara Falls, New York area is home to many chemical industries such as Occidental Chemical, Olin and DuPont that are heavily dependent upon rail service. Delphi Harrison Thermal Systems located in Lockport, New York employs 6,100 people and through rail service, supplies components for General Motors and the automotive industry. Delphi is the largest employer in Niagara County and Western New York. Additionally, the new AES Corporation power generating

station in Somerset, New York, formally known as the New York State Electric and Gas, is heavily dependent on coal shipments via the southern United States.

These and other companies require modern infrastructure that allows the best movement of goods and services as possible in our region.

The emphasis on improved transportation infrastructure must be underscored and its affect on our area's economy. Our local economy has suffered greatly from population and job loss. Further hinderance toward the ability to move goods will only add to this decline, locally and in the region. Following trends of the last several decades, the population of Niagara County declined by 6,598 people, or 2.9 percent between 1980 and 1990. The 1990 county population figure of 220,756 persons represents a decline of 6.3 percent from the 1970 figure of 235,720. This decline in population mirrors the significant loss of industry in our county.

1 Further, the unemployment rate in Niagara
County as reported in June of 1999 was 5.8
percent as compared to the New York State
4 unemployment rate of 5.2 percent in June
and a national unemployment rate of 4.3
percent in June of the same year.

7 On behalf of the Niagara County Planning,
Development and Tourism, we request your
9 support of these necessary rail projects.
We further urge the railroad representatives
here today to please analyze these projects
2 and work with Niagara County and its local
communities to begin scheduling these
priorities for implementation.

5 Thank you, very much.

7 MR. TIMMONS: Thank you, Mr. Coan
and Mr. Ferraro.

8 Next up, Buffalo Economic Renaissance
Corporation, Mr. Alan DeLisle or Mr. Peter
0 Cammarata.

3 MR. CAMMARATA: Good morning. My
name is Peter Cammarata and I am the
Executive Vice President of Buffalo Economic

Renaissance Corp., BERC, the City of Buffalo's economic development agency. My comments will be brief this morning. My team of huskies is outside and they are getting a little bit agitated so I'm going to make sure that I tend to them as quickly as possible.

My comments today are made on behalf of the Honorable Anthony Masiello, Mayor of the City of Buffalo and Alan H. DeLisle, President of BERC.

Although today's open meeting is not an official Surface Transportation Board hearing, we feel it is incumbent on the representatives of Norfolk Southern Corporation and CSX Transportation to present our comments, concerns and recommendations in their fullest form to the Surface Transportation Board.

Long before CSX and NS took over the Conrail operation in 1999, many of us sat through the pre-acquisition hoopla which emphasized the promises of increase competition and improved service throughout the northeast United States, and most

importantly, Western New York and Buffalo. Private sector shippers and public sector shapers joined forces under the moniker of Erie Niagara Rail Steering Committee, ENRS to encourage the STB to consider implementing a shared access area for Western New York. We felt that this type of structure would not only benefit railroad customers, but it would spawn functionally superior infrastructure and operational efficiencies.

The sad fact is that the last year of rail operations in Western New York has included far too much swimming upstream and far too little spawning of economic development. And what performance goals are we swimming upstream to get to; those established by Conrail.

There is no doubt that substantial investment needs to be made to improve Western New York's rail infrastructure to raise the overall performance goals. Let's all take a step back for a moment though, and readjust our focus. Our focus has to be the shippers,

1 the customers. Infrastructure investments by
2 the railroads should not be driven by the
3 amount of public funding participation, it
4 should be driven by the demands of the
5 customers and the business in a competitive
6 environment.

7 The City of Buffalo encourages the
8 railroads to invest in intermodal and
9 transflo facilities on underutilized land
0 within the city, because the customer demand
1 is there. The Buffalo Economic Renaissance
2 Corporation will work closely with the
3 railroads to facilitate the logistics
4 surrounding these investments.

5 The BERC is grateful to the Erie County
6 Industrial Development Agency and the Erie
7 Niagara Rail Steering Committee for coalescing
8 the railroad issues for our region, and we
9 support their call for the railroads to fund an
0 objective study of the region's rail network.

11 Thank you.

12 MR. TIMMONS: Thank you, very much, Mr.
13 Cammarata.

Canadian Pacific Railway, Steve Fisk.

UNIDENTIFIED VOICE: We have submitted testimony from Mr. Fisk but he will not be joining us today.

MR. TIMMONS: Okay. Canadian National, John Sebesta.

MR. SEBESTA: My name is John Sebesta. I am the Director of Interline Management Eastern Division and I'm with Canadian National Railway.

This morning our presentation will be in four parts. They will be brief and concise and we hope the information prepared will allow the panel to better understand where CN is coming from with respect to our operation through Buffalo. We are going to talk a little bit about the importance of trade between the State of New York and Canada. We are going to talk a little bit about the current CN business that we handle through from Canada, to and from New York State and we are also going to talk about some Buffalo operating issues, where we see the problems

1 to exist and we are also going to offer some
2 potential solutions which we believe will
3 help alleviate our concerns to expedite
4 traffic through the Buffalo gateway.

5 The North American Free Trade Agreement
6 has fueled and will continue to fuel
7 Canada/US trade and growth. You can see
8 where the growth is when you compare the
9 Canadian gross domestic product to the
10 compound annual growth rate between Canada
11 and the US which is about six percent greater.
12 The economies of New York State and Canada
13 are linked which you will see in the next
14 slide.

15 The northern border of New York is an
16 important gateway to the port of entry and
17 you are going to hear this peppered throughout
18 this presentation. Buffalo is an important
19 gateway for Canadian National revenue.

20 Canada is New York State's largest trading
21 partner and largest export market. There are
22 57 billion in imports at New York. The
23 Province of Ontario alone is New York's

largest, second largest I should say trading partner and even larger than the trade between US and Mexico. 22 percent of New York State's exports are shipped to Canada. So, needless to say, when we north/south route and future growth, that's what we are looking at. We are looking at moving traffic through the Buffalo gateway and into New York State and northeast United States.

The Buffalo gateway as I said is an important gateway for Canadian National for its north/south and east/west traffic overall and Buffalo is what we consider to be a growing major hub in the railway industry. With CN traffic moving from CN service territories to population centers in the United States in the US northeast, it is essential and I say essential, that traffic flows and service to customers are improved. The Buffalo gateway has increasing importance with new market opportunities as a result of the CNIC merger and CNIC/KCS alliance. At the same time, growth potential must be protected in the

overall infrastructure and service plan.

Now, it's very important, I notice at the bottom of this slide, CN wants to go on record as saying that we will continue to support CSXT and NS efforts to secure public funding for a new draw in the Buffalo area. We see the benefit of that particular infrastructure change.

The next slide. Let's look at what CN is moving today through the Buffalo gateway. Now, these are 1999 statistics and I might add that they are improving. You are looking at about 100,000 carloads via the Buffalo gateway and just some of the more specific commodities, you are looking at autos of about 20,000, parts 93, lumber 10 and newsprint 6,700. Our revenues are about \$167 million through this gateway.

Now, for Buffalo alone, we have approximately 10,000 cars to and from the Buffalo area. Now, we are not small in this hub. CN and CP Rail are competitive brothers, operate 25 percent of the trains through the