266. Plaintiffs have no adequate remedy at law.

COUNT TWENTY
(Unlawful And Ultra Vires Amendment
of Conrail's Articles of Incorporation)

267. Plaintiffs withdraw Count Twenty as moot.

COUNT TWENTY-ONE
(Declaratory Judgment Against Conrail and the
Director Defendants That the Entire Conrail
Board, Or Any One or More of Conrail's
Directors, Can Be Removed Without Cause)

268. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

269. Plaintiffs intend, if necessary to facilitate the NS Proposal, to solicit proxies to be used at Conrail's next annual meeting to remove Conrail's current Board of Directors.

270. There is presently a controversy among Conrail, the Director Defendants and the plaintiffs as to whether the entire Conrail Board, or any one or more of Conrail's directors, may be removed without cause at the annual meeting by a vote of the majority of Conrail stockholders entitled to cast a vote at the Annual Meeting.

271. Plaintiffs seek a declaration that Article 11 of Conrail's Articles of Incorporation permits the removal of the entire Conrail Board, or any one or more of Conrail's directors, without cause by a majority vote of the Conrail stockholders entitled to cast a vote at an annual election.

272. Plaintiffs have no adequate remedy at law.

COUNT TWENTY-TWO

(For Breach of Fiduciary Duty
with Respect to the New Special Meeting)

273. Plaintiffs repeat each of the foregoing allegations as if fully set forth herein.

274. The director defendants, as members of the Conrail Board, owe fiduciary duties to plaintiffs and all Conrail shareholders to exercise their positions of trust and confidence with due care, loyalty and fair dealing.

275. By acting with improper motivations, including, but not limited to, indicating their intention to deny plaintiffs and all Conrail shareholders the exercise of their right of shareholder suffrage in an effort to ensure victory for the Charter Amendment, defendants have breached their fiduciary duties to (i) plaintiffs and (ii) to all Conrail shareholders by attempting to manipulate the shareholders' vote and interfering with the exercise of shareholders' voting rights.

276. The director defendants' conduct is, and, unless corrected, will continue to be, wrongful, unfair and harmful to plaintiffs as shareholders of Conrail.

277. Because the threatened failure to convene the Special Meeting of December 23 will interfere with the shareholders' ability to exercise their voting rights, it also is contrary to public policy.

278. Plaintiffs have been and will continue to be irreparably damaged by the acts of the director defendants.

279. Plaintiffs have no adequate remedy at law.

COUNT TWENTY-THREE
(For An Injunction Pursuant to
Pennsylvania Business Corporations Law,
15 Pa. Cons. Stat. § 1105)

280. Plaintiffs repeat each of the foregoing allegations above, as if fully set forth herein.

281. As more fully alleged above, the director defendants' conduct with regard to the December 23 Special Meeting has been taken with improper motives and in bad faith for the sole or primary purpose of depriving plaintiffs and Conrail's other shareholders the free exercise of

their right of shareholder suffrage. Such conduct strikes at the foundation of corporate democracy and governance and is fundamentally unfair.

282. The director defendants have acted fraudulently in at least two respects: first, contrary to their public representations and representations before this Court that Conrail shareholders would have a choice with respect to the CSX Transaction, defendants now say that only a vote approving the Charter Amendment will be counted and given effect; and second, by recommending approval of the Charter Amendment without disclosing that they do not believe such approval is in the shareholders' best interests.

283. Moreover, by announcing that the New Special Meeting may be successively postponed until the Conrail shareholders submit to their will, defendants are attempting to discourage opposition and coerce approval of the Charter Amendment. This, too, constitutes fundamental unfairness.

284. Further, defendants are threatening to utilize corporate assets to solicit proxies to be voted at successively postponed meetings, while shareholders such as NS must utilize their own assets to finance countersolicitations. Thus, the successive postponement of the New Special Meeting threatens to multiply the costs of opposing management's solicitation, while management draws upon the corporate coffers. This, too, constitutes fundamental unfairness.

285. Plaintiffs have been and will continue to be irreparably harmed by the conduct of the director defendants.

286. Plaintiffs have no adequate remedy at law.

COUNT TWENTY-FOUR

(Against the Defendant Directors
for Breach of Fiduciary Duty with
Respect to Section 5.1(b) of the Merger Agreement)

287. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

288. In conjunction with the Amended Merger Agreement, the Conrail Board has relinquished its power to act in the best interest of Conrail in connection with the proposed acquisitions of Conrail by improperly delegating to CSX the ability to call a Special Meeting of Conrail's stockholders.

289. The Conrail Board improperly has given to CSX, pursuant to the amended Merger Agreement, the ability to call a Special Meeting of Conrail stockholders in violation of Section 2521 of the PBCL. CSX is not entitled to call a special meeting of Conrail's stockholders under Section 2521. Conrail has not opted out of Section 2521 by providing its stockholders in its Articles of Incorporation with a right to call a special meeting.

290. Thus, by contractually binding itself to call a special meeting of stockholders at the request of CSX, the Conrail directors have abdicated their fiduciary duties, in violation of their duties of care and loyalty. In addition, they have attempted to circumvent the provisions of the PBCL by allowing CSX to call special meetings of Conrail stockholders, which CSX cannot do under the PBCL.

291. If CSX is going to assert that it should have the power to call special meetings of stockholders under Section 5.1 of the amended Merger Agreement -- a power which holders of at least 20% or more of a corporation's stock have and, then, in only limited circumstances not applicable here -- then it must be treated as a 20% stockholder for all purposes under the PBCL, including for purposes of Subchapter 25E.

292. Alternatively, Section 5.1(b) must be declared a void and ulta vires act of the Conrail Board.

293. Plaintiffs have no adequate remedy at law.

COUNT TWENTY-FIVE
(For Declaratory Relief
Against All Defendants Relating
To Subchapter 25E of the PBCL)

294. Plaintiffs repeat and reallege all of the foregoing allegations as if fully set forth in this paragraph.

295. Subchapter 25E of the PBCL was designed and intended to provide protection for shareholders of Pennsylvania Corporations against coercive partial tender offers. Subchapter 25E provides that "[a]ny holder of voting shares of a registered corporation that becomes the subject of a control transaction who shall object to the transaction shall be entitled to the rights and remedies provided in this subchapter." "Control transaction" is defined as the "acquisition by a person or group of the status of a controlling person or group." "Controlling person or group" means "a person who has, or a group of persons acting in concert that has, voting power over voting shares of the registered corporation that would entitle the holders thereof to cast at least 20% of the votes that all shareholders would be entitled to cast in an election of directors."

296. The remedy provided by Subchapter 25E is the right to receive "fair value", as defined, upon demand, for each of the shares held by an objecting shareholder, from the controlling person or group. "Fair value" means a value "not less than the highest price paid for shares by the controlling person or group at any time during the 90-day period ending on and including the date of the control transaction plus an increment representing any value, including without limitation, any proportion of any value payable for acquisition of control of the corpo-

ration, that may not be reflected in such price." Subchapter 25E sets forth defined procedures for demand, appraisal, and payment of "fair value."

297. For the purpose of Subchapter 25E, "a person has voting power over a voting share if the person has or shares, directly or indirectly, through any option, contract, arrangement, understanding, conversion right or relationship, or by acting jointly or in concert or otherwise, the power to vote or to direct the vote of, the voting share."

298. CSX, Green Acquisition Corp., Conrail's directors, senior executives and officers of Conrail constitute a group acting in concert and for the common purpose of facilitating, pursuing, and causing to be consummated the CSX Transaction (the "Control Transaction Group").

299. CSX purchased an aggregate of 17,860,124 shares of Conrail stock pursuant to its first tender offer which expired on November 20, 1996. It paid $110 in cash per share.

300. Upon information and belief, the sum of the shares purchased by CSX in its first tender offer and the shares held by Conrail's directors and senior executive officers is in excess of 20% of the voting shares of Conrail stock. If one also takes into account the unallocated shares held by the Conrail ESOP and Employee Benefit Trust over which Conrail's officers have voting power, consummation of the first CSX tender offer resulted in the Control Transaction Group having acquired voting power over very substantially in excess of 20% of Conrail's voting stock. Thus, upon consummation of the first CSX tender offer, a control transaction occurred with respect to Conrail.

301. Accordingly, the Control Transaction Group is required by Subchapter 25E to give prompt notice of a control transaction and to pay to each demanding shareholder at least $110 per share in cash for each share held by such demanding shareholder. Plaintiffs seek a declaratory judgment that this is so.

302. Plaintiffs have no adequate remedy at law.

WHEREFORE, plaintiffs respectfully request that this Court enter judgment against all defendants, and all persons in active concert or participation with them, as follows:

A. Declaring that:

(a) defendants have violated Sections 14(a), 14(d) and 14(e) of the Exchange Act and the rules and regulations promulgated thereunder;

(b) defendants' use of the Charter Amendment is violative of Pennsylvania statutory law and their fiduciary duties;

(c) defendants' discriminatory use of Conrail's Poison Pill Plan violates the director defendants' fiduciary duties;

(d) the termination fees and stock option agreements granted by Conrail to CSX are violative of the defendants' fiduciary duties;

(e) the Continuing Director Requirement of Conrail's Poison Pill Plan is ultra vires and illegal under Pennsylvania Law and Conrail's Articles of Incorporation and Bylaws; and is illegal because its adoption constitutes a breach of the defendants' fiduciary duties;

(f) Conrail's entire staggered board or any one or more of its directors, can be removed without cause at Conrail's next annual meeting of stockholders;

(g) the defendants have engaged in a civil conspiracy to violate Section 14 of the Exchange Act and the rules and regulations promulgated thereunder;

(h) the Poison Pill Lock-In provisions in the CSX Merger Agreement are ultra vires and, therefore, void under Pennsylvania Law;

(i) the 270-Day Lock-Out provision in the CSX Merger Agreement is ultra vires under Pennsylvania law and, therefore, void;

(j) the Director Defendants, by approving the CSX Merger Agreement, breached their fiduciary duties of care and loyalty;

(k) the coercive nature of the CSX Transaction constitutes fundamental unfairness to Conrail's shareholders;

(l) the defendants' conduct concerning the New Special Meeting constitutes an illegal and inequitable manipulation of the processes of corporate democracy and is fraudulent and fundamentally unfair;

(m) section 5.1(b) of the revised CSX Merger Agreement constitutes an unlawful delegation of the Director Defendants' fiduciary duties, is illegal and ultra vires, and its adoption by Conrail constituted a breach of the Director Defendants' fiduciary duties, aided and abetted by CSX; and

(n) consummation of the first CSX Offer caused a "Control Transaction" with respect to Conrail to occur under subchapter 25E of the PBCL and created a joint and several liability among the members of the Control Transaction Group to pay $110 cash per share to each demanding Conrail shareholder.

B. Preliminarily and permanently enjoining the defendants, their directors, officers, partners, employees, agents, subsidiaries and affiliates, and all other persons acting in concert with or on behalf of the defendants directly or indirectly, from:

(a) commencing or continuing a tender offer for shares of Conrail stock or other Conrail securities or accepting shares for payment in connection with such tender offer;

(b) seeking the approval by Conrail's stockholders of the Charter Amendment, or, in the event it has been approved by Conrail's stockholders, from taking any steps to make the Charter Amendment effective;

(c) taking any action to redeem rights issued pursuant to Conrail's Poison Pill Plan or render the rights plan inapplicable as to any offer by CSX without, at the same time, taking such action as to NS's outstanding offer;

(d) taking any action to enforce the Continuing Director Requirement of Conrail's Poison Pill Plan;

(e) taking any action to enforce the termination fee or stock option agreement granted to CSX by Conrail;

(f) failing to take such action as is necessary to exempt the NS Proposal from the provisions of the Pennsylvania Business Combination Statute;

(g) holding the Conrail special meeting until all necessary corrective disclosures have been made and adequately disseminated to Conrail's stockholders;

(h) taking any action to enforce the Poison Pill Lock-In and/or the 180-Day Lock-Out provisions of the CSX Merger Agreement;

(i) failing to take such action as is necessary to ensure that a Distribution Date does not occur under the terms of the Conrail Poison Pill Plan;

(j) failing to take any action required by the fiduciary duties of the Director Defendants; and

(k) postponing the shareholder vote scheduled for December 23, 1996.

C. Granting compensatory damages for all incidental injuries suffered as a result of defendants' unlawful conduct.

D. Awarding plaintiffs the costs and disbursements of this action, including attorneys' fees.

E. Granting plaintiffs such other and further relief as the court deems just and proper.

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DATED: December 13, 1996

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NORFOLK SOUTHERN CORPORATION, a Virginia Corporation, ATLANTIC ACQUISITION CORPORATION, A Pennsylvania corporation AND KATHRYN B. McQUADE, Plaintiffs,	:	
v.	:	
	:	C.A. No. 96-CV-7167
CONRAIL INC. a Pennsylvania corporation, DAVID M. LEVAN, H. FURLONG BALDWIN, DANIEL B. BURKE, ROGER S. HILLAS, CLAUDE S. BRINEGAR, KATHLEEN FOLEY FELDSTEIN, DAVID B. LEWIS, JOHN C. MAROUS, DAVID H. SWANSON, E. BRADLEY JONES, AND RAYMOND T. SCHULER AND CSX CORPORATION, Defendants,	:	

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs hereby move for an order enjoining defendants from postponing the Special Meeting of Conrail Shareholders, currently scheduled to be held on December 23, 1996.

In support of their motion, plaintiffs rely upon the

accompanying memorandum of law.

Respectfully Submitted:

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DATED: December 16, 1996

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NORFOLK SOUTHERN CORPORATION, a Virginia corporation, ATLANTIC ACQUISITION CORPORATION, a Pennsylvania corporation, and KATHRYN B. McQUADE,	
Plaintiffs,	
-against-	C.A. No. 96-CV-7167
CONRAIL INC., a Pennsylvania corporation, DAVID M. LEVAN, H. FURLONG BALDWIN, DANIEL B. BURKE, ROGER S. HILLAS, CLAUDE S. BRINEGAR, KATHLEEN FOLEY FELDSTEIN, DAVID B. LEWIS, JOHN C. MAROUS, DAVID H. SWANSON, E. BRADLEY JONES, RAYMOND T. SCHULER and CSX CORPORATION,	
Defendants.	

PLAINTIFFS' OPENING BRIEF IN SUPPORT OF
THEIR MOTION FOR A PRELIMINARY INJUNCTION

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DATED: December 13, 1996

PRELIMINARY STATEMENT

At the November 18 and 19 hearing held on plaintiffs' November 11 motion for a preliminary injunction, defendants repeatedly assured this Court that the requested injunctive relief was unnecessary to protect Conrail's shareholders. The defendants maintained that, ultimately, Conrail shareholders would themselves decide on the proposed CSX transaction. As Conrail Director Baldwin testified: "No one has taken the shareholder's vote away from he or she. No one has taken it away. To get this thing done, it requires a shareholder's vote." (November 18 and 19, 1996 Hearing Transcript ("Hearing Transcript") at 252) CSX's counsel also informed the Court that: "[T]here's going to be a proxy fight between now and the December [23] meeting. And at that meeting, the shareholders will decide whether or not to opt out...." (Hearing Transcript at 634) (emphasis added).

In fact, however, the defendants are allowing Conrail shareholders no choice in the scheduled December 23 vote on the proposed Conrail charter amendment (the "Charter Amendment") to opt out of Subchapter E of Chapter 25 of the Pennsylvania Business Corporation Law of 1988, as amended. As the defendants' recently circulated proxy materials make clear, "it is expected that the special meeting will not be convened if Conrail has not received sufficient proxies to assure approval of the Proposal." Thus, no meeting will be held if the majority of Conrail's shareholders vote not to opt out.

In short, defendants are manipulating and subverting the processes of corporate democracy by:

- scheduling the December 23 special meeting, while announcing that they will permit the vote to proceed only if they are assured of victory;

- announcing that they may pursue successive special meetings until the shareholders submit to Conrail's and CSX's will; and
- abdicating the fiduciary duties they owe to Conrail's shareholders to ensure fair corporate suffrage.

These acts represent fraudulent, coercive, and fundamentally unfair conduct directed at Conrail's shareholders' most fundamental right -- the right to vote.

Defendants must be enjoined from postponing the meeting and effectively denying Conrail's shareholders of their right to vote against the Charter Amendment.

STATEMENT OF FACTS

The Preliminary Injunction Hearing

On November 18 and 19, 1996, this Court heard the parties' presentations on plaintiffs' November 11 motion for a preliminary injunction. During the hearing, plaintiffs argued that Conrail shareholders are being illegally coerced to tender shares to CSX. In response, defendants represented to this Court that Conrail shareholders would be asked to vote on the Charter Amendment, claiming that stockholders would have a choice of whether or not to accept the CSX transaction. Specifically:

- Conrail Director Furlong Baldwin testified that "we [the Conrail Board] had never, ever given up is the shareholders must vote .... The shareholders have to make a decision. They have to take an action whether they interpret our value added addition has some credibility or not." (Hearing Transcript at 201).
- Mr. Baldwin further testified that "[The November 14 meeting] was to opt out of that. That's what the stockholders meeting is -- you know, and if -- but the interesting [thing] about that, it required a majority of the shareholders to make that happen. And that's what I said to you very much earlier. The shareholders still had to vote, and still have to vote, and the shareholders still will vote. And so it was still in their purview to do what a majority of them thinks they want to do." (Hearing Transcript at 249).
- Mr. Baldwin further testified that "No one has taken the shareholder's vote away from he or she. No one has taken it away. To get this thing done, it requires a shareholder's vote." (Hearing Transcript at 252).

- CSX's counsel represented to the Court as follows: "Here, of course, this transaction [the CSX Transaction] isn't going to go forward at all unless there's the opt out in December." (Hearing Transcript at 625).
- CSX's counsel further represented to the Court that "Well, no one was suggesting that the directors can take away a vote that shareholders are entitled to under the statute, that's not happening here." (Hearing Transcript at 629).
- Finally, CSX's counsel told the Court that "[T]here's going to be a proxy fight between now and the December meeting. And at that meeting, the shareholders will decide whether or not to opt out." (Hearing Transcript at 634) (emphasis added).

These representations by defendants were not lost upon the Court. In its oral ruling, the Court observed "[A]ll or a majority of the shareholders could vote against the proposed opt-out of subchapter E." (Hearing Transcript at 651).

Despite their representations to this Court that Conrail's shareholders would have a choice regarding the CSX Transaction since they would vote on whether the Charter Amendment will be adopted or not, defendants have determined instead to leave Conrail's shareholders no choice.

The New Special Meeting: Defendants Attempt to Convince Conrail's Shareholders That Resistance Is Futile.

On November 25, 1996, Conrail issued a Notice of Special Meeting of Shareholders and a definitive proxy statement. This special meeting (the "New Special Meeting"), to be held for the stated purpose of conducting a vote of Conrail's shareholders on the Charter Amendment, is scheduled to be convened on December 23, 1996. Conrail's definitive proxy statement dated November 25, 1996 (the "Proxy Statement") makes clear,

however, that, unless and until Conrail management has received sufficient proxies to assure approval of the Charter Amendment, no shareholder votes will ever be counted. In its Proxy Statement, Conrail states:

> Under the Merger Agreement, Conrail has agreed not to convene, adjourn or postpone the Special Meeting without the prior consent of CSX, which consent will not be unreasonably withheld. As a result, it is expected that the Special Meeting will not be convened if Conrail has not received sufficient proxies to assure approval of the Proposal. Pursuant to the Merger Agreement, either CSX or Conrail can require that additional special meetings be held for the purpose of considering the Proposal, and a new record date could be set for any such special meeting (a new record date would be required if such meeting is held after February 3, 1997).

(Declaration of George G. Gordon ("Gordon Decl."), Ex. A at 2) (emphasis added).

The Philadelphia Inquirer on November 28, 1996, succinctly captured the essence of what defendants are attempting to do:

> As elections go, this one might have been devised in the old Kremlin: Conrail shareholders are scheduled to vote December 23 on a proposal that will likely decide the Philadelphia railroad's future. If they approve the management-endorsed proposal, Conrail's planned $8.5 billion merger with CSX Corp. will move forward. If the shareholders don't approve ... they won't vote.
>
> * * * *
>
> In other words, count ballots first, then hold the vote -- after we've won.

(Gordon Decl., Ex. B)

Thus, defendants are telling Conrail shareholders that the only vote that they will count as effective is a "for" vote. Defendants are essentially saying that "against" votes are futile, since there is no scenario in which the New Special Meeting will result in a vote rejecting the Charter Amendment, and, by implication, rejecting the CSX Transaction.

Additionally, by announcing that successive additional special meetings may be held for the purpose of voting upon the Charter Amendment, defendants are attempting to discourage opposition and coerce approval. The intended message is plain: Resistance is futile.

Finally, Conrail and its directors have ceded to CSX control of the voting processes by which Conrail's other shareholders may express their will regarding the business and affairs of Conrail. By entering into the Revised Merger Agreement, which includes a covenant subjecting the Conrail Board's actions regarding the voting process to CSX's consent, the Conrail directors have improperly abandoned their managerial responsibilities to CSX to the detriment of Conrail's other shareholders.

In short, defendants are manipulating and subverting the processes of corporate democracy by:

- scheduling the New Special Meeting, while announcing that they will permit the vote to proceed only if they are assured of victory;
- announcing that they may pursue successive special meetings until the shareholders submit to the defendants' will; and
- abdicating the fiduciary duties they owe to Conrail's shareholders to ensure fair corporate suffrage.

Each of these acts alone constitutes a breach of the defendants' fiduciary duties, aided and abetted by CSX. Taken together they paint a bright picture of fraudulent, coercive, and fundamentally unfair conduct directed at Conrail's shareholders' most fundamental right -- the right to vote.

ARGUMENT

I. DEFENDANTS SHOULD BE ENJOINED FROM POSTPONING THE DECEMBER 23 MEETING.

To obtain preliminary injunctive relief, a plaintiff must show: (i) a reasonable probability of success on the merits; (ii) a substantial threat of irreparable injury if the injunction is not granted; (iii) the grant of preliminary relief will result in greater harm to the non-moving party; and (iv) preliminary relief will be in the public interest. SI Handling Sys. Inc. v. Heisley, 753 F.2d 1244, 1254 (3d Cir. 1985); Hoxworth v. Blinder, Robinson & Co., 903 F.2d 186, 197-98 (3d Cir. 1990). The "quantum of evidence needed to prove probability of success...meshes with the quantum of evidence necessary to meet [the] other requirements." D & N Fin. Corp. v. RCM Partners L.P., 735 F. Supp. 1242, 1247 (D. Del. 1990), citing Polaroid Corp. v. Disney, 862 F.2d 987, 1006 (3d Cir. 1988). In other words, the evidence needed to establish any one of the four factors is measured on a sliding scale; a strong showing on any one factor will lessen the significance of the others. Id.

As shown below, each element of the preliminary injunction mixture weighs in favor of enjoining postponement of the vote. The plaintiffs' motion for preliminary injunction should be granted.

A. Uncontroverted Evidence Firmly Establishes That Defendants' Threatened Postponement Of The Meeting Endangers Plaintiffs' Fundamental Right To Fair Corporate Suffrage.

1. Courts zealously protect the stockholders' fundamental right to vote.

"The right to vote is often considered a shareholder's most fundamental right." Reifsnyder v. Pittsburgh Outdoor Advertising Co., 405 Pa. 142, 149 n.8, 173 A.2d 319, 322 n.8 (Pa. 1961) (citing 13 Fletcher, Cyclopedia Corporations, § 5717 (rev. Col. 1961)). See

also Mills v. Electric Auto-Lite Co., 396 U.S. 375, 381 (1970) (same); J.I. Case Co. v. Borak, 377 U.S. 426, 431 (1964) (same); ER Holdings, Inc. v. Norton Co., 735 F. Supp. 1094, 1100 (D. Mass. 1990) ("[O]ne of the most sacred rights of any shareholder is to participate in corporate democracy"); Holly Sugar Corp. v. Buchsbaum, No. 81-C-743, 1981 WL 1708 (D. Colo. Oct. 18, 1981) at *4 (Gordon Decl., Ex. C); and Studebaker Corp. v. Allied Products Corp., 256 F. Supp. 173, 189 (W.D. Mich. 1966). "Courts and commentators have noted repeatedly the significance of shareholder voting rights." ER Holdings, 735 F. Supp. at 1100 (citations omitted).

Corporate directors and management act as agents of the shareholders and are authorized to act only in the best interests of the corporation. Blasius Indus. v. Atlas Corp., 564 A.2d 651, 660 (Del. Ch. 1988); Danaher Corp. v. Chicago Pneumatic Tool Co., Nos. 86 civ. 3499 (PNL), 86 Civ. 3638 (PNL), 1986 WL 7001 (S.D.N.Y. June 19, 1986), slip op. at *4 (Gordon Decl., Ex. D). The shareholder franchise is thus "the ideological underpinning upon which the legitimacy of directorial power rests." Blasius Indus., 564 A.2d at 659. It is "critical to the theory that legitimates the exercise of power by some (directors and officers) over vast aggregations of property that they do not own." Id.[1]

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[1] In the absence of controlling Pennsylvania law, Pennsylvania courts have repeatedly looked to the corporate law of Delaware, which Pennsylvania's Supreme Court has termed "a sophisticated jurisdiction in the determination of corporate issues." Smith v. Brown-Borhek Co., 414 Pa. 325, 200 A.2d 398, 404 (Pa. 1964); see also In re Watt & Shand, 452 Pa. 287, 304 A.2d 694, 699 n. 10 (Pa. 1973); Landy v. Amsterdam, 815 F.2d 925, 929 (3d Cir. 1987); Dower v. Mosser Indus., 648 F.2d 183 (3d Cir. 1981).

Analogous Delaware law is particularly apt on this motion alleging fundamental unfairness in connection with the vote on a charter amendment. Subchapter 17G, entitled, "Judicial Supervision of Corporate Action" applies. Specifically, section 1792(a)(2) states that, "This subchapter shall apply to and the term 'corporate action' in this subchapter shall

(continued...)

2. The integrity of the voting process must be protected.

The voting process, if it is to have any validity, must be conducted with scrupulous fairness and without any advantage being conferred upon one side, to the detriment of the other. Aprahamian v. HBO & Co., 531 A.2d 1204, 1207 (Del. Ch. 1987). In the interests of corporate democracy, those in charge of the election machinery must be held to the highest standards in providing for and conducting corporate elections and votes. Id. "When the election machinery appears, at least facially, to have been manipulated, those in charge of the election have the burden of persuasion to justifying their actions"; board action taken for the principal purpose of impeding the exercise of the stockholder franchise must be enjoined. Aprahamian, 531 A.2d at 1207.

Employing these principles, courts have consistently applied an enhanced level of scrutiny to action designed for the primary purpose of interfering with the effectiveness of a stockholder vote. See, e.g., Stahl v. Apple Bancorp, Inc., 579 A.2d 1115, 1122 (Del. Ch. 1990) (reading cases as "approximating a per se rule that board action taken for the principal purpose of impeding the effective exercise of the stockholder franchise is inequitable and will be restrained or set aside in proper circumstances"); Blasius, 564 A.2d at 660 (finding that directors bear the burden of demonstrating "compelling justification" for actions that interfere with the exercise of the shareholders' right of franchise); Aprahamian, 531 A.2d at 1206

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[1](...continued)
mean any of the following actions . . . (2) The taking of any action . . . submitted for action to the shareholders, directors or officers of a business corporation." The Committee Comment to section 1791 states, "The provisions of the Nonprofit Corporation Law of 1972 on statutory review of corporate action, derived from Delaware General Corporation Law, § 211(c) and 225, are extended to business corporations by this subchapter." (emphasis added).

("Those in charge of the election have the burden of persuasion" and are held to the "highest standards"); Danaher Corp. v. Chicago Pneumatic Tool Co., slip op. at *14 (applying "special scrutiny"); ER Holdings, 735 F. Supp. 1094 (D. Mass. 1990) (same). The business judgment rule does not apply in this context. E.g., Blasius, 564 A.2d at 659; Aprahamian, 531 A.2d at 1206. As the United States Court of Appeals for the Second Circuit noted:

> Our most important du is to protect the fundamental structure of corporate governance....[D]ecisions affecting a corporation's ultimate destiny are for the shareholders to make in accordance with democratic procedures.

Norlin Corp. v. Rooney, Pace Inc., 744 F.2d 255, 258 (2d Cir. 1984).

There appears to be no Pennsylvania authority on the level of scrutiny applied to actions designed to interfere with shareholder suffrage.[2] Nevertheless, whatever the level of scrutiny this Court adopts, the defendants' manipulation of Conrail's voting process to ensure their desired outcome cannot stand.

3. The Conrail board has made clear its purpose in manipulating the date of the vote.

The Conrail board has:

(i) announced in its proxy materials and other public statements that it will not permit the vote to go forward on December 23 unless it is assured that its position is the prevailing one;

---

[2] Pennsylvania law does not differ from the law of other jurisdictions, including Delaware, with respect to the sanctity of shareholder voting rights. As noted above, the Pennsylvania Supreme Court has noted the central importance of corporate democracy. Reifsnyder, 173 A.2d at 322 n.8. Additionally, the Pennsylvania legislature has enacted legislation to ensure fairness to all shareholders in connection with elections. For example, 15 Pa. C. S. § 1765 provides for Judges Of Election, who are charged with acting in "good faith" to "conduct the election or vote with fairness to all shareholders." (emphasis added)

(ii) announced that it will pursue successive meetings until shareholders submit to the defendants' will; and

(iii) abdicated its fiduciary duties to Conrail's shareholders to ensure corporate suffrage by ceding authority over the voting process to CSX.

In other words, the Conrail shareholders must vote the way that management wants them to vote, or they will not be permitted to vote at all. Through this manipulation of the voting process, defendants seek to coerce Conrail's stockholders into voting for the proposed Charter Amendment and disenfranchise those who will not.[3]

Courts repeatedly have rejected tactics much less subversive of the voting process than those employed by defendants here. Thus, in Aprahamian v. HBO & Co., 531 A.2d 1204 (Del. Ch. 1987), the incumbent board had moved the date of the annual meeting on the eve of that meeting when it learned that a dissident stockholder group had, or appeared to have, in hand proxies representing a majority of the outstanding shares. The court restrained that action and compelled the meeting to occur as noticed. In so doing, the Aprahamian court rejected the board's argument that it had good business reasons to move the meeting date and that the action was recommended by a special committee -- justifications not even available to the defendants here.

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[3] While the defendants have taken the position in these proceedings that section 1712 and 1715 "preclude judicial review of director action in the merger/acquisition context," see, e.g., CSX Preliminary Injunction Br. at 56, -- a position that even Conrail director Hillas disagreed with, see, e.g., Hillas Dep at 16-18 (Gordon Decl., Ex. E), -- section 1791 of Subchapter G (entitled "Judicial Supervision of Corporate Action") makes clear that the Court has the power to review "corporate action." Section 1791(a)(2) defines as "corporate action, "The taking of any action on any matter that is required under this subpart or under any other provision of law to be, or that under the bylaws may be, submitted for action to the shareholders, directors or officers of a business corporation." Included in this definition of "corporate action" is a vote on an amendment to a corporation's articles of incorporation

Similarly, in Danaher v. Chicago Pneumatic Tool Co., the Federal District Court for the Southern District Of New York preliminarily enjoined management from cancelling or postponing a scheduled meeting. In so doing, the Danaher court stated that "[t]he law is clear that when a board of directors has improperly postponed or manipulated the timing of the shareholders annual meeting, courts have the authority to compel the board promptly to hold such a meeting." Danaher, 1986 WL 7001, *13. (citing Elkins v. Camden & Atlantic R.R., 36 N.J. Eq. 467 (N.J.S. Ch. 1883) and Holly Sugar Corp. v. Buchsbaum, supra). See also ER Holdings, Inc. v. Norton Co., 735 F. Supp. 1094 (D. Mass. 1990) (entering mandatory preliminary injunction requiring company to hold its annual meeting as scheduled); Hubbard v. Hollywood Park, C.A. No. 11779 (Del. Ch. Jan. 14, 1991) (preliminarily enjoining advance notice bylaw) (Gordon Decl., Ex. F); Schnell v. Chris-Craft Indus., 285 A.2d 437 (Del. 1971) (holding that board could not advance meeting date to frustrate stockholder action); Lerman v. Diagnostic Data, Inc., 421 A.2d 906 (Del. Ch. 1980) (invalidating by-law amendments that authorized a change from fixed annual meeting date to discretionary management-set date to frustrate vote); Lutz v. Webster, 94 A. 834 (Pa. 1915) (affirming a decree from a bill in equity requiring a Pennsylvania corporation to hold a stockholders meeting).

Application of these cases to the facts here compels the conclusion that the defendants should be enjoined from postponing the scheduled vote.

4. The defendants' inequitable action does not become permissible merely because it is legally possible.

Inequitable and unfair conduct by a board may be actionable even if the board has complied strictly with statutory and common law in taking such action. See Lutz v.

Webster, 94 A. 834 (Pa. 1915); Steinberg v. American Bantam Car Co., 76 F. Supp. 426, 435-36 (W.D. Pa. 1948); Aprahamian, 531 A.2d at 1207 (citing Steinberg); Schnell v. Chris-Craft Indus., 285 A.2d 437, 439 (Del. 1971) ("[I]nequitable action does not become permissible simply because it is legally possible"); Condec Corp. v. Lunkenheimer Co., 230 A.2d 769 (Del. Ch. 1967).

In Lutz, for example, the Pennsylvania Supreme Court affirmed the issuance of a decree in equity requiring the defendant corporation to hold a shareholders' meeting, notwithstanding the provisions of a valid corporate by-law. In so doing, the Lutz court noted that, even though the by-law required four-fifths of the capital stock to be present at a shareholders meeting for a quorum was a valid exercise of corporate power under Pennsylvania's statutes, it must be used for "a lawful purpose." The Court concluded that a director, who was also a substantial stockholder, had improperly used this by-law to prevent a quorum of shareholders and thereby "defeat an election." Id. at 835. Here, although the defendants may not have violated any Pennsylvania statute, their proposed actions are inequitable and fundamentally unfair in the effect they have on the shareholders of Conrail.

B. Postponement of the Vote Will Irreparably Harm the Plaintiffs.

If the defendants are permitted to postpone the meeting until they have the necessary votes to prevail, plaintiffs and Conrail's non-CSX shareholders will be irreparably harmed. Here, as in Aprahamian:

> Plaintiffs have expended considerable sums of money on this proxy contest. If the meeting is postponed, arguably, the proxies solicited and returned in good faith by the stockholders will become void and a postponement may well defeat the efforts of plaintiffs and the will of the majority of the stockholders.

Irreparable harm may be assumed in such a case.

Aprahamian, 531 A.2d at 1208.

As the Federal District Court for the Southern District of New York recog-nized in Danaher:

> It is well settled in law that corporate management subjects shareholders to irreparable harm by denying them the right to vote their shares and to exercise their rightful control over the corporation. See Treco, Inc. v. Land of Lincoln Savings and Loan, 577 F. Supp. 1447 (N.D. Ill. 1983) ("plaintiffs would be irreparably harmed if a preliminary injunction were denied because plaintiffs would be unnecessarily frustrated in their attempt to obtain representation on ... the board ... at the [next] ... annual meeting"); Beekman v. Rust Craft Greetings Cards, Inc., 454 F. Supp. 789 (S.D.N.Y. 1978); Holly Sugar Corp. v. Buchbaum, supra; EAC Industries Inc. v. Frantz Mfg. Co., C.A. No. 8003 (Del. Ch. June 28, 1985), aff'd, Fed.Sec.L.Rep. (CCH) ¶ 92,405 (Del. Sup. 1985) ("[shareholders'] continued inability to secure the benefit of its written consents in the face of the defendants' refusal to [recognize the consents] is clear evidence of irreparable injury"). See also Fletcher, supra § 717, n.1 ("the right to vote is often considered a shareholder's most fundamental right").

Danaher, slip op. at *14. The same reasoning applies here.

C. The Balance Of The Hardships Is All On Plaintiffs' Side Of The Scale.

"If the will of the stockholders is thwarted. . . there may be considerable hardship to the stockholders and their corporation." Aprahamian, 531 A.2d at 1208; see also Danaher, slip op. at *14. In sharp contrast, the defendants cannot claim any offsetting hardship if the meeting goes forward on the date they scheduled for it. The only hardship they can suffer is if they lose the vote. That is not a cognizable harm as the shareholders are entitled to exercise their franchise as they see fit.

D. Public Policy Favors Issuance of An Injunction.

Finally, public policy demands that Conrail's shareholders be permitted the free exercise of their franchise rights to determine whether their corporation should opt out of Subchapter E of Chapter 25 of the Pennsylvania Business Corporation Law of 1988, as amended.

Subchapter E of Chapter 25, among other things, governs "control transactions" (defined generally as a transaction in which a person acquires at least 20% of the voting power of a corporation) involving a "registered corporation" and provides that the shareholders of such corporation are entitled to demand that they be paid the fair value of their shares. Pursuant to Subchapter E, the minimum value the shareholders can receive may not be less than the highest price paid per share by the control person within the 90-day period ending on and including the date of the control transaction.

According to the Pennsylvania Corporation Law and Practice treatise:

> By forcing the controlling person or group to pay fair value in cash to all shareholders who object to the controlling person's or group's ownership in the registered corporation, the 1988 BCL makes it potentially more expensive for the acquiror seeking to obtain control of a target corporation. Specifically, the control transaction provisions of the 1988 BCL [in Subchapter E] protect shareholders of registered corporations against two-tier front end loaded tender offers, tender offers for fewer than all of the outstanding shares and tender offers with a non-cash component for common stock by forcing the acquiror to pay fair value in cash to all demanding shareholders regardless of the stated terms of the offer.

John W. McLamb, Jr. & Wendy C. Shiba, Pennsylvania Corporation Law and Practice § 10.4(b) at 551 (1993 Supp.) (Prentice Hall Law & Business).

Pursuant to the CSX Merger Agreement, Conrail has proposed the Charter Amendment to facilitate exactly the kind of transaction that Subchapter E was designed to

prohibit. Through a coerced vote, Conrail's stockholders will be forced to approve the Charter Amendment in recognition of the fact that that is the only way Conrail's directors, unless enjoined, will permit them to vote.

Thus, permitting defendants essentially to disenfranchise those shareholders who refuse to vote to opt out of the statute designed to protect them against coercive, two-tier front end loaded tender offers like the CSX Transaction defeats the purpose and intent of the statute and contravenes the public policy concern for "credible corporate democracy." See Blasius, 564 A.2d at 660 n.2.

The plaintiffs' motion for a preliminary injunction shall be granted.

CONCLUSION

For the reasons stated in this brief, the plaintiffs' motion for a preliminary injunction should be granted.

Respectfully submitted,

Mary A. McLaughlin
(I.D. No. 24923)
George G. Gordon
(I.D. No. 63072)
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4000 Bell Atlantic Tower
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One Rodney Square
P.O. Box 636
Wilmington, DE 19899
(302) 651-3000

DATED: December 13, 1996

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NORFOLK SOUTHERN CORPORATION, a Virginia corporation, ATLANTIC ACQUISITION CORPORATION, a Pennsylvania corporation, and KATHRYN B. McQUADE,	
Plaintiffs,	
-against-	C.A. No. 96-CV-7167
CONRAIL INC., a Pennsylvania corporation, DAVID M. LEVAN, H. FURLONG BALDWIN, DANIEL B. BURKE, ROGER S. HILLAS, CLAUDE S. BRINEGAR, KATHLEEN FOLEY FELDSTEIN, DAVID B. LEWIS, JOHN C. MAROUS, DAVID H. SWANSON, E. BRADLEY JONES, RAYMOND T. SCHULER and CSX CORPORATION,	
Defendants.	

PRELIMINARY INJUNCTION ORDER

Plaintiffs having moved for a Preliminary Injunction, and the Court having considered the presentations of the parties,

IT IS HEREBY ORDERED that defendants are enjoined from postponing the vote of Conrail's shareholders scheduled for December 23, 1996.

SO ORDERED this _____

day of December, 1996.

_____
United States District Judge

0091687.01-42S1a

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14D-1

(Amendment No. 23)
Tender Offer Statement Pursuant to Section 14(d)(1)
of the Securities Exchange Act of 1934

Conrail Inc.

(Name of Subject Company)

Norfolk Southern Corporation
Atlantic Acquisition Corporation

(Bidders)

Common Stock, par value $1.00 per share
(Including the associated Common Stock Purchase Rights)
(Title of Class of Securities)

208368 10 0
(CUSIP Number of Class of Securities)

Series A ESOP Convertible Junior
Preferred Stock, without par value
(Including the associated Common Stock Purchase Rights)
(Title of Class of Securities)

Not Available
(CUSIP Number of Class of Securities)

James C. Bishop, Jr.
Executive Vice President-Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191
Telephone: (757) 629-2750
(Name, Address and Telephone Number of Person Authorized
to Receive Notices and Communications on Behalf of Bidder)

---

with a copy to:

Randall H. Doud, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
919 Third Avenue
New York, New York 10022
Telephone: (212) 735-3000

This Amendment No. 23 amends the Tender Offer Statement on Schedule 14D-1 filed on October 24, 1996, as amended (the "Schedule 14D-1"), by Norfolk Southern Corporation, a Virginia corporation ("Parent"), and its wholly owned subsidiary, Atlantic Acquisition Corporation, a Pennsylvania corporation ("Purchaser"), relating to Purchaser's offer to purchase all outstanding shares of (i) Common Stock, par value $1.00 per share (the "Common Shares"), and (ii) Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc. (the "Company"), including, in each case, the associated Common Stock Purchase Rights, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 24, 1996 (the "Offer to Purchase"), as amended and supplemented by the Supplement thereto, dated November 8, 1996 (the "Supplement"), and in the revised Letter of Transmittal (which, together with any amendments or supplements thereto, constitute the "Offer"). Unless otherwise defined herein, all capitalized terms used herein shall have the respective meanings given such terms in the Offer to Purchase, the Supplement or the Schedule 14D-1.

Item 10. Additional Information.

Item 10 is hereby amended and supplemented by the following:

(e) On December 16, 1996, the District Court ordered that a hearing be held at 11:00 a.m., Philadelphia time, on December 17, 1996 to hear arguments concerning Plaintiffs' Motion for a Preliminary Injunction to enjoin Defendants from postponing the vote of the Company's shareholders scheduled for December 23, 1996.

Item 11. Material to be Filed as Exhibits.

Item 11 is hereby amended and supplemented by the following:

(a)(62) Text of letter sent to the Company's shareholders commencing December 14, 1996.

(a)(63) Text of Advertisement appearing in newspapers commencing December 16, 1996.

SIGNATURE

After due inquiry and to the best of its knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: December 16, 1996

NORFOLK SOUTHERN CORPORATION

By: /s/ JAMES C. BISHOP, JR.
Name: James C. Bishop, Jr.
Title: Executive Vice President-Law

ATLANTIC ACQUISITION CORPORATION

By: /s/ JAMES C. BISHOP, JR.
Name: James C. Bishop, Jr.
Title: Vice President and General Counsel

EXHIBIT INDEX

Exhibit Number	Description
(a)(62)	Text of letter sent to the Company's shareholders commencing December 14, 1996.
(a)(63)	Text of Advertisement appearing in newspapers commencing December 16, 1996.

NORFOLK SOUTHERN

December 14, 1996

Dear Conrail Shareholder:

TIME IS RUNNING OUT FOR YOU TO PRESERVE THE VALUE OF YOUR CONRAIL INVESTMENT!

VOTE AGAINST CONRAIL'S PROPOSALS TODAY!

As you know, Conrail has scheduled its Special Meeting of Shareholders for December 23rd. Conrail wants you to give up your valuable shareholder rights and "opt out" of Pennsylvania's Fair Value Statute. Don't be coerced by Conrail — You have nothing to gain by voting for Conrail's proposals.

Consider both sides of the equation:

CSX = INFERIOR VALUE. By voting for Conrail's "opt out" amendment, you will be helping CSX gain control of your Company at an inferior price (currently valued at $89.80* per share for the remaining Conrail shares).

NORFOLK SOUTHERN = $1.4 BILLION MORE. Under Norfolk Southern's $110 all-cash, all-shares offer, with prompt payment through use of a voting trust, Conrail shareholders (other than CSX) would receive $1.4* billion more in their pockets than under the CSX proposal.

CSX = CONTINUED RISKS. 75% of CSX's remaining consideration consists of CSX stock. Conrail shareholders would continue to be subject to substantial risks—including equity risk and regulatory risk. Conrail itself has stated that it doesn't expect to receive regulatory approval, if it comes, until early 1998. That's a long time to have your investment subject to these substantial risks.

NORFOLK SOUTHERN = NEAR TERM VALUE. Norfolk Southern has committed to establish a voting trust mechanism so that Conrail shareholders can receive 100% of their cash consideration in the near term. **There's no equity or regulatory risk for shareholders under Norfolk Southern's proposal.**

The logic is inescapable: the Norfolk Southern offer is **superior** in every respect. But you must act now to preserve the opportunity to receive its benefits. **VOTE AGAINST CONRAIL'S PROPOSALS TODAY.**

You, the shareholders, are the true owners of Conrail. Tell the Conrail directors in terms they can't ignore that you want them to deliver the superior value represented by Norfolk Southern's $110 all-cash, all-shares offer NOW.

SEND THE CONRAIL BOARD THE VOTE THAT WON'T GO AWAY:

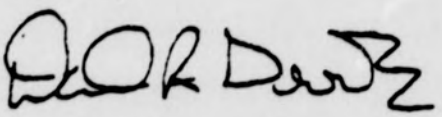
☑ **AGAINST** Amending its Charter

AND

☑ **AGAINST** Adjourning the Meeting if Conrail doesn't have enough votes to pass the Amendment Proposal.

Time is short, so vote **AGAINST** on the enclosed **GOLD** proxy card today (or green instruction card if you are an ESOP participant).

Sincerely,



David R. Goode
Chairman, President and
Chief Executive Officer

IMPORTANT INFORMATION

If your Conrail shares are held in the name of a bank or broker, only your bank or broker can vote your shares and only upon receipt of your specific instructions. Please instruct your bank or broker to vote **AGAINST** Conrail's proposals by executing the **GOLD** proxy card today. If you have any questions or require any assistance in voting your shares, please call:

GEORGESON
& COMPANY INC.

Wall Street Plaza
New York, New York 10005

Call Toll Free: 800-223-2064

Banks and Brokers call: 212-440-9800

* Based on the closing price of CSX shares on December 12, 1996.

[Advertisement]

TO CONRAIL SHAREHOLDERS:

Send the Conrail Board a Clear Signal

[Graphic: railroad crossing signal]

PROTECT THE VALUE OF YOUR SHARES BY VOTING AGAINST CONRAIL'S PROPOSALS

Conrail wants shareholders to think it's too late to stop CSX's coercive, inferior offer for your shares. Don't believe them.

Norfolk Southern is determined to keep its superior, $110 per share offer on the table. It's worth 22% more than the CSX offer.* It's all cash. And it doesn't involve the regulatory delays or market risks that CSX wants you to bear.

It's an easy choice to make. But it's going to take a strong shareholder vote to make Conrail understand that.

[Graphic: box with checkmark above the words "**VOTE AGAINST**"]

Vote **AGAINST** Conrail's proposal to "opt out" of Pennsylvania's Fair Value Statute.

Vote **AGAINST** Conrail's proposal to adjourn the special meeting if the vote isn't going Conrail's way.

Protect your investment.
Vote now on Norfolk Southern's GOLD proxy card AGAINST Conrail's proposals to "opt out" of Pennsylvania's Fair Value Statute and to adjourn the special meeting. Be sure Norfolk Southern receives your proxy before December 23.

[Norfolk Southern Logo]

Important: If you have any questions, please call our solicitor, Georgeson & Company Inc. toll free at **1-800-223-2064**. Banks and brokers call **212-440-9800.**

* Based on the closing price of CSX common stock on December 12, 1996.
December 16, 1996

0162174.01-01S4a

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14D-1

(Amendment No. 24)
Tender Offer Statement Pursuant to Section 14(d)(1)
of the Securities Exchange Act of 1934

Conrail Inc.

(Name of Subject Company)

Norfolk Southern Corporation
Atlantic Acquisition Corporation

(Bidders)

Common Stock, par value $1.00 per share
(Including the associated Common Stock Purchase Rights)
(Title of Class of Securities)

208368 10 0
(CUSIP Number of Class of Securities)

Series A ESOP Convertible Junior
Preferred Stock, without par value
(Including the associated Common Stock Purchase Rights)
(Title of Class of Securities)

Not Available
(CUSIP Number of Class of Securities)

James C. Bishop, Jr.
Executive Vice President-Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191
Telephone: (757) 629-2750
(Name, Address and Telephone Number of Person Authorized
to Receive Notices and Communications on Behalf of Bidder)

with a copy to:
Randall H. Doud, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
919 Third Avenue
New York, New York 10022
Telephone: (212) 735-3000

This Amendment No. 24 amends the Tender Offer Statement on Schedule 14D-1 filed on October 24, 1996, as amended (the "Schedule 14D-1"), by Norfolk Southern Corporation, a Virginia corporation ("Parent"), and its wholly owned subsidiary, Atlantic Acquisition Corporation, a Pennsylvania corporation ("Purchaser"), relating to Purchaser's offer to purchase all outstanding shares of (i) Common Stock, par value $1.00 per share (the "Common Shares"), and (ii) Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc. (the "Company"), including, in each case, the associated Common Stock Purchase Rights, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 24, 1996 (the "Offer to Purchase"), as amended and supplemented by the Supplement thereto, dated November 8, 1996 (the "Supplement"), and in the revised Letter of Transmittal (which, together with any amendments or supplements thereto, constitute the "Offer"). Unless otherwise defined herein, all capitalized terms used herein shall have the respective meanings given such terms in the Offer to Purchase, the Supplement or the Schedule 14D-1.

Item 10. Additional Information.

Item 10 is hereby amended and supplemented by the following:

(e) On December 17, 1996, the District Court held a hearing to consider Plaintiffs' Motion for a Preliminary Injunction. At the conclusion of the hearing, the District Court issued an order enjoining the Defendants from failing to convene, and/or from postponing, and/or from adjourning the Special Meeting of the Company's shareholders scheduled for Monday, December 23, 1996, by reason of the Company or its nominees not having received sufficient proxies to assure approval of the proposal set forth in the "Notice of Special Meeting of Shareholders" and in the proxy materials to "opt-out" of Subchapters E, G, and H of Chapter 25 of the PBCL.

Item 11. Material to be Filed as Exhibits.

Item 11 is hereby amended and supplemented by the following:

(a)(66) Press Release issued by Parent on December 17, 1996.

SIGNATURE

After due inquiry and to the best of its knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: December 17, 1996

NORFOLK SOUTHERN CORPORATION

By: /s/ JAMES C. BISHOP, JR.
Name: James C. Bishop, Jr.
Title: Executive Vice President-Law

ATLANTIC ACQUISITION CORPORATION

By: /s/ JAMES C. BISHOP, JR.
Name: James C. Bishop, Jr.
Title: Vice President and General Counsel

EXHIBIT INDEX

Exhibit Number	Description
(a)(66)	Press Release issued by Parent on December 17, 1996.

FOR IMMEDIATE RELEASE
December 17, 1996

Media Contact: Robert Fort
(757) 629-2714

NS Praises Ruling Blocking Conrail From Postponing Shareholder Meeting

NORFOLK, VA -- Norfolk Southern Corporation (NYSE: NSC) today issued the following statement in response to U.S. District Court Judge Donald Van Artsdalen's decision granting its motion for a preliminary injunction to prevent Conrail Inc. from postponing a special meeting of shareholders scheduled for December 23:

"Today's decision is a victory for Conrail shareholders who will now have the opportunity to voice their opinion on Conrail's proposal to 'opt out' of the fair value provision of Pennsylvania's anti-takeover statute.

"We are pleased that Judge Van Artsdalen recognized that the December 23 vote would be nothing more than a 'sham election' if Conrail could cancel the shareholder meeting because it was losing.

"During the hearing, Judge Van Artsdalen asked Conrail's lawyer, 'Isn't there something fundamentally unfair with saying, 'we're going to hold an election, but we're only going to hold it if we know we're going to win?' ' In his ruling, the judge agreed with Norfolk Southern that the answer to this question was yes.

"Norfolk Southern remains determined to deliver Conrail shareholders its all-cash offer of $110 for each of their shares. Shareholders will have a meaningful vote on December 23 and by voting against the 'opt out' proposal will be a step closer to having the opportunity to consider Norfolk Southern's superior offer -- an offer worth about $16 per share or $1.5 billion more than CSX's coercive front-end loaded, two-tiered deal for Conrail."

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World Wide Web Site - http://www.nscorp.com

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14D-1

(Amendment No. 25)
Tender Offer Statement Pursuant to Section 14(d)(1)
of the Securities Exchange Act of 1934

Conrail Inc.

(Name of Subject Company)

Norfolk Southern Corporation
Atlantic Acquisition Corporation

(Bidders)

Common Stock, par value $1.00 per share
(Including the associated Common Stock Purchase Rights)
(Title of Class of Securities)

208368 10 0
(CUSIP Number of Class of Securities)

Series A ESOP Convertible Junior
Preferred Stock, without par value
(Including the associated Common Stock Purchase Rights)
(Title of Class of Securities)

Not Available
(CUSIP Number of Class of Securities)

James C. Bishop, Jr.
Executive Vice President-Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191
Telephone: (757) 629-2750
(Name, Address and Telephone Number of Person Authorized
to Receive Notices and Communications on Behalf of Bidder)

with a copy to:

Randall H. Doud, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
919 Third Avenue
New York, New York 10022
Telephone: (212) 735-3000

This Amendment No. 25 amends the Tender Offer Statement on Schedule 14D-1 filed on October 24, 1996, as amended (the "Schedule 14D-1"), by Norfolk Southern Corporation, a Virginia corporation ("Parent"), and its wholly owned subsidiary, Atlantic Acquisition Corporation, a Pennsylvania corporation ("Purchaser"), relating to Purchaser's offer to purchase all outstanding shares of (i) Common Stock, par value $1.00 per share (the "Common Shares"), and (ii) Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc. (the "Company"), including, in each case, the associated Common Stock Purchase Rights, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 24, 1996 (the "Offer to Purchase"), as amended and supplemented by the Supplement thereto, dated November 8, 1996 (the "Supplement"), and in the revised Letter of Transmittal (which, together with any amendments or supplements thereto, constitute the "Offer"). Unless otherwise defined herein, all capitalized terms used herein shall have the respective meanings given such terms in the Offer to Purchase, the Supplement or the Schedule 14D-1.

Item 11. Material to be Filed as Exhibits.

Item 11 is hereby amended and supplemented by the following:

(a)(67) Text of Advertisement appearing in newspapers commencing December 18, 1996.

(a)(68) Text of Mailgram sent to certain Company shareholders commencing December 18, 1996.

(a)(69) Text of Advertisement appearing in newspapers commencing December 18, 1996.

SIGNATURE

After due inquiry and to the best of its knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: December 18, 1996

NORFOLK SOUTHERN CORPORATION

By: /s/ JAMES C. BISHOP, JR.
Name: James C. Bishop, Jr.
Title: Executive Vice President-Law

ATLANTIC ACQUISITION CORPORATION

By: /s/ JAMES C. BISHOP, JR.
Name: James C. Bishop, Jr.
Title: Vice President and General Counsel

EXHIBIT INDEX

Exhibit Number	Description
(a)(67)	Text of Advertisement appearing in newspapers commencing December 18, 1996.
(a)(68)	Text of Mailgram sent to certain Company shareholders commencing December 18, 1996.
(a)(69)	Text of Advertisement appearing in newspapers commencing December 18, 1996.

[Advertisement]

TO CONRAIL SHAREHOLDERS:

How you can help increase your share value, lower your risk, and shorten your wait -- in under 3 seconds.

[Graphic: front and back of Norfolk Southern's proxy card with a circle around the words "AGAINST" and an "X" in the boxes next to them.]

Join all those voting AGAINST Conrail's coercive proposals.

[Graphic: checkmark above the words "VOTE AGAINST"]

Norfolk Southern's $110 all-cash, all-shares offer -- with prompt payment through use of a voting trust -- is superior in every respect to the CSX deal. It's worth 23%* more, and it doesn't subject you to the substantial equity and regulatory risks involved in the coercive CSX deal. To preserve the benefits of Norfolk Southern's superior offer, vote AGAINST Conrail's proposals.

ESOP participants: your vote is especially important since each vote represents several votes. Protect your interests; don't let the inferior CSX deal be forced upon you. Use your GREEN instruction card to instruct your Trustee to vote AGAINST Conrail's proposals.

Protect the value of your shares.
Vote now on Norfolk Southern's GOLD proxy card AGAINST Conrail's proposals to "opt out" of Pennsylvania's Fair Value Statute and to adjourn the special meeting.
Be sure Norfolk Southern receives your proxy before December 23.

[Norfolk Southern Logo]

Important: If you have any questions, please call our solicitor, Georgeson & Company Inc. toll free at **1-800-223-2064**. Banks and brokers call **212-440-9800.**

* Based on the closing price of CSX common stock on December 16, 1996.

December 18, 1996

[Mailgram]

December 17, 1996

Dear Conrail Shareholder:

The Conrail Special Meeting is just six days away. YOUR VOTE WILL DETERMINE THE FUTURE VALUE OF YOUR INVESTMENT. Norfolk Southern's all-cash, all-shares offer, with prompt payment through a voting trust, is worth 23%* more than CSX's coercive deal and doesn't subject you to the substantial equity and regulatory risks of CSX's inferior deal (currently valued at about only $90* per share for the remaining Conrail shares).

Remember: Institutional Shareholder Services ("ISS"), the nation's leading voting advisory service, has publicly stated that it is recommending to its clients that they vote AGAINST Conrail's Amendment Proposal and AGAINST its Adjournment Proposal.

IT'S NOT TOO LATE TO PROTECT YOUR INVESTMENT

To preserve your opportunity to receive the benefits of Norfolk Southern's superior offer, you must vote AGAINST Conrail's proposals today.

Because time is short and your vote extremely important, we have established a method to enable you to vote by toll-free telephone. Please follow the simple instructions below.

If you need any assistance with the last-minute voting of your shares, please call Georgeson & Company Inc, toll-free at 1-800-223-2064.

Thank you for your support.

Sincerely,

NORFOLK SOUTHERN CORPORATION

David R. Goode
Chairman, President and
Chief Executive Officer

* Based on the closing price of CSX common stock on December 16, 1996.

TOLL-FREE PROXYGRAM OPERATORS WHO ARE INDEPENDENT OF THE COMPANY ARE AVAILABLE TO ASSIST YOU NOW!!!

INSTRUCTIONS

1. Call Toll-Free 1-800-521-8454 between 8:00 a.m. and 12:00 midnight eastern time.

2. Tell the operator that you wish to send a collect ProxyGram to ID No. 4482, Norfolk Southern Corporation.

3. State your name, address and telephone number.

4. State the bank or broker at which your shares are held and your control number as shown below:

Name:	<NA.1>
Broker:	<Broker>
Control Number:	<ControlNum>
Number of Shares:	<NumShares>

[ADVERTISEMENT]

[GRAPHIC: Two joined railcar couplers]

Why Norfolk Southern is the right partner for Conrail.

America Wins

Norfolk Southern and Conrail make a perfect combination for shippers, consumers, shareholders and employees. Here's why:

Balanced Competition

Norfolk Southern and Conrail will provide balanced competition by creating a strong rail system to compete with CSX in the East. True competition means safe, economical service. It promotes innovation, economic development and job growth. It makes goods affordable. When Norfolk Southern and Conrail team up, major markets will enjoy a competitive alternative. The economies of New York, Baltimore, Dayton, Indianapolis, Philadelphia, Pittsburgh and other areas won't be hostage to one major railroad.

Marketing Flexibility

With systems that extend one another, Norfolk Southern and Conrail will give shippers wide market access and smooth interchanges with other carriers -- in short, a transportation gateway to the world. The combined system will be competitive with trucks -- good news for the environment and for motorists on clogged and crumbling highways.

Superior Performance

Norfolk Southern earns its reputation as America's most admired railroad.[1] With the best-maintained infrastructure, highest efficiency and safest employees of all major railroads, it's no wonder automakers located eight out of 12 new assembly plants on our system and that this year alone 64 new industries located on our lines. Norfolk Southern and Conrail will build on successes like these.

Financial Strength

Norfolk Southern's commitment to Conrail constituents is backed by a solid balance sheet and a century of sure-footed performance. We recently marked 15 consecutive quarters of year-over-year growth in earnings per share. We believe that together, the companies will have the resources to provide unmatched service for shippers, opportunity for employees and growth potential for investors.

The Issue of Fairness

Conrail shareholders should have the right to choose Norfolk Southern's 100% cash offer, rather than having an inferior offer forced on them. Conrail employees would benefit by having their overfunded pension plan merged with Norfolk Southern's overfunded plan, rather than with a CSX plan that the U.S. government last week again put on its list of 50 companies with the largest unfunded pension liability.[2] Under the CSX

proposal, the cushion that Conrail employees have built up in their plan could be used to eliminate the shortfall in the CSX plan.

What You Can Do

A Norfolk Southern / Conrail combination is right for many reasons. As a Conrail shareholder, you can help make it a reality December 23 by saying NO to an inferior CSX/Conrail deal -- by voting AGAINST Conrail's proposal to "opt out" of Pennsylvania's fair value statute. Conrail ESOP participants can cast especially meaningful votes AGAINST, because each allocated share represents a voting interest by the participants equivalent to as many as seven shares. Remember, ESOP participants' votes are confidential.

A Winning Future

Your vote AGAINST will send a loud message. If you and a majority of the other shareholders vote AGAINST, Conrail's board will know you want a better deal. You can help usher in a winning future for railroads and those who depend on them, a future characterized by competition, growth, opportunity, peace of mind for retirees and basic rights for shareholders. You can help bring Norfolk Southern and Conrail together as partners for the 21st century.

[Norfolk Southern Logo]

http//www.nscorp.com

[1] FORTUNE, Annual Corporate Reputations Survey, March 4, 1996

[2] Pension Benefit Guaranty Corp., Dec. 12, 1996

Important: If you have any questions, please call our solicitor, Georgeson & Company Inc., toll free at 1-800-223-2064. Banks and brokers call 212-440-9800.

0162585 01-01546

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14D-1

(Amendment No. 26)
Tender Offer Statement Pursuant to Section 14(d)(1)
of the Securities Exchange Act of 1934

Conrail Inc.

(Name of Subject Company)

Norfolk Southern Corporation
Atlantic Acquisition Corporation

(Bidders)

Common Stock, par value $1.00 per share
(Including the associated Common Stock Purchase Rights)
(Title of Class of Securities)

208368 10 0
(CUSIP Number of Class of Securities)

Series A ESOP Convertible Junior
Preferred Stock, without par value
(Including the associated Common Stock Purchase Rights)
(Title of Class of Securities)

Not Available
(CUSIP Number of Class of Securities)

James C. Bishop, Jr.
Executive Vice President-Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191
Telephone: (757) 629-2750
(Name, Address and Telephone Number of Person Authorized
to Receive Notices and Communications on Behalf of Bidder)

with a copy to:

Randall H. Doud, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
919 Third Avenue
New York, New York 10022
Telephone: (212) 735-3000

This Amendment No. 26 amends the Tender Offer Statement on Schedule 14D-1 filed on October 24, 1996, as amended (the "Schedule 14D-1"), by Norfolk Southern Corporation, a Virginia corporation ("Parent"), and its wholly owned subsidiary, Atlantic Acquisition Corporation, a Pennsylvania corporation ("Purchaser"), relating to Purchaser's offer to purchase all outstanding shares of (i) Common Stock, par value $1.00 per share (the "Common Shares"), and (ii) Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc. (the "Company"), including, in each case, the associated Common Stock Purchase Rights, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 24, 1996 (the "Offer to Purchase"), as amended and supplemented by the Supplement thereto, dated November 8, 1996 (the "Supplement"), and in the revised Letter of Transmittal (which, together with any amendments or supplements thereto, constitute the "Offer"). Unless otherwise defined herein, all capitalized terms used herein shall have the respective meanings given such terms in the Offer to Purchase, the Supplement or the Schedule 14D-1.

Item 11. Material to be Filed as Exhibits.

Item 11 is hereby amended and supplemented by the following:

(a)(70) Press Release issued by Parent on December 19, 1996.

SIGNATURE

After due inquiry and to the best of its knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: December 19, 1996

NORFOLK SOUTHERN CORPORATION

By: /s/ JAMES C. BISHOP, JR.
Name: James C. Bishop, Jr.
Title: Executive Vice President-Law

ATLANTIC ACQUISITION CORPORATION

By: /s/ JAMES C. BISHOP, JR.
Name: James C. Bishop, Jr.
Title: Vice President and General Counsel

EXHIBIT INDEX

Exhibit Number	Description
(a)(70)	Press Release issued by Parent on December 19, 1996.

FOR IMMEDIATE RELEASE
December 19, 1996

Media Contact: Robert Fort
(757) 629-2714

Norfolk Southern Studying 11th-hour CSX Offer

NORFOLK, VA -- Norfolk Southern Corporation (NYSE: NSC) today issued the following statement:

"Norfolk Southern is studying CSX's most recent proposal to acquire Conrail Inc. However, CSX's latest offer appears to be an 11th-hour attempt to avoid defeat at the shareholders' meeting that had been scheduled for December 23.

"There should be no doubt that Norfolk Southern remains as determined as ever to acquire Conrail and will use any and all appropriate financial means to accomplish that objective."

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World Wide Web Site - http://www.nscorp.com

0162784 01-01S4a

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14D-1

(Amendment No. 27)

Tender Offer Statement Pursuant to Section 14(d)(1)
of the Securities Exchange Act of 1934

Conrail Inc.

(Name of Subject Company)

Norfolk Southern Corporation
Atlantic Acquisition Corporation

(Bidders)

Common Stock, par value $1.00 per share
(including the associated Common Stock Purchase Rights)

(Title of Class of Securities)

208368 10 0

(CUSIP Number of Class of Securities)

Series A ESOP Convertible Junior
Preferred Stock, without par value
(Including the associated Common Stock Purchase Rights)

(Title of Class of Securities)

Not Available

(CUSIP Number of Class of Securities)

James C. Bishop, Jr.
Executive Vice President-Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191
Telephone: (757) 629-2750

(Name, Address and Telephone Number of Person Authorized to Receive Notices and Communications on Behalf of Bidder)

with a copy to:

Randall H. Doud, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
919 Third Avenue
New York, New York 10022
Telephone: (212) 735-3000

Calculation of Filing Fee

Transaction Valuation*	Amount of Filing Fee**
$12,248,085,000	$2,449,617

* For purposes of calculating the filing fee only. This calculation assumes the purchase of all outstanding shares of Common Stock, par value $1.00 per share (the "Common Shares"), and Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares"), of Conrail Inc. (the "Company") at $115 net per share in cash. According to information included in the Tender Offer Statement on Schedule 14D-1, dated December 6, 1996, filed by CSX Corporation ("CSX") with the Securities and Exchange Commission and attributed to the Company, on November 27, 1996, 82,248,741 Common Shares and 7,303,920 ESOP Preferred Shares were outstanding and 8,263,682 Common Shares were reserved for issuance upon conversion of the ESOP Preferred Shares or pursuant to the Company's Long-Term Incentive Plans. Also according to such Schedule 14D-1, pursuant to a Stock Option Agreement, dated as of October 14, 1996, by and between the Company and CSX, the Company has granted CSX the option to purchase in certain circumstances up to 15,955,477 Common Shares.

** The amount of the filing fee, calculated in accordance with Rule 0-11(d) of the Securities Exchange Act of 1934, as amended, equals 1/50th of one percent of the aggregate value of cash offered by Atlantic Acquisition Corporation for such number of Shares.

☒ Check box if any part of the fee is offset as provided by Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration statement number, or the form or schedule and the date of its filing.

Amount Previously Paid:	$2,456,439	Filing Party:	Norfolk Southern Corporation and Atlantic Acquisition Corporation
Form or Registration No.:	Schedule 14D-1	Date Filed:	November 8, 1996 and October 24, 1996

This Amendment No. 27 amends the Tender Offer Statement on Schedule 14D-1 filed on October 24, 1996, as amended (the "Schedule 14D-1"), by Norfolk Southern Corporation, a Virginia corporation ("Parent"), and its wholly owned subsidiary, Atlantic Acquisition Corporation, a Pennsylvania corporation ("Purchaser"), relating to Purchaser's offer to purchase all outstanding shares of (i) Common Stock, par value $1.00 per share (the "Common Shares"), and (ii) Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc. (the "Company"), including, in each case, the associated Common Stock Purchase Rights, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 24, 1996 (the "Offer to Purchase"), as amended and supplemented by the Supplement, dated November 8, 1996 (the "First Supplement") and the Second Supplement, dated December 20, 1996 (the "Second Supplement"), and in the revised Letter of Transmittal (which, together with any amendments or supplements thereto, constitute the "Offer"). Unless otherwise defined herein, all capitalized terms used herein shall have the respective meanings given such terms in the Offer to Purchase, the First Supplement, the Second Supplement or the Schedule 14D-1.

Item 1. Security and Subject Company.

Item 1 is hereby amended and supplemented by the following:

(b) The information set forth in the Introduction and Section 1 ("Terms of the Offer; Expiration Date") of the Second Supplement is incorporated herein by reference.

(c) The information set forth in Section 3 ("Price Range of Shares; Dividends") of the Second Supplement is incorporated herein by reference.

Item 3. Past Contacts, Transactions or Negotiations with the Subject Company.

Item 3 is hereby amended and supplemented by the following:

(a) and (b) The information set forth in the Introduction, Section 7 ("Background of the Offer; Contacts with the Company") and Section 8 ("Purpose of the Offer and the Merger; Plans for the Company; Certain Considerations") of the Second Supplement is incorporated herein by reference.

Item 4. Source and Amount of Funds or Other Consideration.

Item 4 is hereby amended and supplemented by the following:

(a) and (b) The information set forth in Section 6 ("Source and Amount of Funds") of the Second Supplement is incorporated herein by reference.

Item 5. Purpose of the Tender Offer and Plans or Proposals of the Bidder.

Item 5 is hereby amended and supplemented by the following:

The information set forth in the Introduction, Section 7 ("Background of the Offer; Contacts with the Company") and Section 8 ("Purpose of the Offer and Merger; Plans for the Company; Certain Considerations") of the Second Supplement is incorporated herein by reference.

Item 7. Contracts, Arrangements, Understandings or Relationships with Respect to the Subject Company's Securities.

Item 7 is hereby amended and supplemented by the following:

The information set forth in Section 9 ("Conditions to the Offer") and Section 10 ("Certain Legal Matters; Regulatory Approvals; Certain Litigation") of the Second Supplement is incorporated herein by reference.

Item 9. Financial Statements of Certain Bidders.

Item 9 is hereby amended and supplemented by the following:

The information set forth in Section 5 ("Certain Information Concerning Parent and Purchaser") of the Second Supplement is incorporated herein by reference.

Item 10. Additional Information.

Item 10 is hereby amended and supplemented by the following:

(b) The information set forth in the Introduction and Section 8 ("Purpose of the Offer and the Merger; Plans for the Company; Certain Considerations") of the Second Supplement is incorporated herein by reference.

(e) The information set forth in Section 10 ("Certain Legal Matters; Regulatory Approvals; Certain Litigation") of the Second Supplement is incorporated herein by reference.

(f) The information set forth in the Second Supplement and the revised Letter of Transmittal, copies of which are attached hereto as Exhibits (a)(72) and (a)(73), respectively, is incorporated herein by reference.

Item 11. Material to be Filed as Exhibits.

Item 11 is hereby amended to add the following:

(a)(71) Text of Press Release issued by Parent on December 19, 1996.

(a)(72) Second Supplement to the Offer to Purchase, dated December 20, 1996.

(a)(73) Revised Letter of Transmittal.

(a)(74) Revised Notice of Guaranteed Delivery.

(a)(75) Revised Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.

(a)(76) Revised Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.

SIGNATURE

After due inquiry and to the best of its knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: December 20, 1996

NORFOLK SOUTHERN CORPORATION

By: /s/ JAMES C. BISHOP, JR.
Name: James C. Bishop, Jr.
Title: Executive Vice President-Law

ATLANTIC ACQUISITION CORPORATION

By: /s/ JAMES C. BISHOP, JR.
Name: James C. Bishop, Jr.
Title: Vice President and General Counsel

EXHIBIT INDEX

Exhibit Number	Description	Page
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(a)(74)	Revised Notice of Guaranteed Delivery.	
(a)(75)	Revised Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.	
(a)(76)	Revised Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.	

Exhibit (a)(71)

FOR IMMEDIATE RELEASE
DECEMBER 19, 1996

Media Contact: Robert Fort
757-629-2714

NORFOLK SOUTHERN INCREASES CASH BID FOR CONRAIL TO $115 PER SHARE

Company to Challenge Conrail/CSX Extension of 'Lockup' Provision

NORFOLK, VA — Norfolk Southern Corporation (NYSE: NSC) today announced that it has increased to $115 per share its all-cash offer for all of Conrail Inc.'s outstanding common shares and Series A ESOP convertible junior preferred shares. The $115 per-share offer gives shareholders a premium of more than $14 per share (or 14 percent) over the remaining blended value of CSX's revised cash-and-stock proposal for Conrail.*

As with its earlier offers, Norfolk Southern's revised proposal continues to offer significant benefits to Conrail shareholders. The increased offer provides for an immediate cash payment for shares purchased into a voting trust and is not contingent upon any federal regulatory approval.

Norfolk Southern's offer is worth over $1 billion more than CSX's latest proposal. CSX's proposed deal also still depends on the uncertain value of CSX stock at some time in the future.

"Our increased offer underscores our determination to acquire Conrail," said David R. Goode, Norfolk Southern's Chairman, President and Chief Executive Officer. "We remain committed to giving shareholders a fair choice and achieving a Conrail/Norfolk Southern combination because it is the perfect combination for shareholders, employees, shippers and consumers."

Norfolk Southern said it will challenge the legality of a provision in the CSX/Conrail agreement that extends the lockup period until December 31, 1998. Norfolk Southern said the U.S. District Court in Philadelphia has scheduled a hearing on that issue for January 9, 1997. The Court has also agreed to consider a second issue regarding whether CSX now owns 20 percent of Conrail's shares and is an interested shareholder, which would require CSX to pay all Conrail shareholders $110 per share in cash under Pennsylvania's Fair Value Statute.

In agreeing not to discuss any other merger proposal for two years, Conrail's board has again shown its disdain for the interests of the corporation and its shareholders, Norfolk Southern said. Norfolk Southern is convinced the courts ultimately will not approve the Conrail board's wholesale abrogation of its fiduciary duties to all of its constituencies.

Norfolk Southern reiterated that its offer for Conrail ensures balanced competition in the East with the least disruption to operations and service. The size and scope of the divestitures which would be required to make a CSX/Conrail combination acceptable would impose significant costs on the new company. These costs are for the most part avoidable with a Norfolk Southern/Conrail combination because the two railroads have much less overlap.

*Based on the closing price of CSX stock on 12/19/96.

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Exhibit (a)(72)

Second Supplement to the Offer to Purchase for Cash Dated October 24, 1996

Atlantic Acquisition Corporation,

a wholly owned subsidiary of

Norfolk Southern Corporation

Has Increased the Price of its Offer to Purchase for Cash

All Outstanding Shares

of

Common Stock and Series A ESOP Convertible Junior Preferred Stock

(including, in each case, the associated Common Stock Purchase Rights)

of

Conrail Inc.

to

$115 Net Per Share

THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON FRIDAY, JANUARY 10, 1997, UNLESS THE OFFER IS EXTENDED.

THE OFFER IS NOW CONDITIONED UPON, AMONG OTHER THINGS, PRIOR TO THE EXPIRATION OF THE OFFER, (1) ATLANTIC ACQUISITION CORPORATION ("PURCHASER"), A WHOLLY OWNED SUBSIDIARY OF NORFOLK SOUTHERN CORPORATION ("PARENT"), AND PARENT HAVING OBTAINED, ON TERMS REASONABLY ACCEPTABLE TO PARENT, SUFFICIENT FINANCING TO ENABLE CONSUMMATION OF THE OFFER AND THE PROPOSED MERGER, (2) THERE BEING VALIDLY TENDERED AND NOT PROPERLY WITHDRAWN PRIOR TO THE EXPIRATION OF THE OFFER A NUMBER OF COMMON SHARES AND ESOP PREFERRED SHARES WHICH TOGETHER CONSTITUTE AT LEAST A MAJORITY OF THE SHARES OUTSTANDING ON A FULLY DILUTED BASIS, (3) PURCHASER BEING SATISFIED, IN ITS SOLE DISCRETION, THAT SUBCHAPTER F OF CHAPTER 25 OF THE PENNSYLVANIA BUSINESS CORPORATION LAW HAS BEEN COMPLIED WITH OR IS INVALID OR OTHERWISE INAPPLICABLE TO THE OFFER AND THE PROPOSED MERGER, (4) THE COMMON STOCK PURCHASE RIGHTS HAVING BEEN REDEEMED BY THE BOARD OF DIRECTORS OF CONRAIL INC. OR PURCHASER BEING SATISFIED, IN ITS SOLE DISCRETION, THAT SUCH COMMON STOCK PURCHASE RIGHTS ARE INVALID OR OTHERWISE INAPPLICABLE TO THE OFFER AND THE PROPOSED MERGER, AND (5) PURCHASER BEING SATISFIED, IN ITS SOLE DISCRETION, THAT THE PREVIOUSLY ANNOUNCED AGREEMENT AND PLAN OF MERGER, AS AMENDED, BETWEEN THE COMPANY AND CSX CORPORATION HAS BEEN TERMINATED IN ACCORDANCE WITH ITS TERMS OR OTHERWISE. SEE THE INTRODUCTION TO THE OFFER TO PURCHASE AND TO THIS SECOND SUPPLEMENT.

The Dealer Managers for the Offer are:

J.P. Morgan & Co. **Merrill Lynch & Co.**

December 20, 1996

IMPORTANT

Purchaser is currently reviewing its options with respect to the Offer and may consider, among other things, changes to the material terms of the Offer. In addition, Parent and Purchaser intend to continue to seek to negotiate with the Company with respect to the acquisition of the Company by Parent or Purchaser. Purchaser reserves the right to amend the Offer (including amending the number of shares to be purchased, the purchase price and the proposed merger consideration) upon entering into a merger agreement with the Company or to negotiate a merger agreement with the Company not involving a tender offer pursuant to which Purchaser would terminate the Offer and the Common Shares (as defined herein) and ESOP Preferred Shares (as defined herein, and together with the Common Shares, the "Shares") would, upon consummation of such merger, be converted into cash, common stock of Parent and/or other securities in such amounts as are negotiated by Parent and the Company.

Any shareholder desiring to tender all or any portion of such shareholder's Shares should either (i) complete and sign the revised Letter of Transmittal delivered herewith or one of the Letters of Transmittal previously delivered to such shareholder by Parent and Purchaser (or any facsimiles of such Letters of Transmittal) in accordance with the instructions in such Letters of Transmittal, have such shareholder's signature thereon guaranteed if required by Instruction 1 to such Letters of Transmittal, mail or deliver one of such Letters of Transmittal (or such facsimile thereof) and any other required documents to the Depositary and either deliver the certificates for such Shares and, if separate, the certificates representing the associated Rights (as defined herein) to the Depositary along with one of such Letters of Transmittal (or a facsimile thereof) or deliver such Shares (and Rights, if applicable) pursuant to the procedure for book-entry transfer set forth in Section 3 of the Offer to Purchase (as defined herein) prior to the expiration of the Offer or (ii) request such shareholder's broker, dealer, commercial bank, trust company or other nominee to effect the transaction for such shareholder. A shareholder having Shares (and, if applicable, Rights) registered in the name of a broker, dealer, commercial bank, trust company or other nominee must contact such broker, dealer, commercial bank, trust company or other nominee if such shareholder desires to tender such Shares (and, if applicable, Rights). Unless and until Purchaser declares that the Rights Condition (as defined in the Offer to Purchase) is satisfied, shareholders will be required to tender one Right for each Share tendered in order to effect a valid tender of such Share. The tender of Rights is also required for the valid tender of ESOP Preferred Shares.

Participants in the Company's Matched Savings Plan (the "ESOP") desiring that Fidelity Management Trust Company, as trustee under the ESOP (the "ESOP Trustee"), tender the ESOP Preferred Shares allocated to their accounts, which will be converted into Common Shares upon consummation of the Offer, should so instruct the ESOP Trustee by completing the form that will be provided to participants for that purpose. ESOP participants cannot tender Shares allocated to their ESOP accounts by executing one of the Letters of Transmittal.

Any shareholder who desires to tender Shares (and, if applicable, Rights) and whose certificates for such Shares (and, if applicable, Rights) are not immediately available, or who cannot comply with the procedures for book-entry transfer described in the Offer to Purchase on a timely basis, may tender such Shares (and, if applicable, Rights) by following the procedures for guaranteed delivery set forth in Section 3 of the Offer to Purchase.

Questions and requests for assistance may be directed to the Information Agent or the Dealer Managers at their respective addresses and telephone numbers set forth on the back cover of this Second Supplement. Additional copies of the Offer to Purchase, the First Supplement (as defined herein), this Second Supplement, the revised Letter of Transmittal or other tender offer materials may be obtained from the Information Agent.

TABLE OF CONTENTS

TO THE HOLDERS OF COMMON STOCK AND
SERIES A ESOP CONVERTIBLE JUNIOR PREFERRED STOCK OF CONRAIL INC.:

INTRODUCTION

The following information amends and supplements the Offer to Purchase, dated October 24, 1996 (the "Offer to Purchase"), as previously amended and supplemented by the Supplement to the Offer to Purchase, dated November 8, 1996 (the "First Supplement"), of Atlantic Acquisition Corporation ("Purchaser"), a Pennsylvania corporation and a wholly owned subsidiary of Norfolk Southern Corporation, a Virginia corporation ("Parent"), pursuant to which Purchaser is offering to purchase all outstanding shares of (i) common stock, par value $1.00 per share (the "Common Shares"), and (ii) Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc., a Pennsylvania corporation (the "Company"), including, in each case, the associated Common Stock Purchase Rights (the "Rights") issued pursuant to the Rights Agreement, dated as of July 19, 1989, as amended, between the Company and First Chicago Trust Company of New York, as Rights Agent (the "Rights Agreement"). Purchaser has increased the price to be paid in the Offer (as defined below) to $115 per Share, net to the seller in cash, without interest thereon (the "Offer Price"), upon the terms and subject to the conditions set forth in the Offer to Purchase, as amended and supplemented by the First Supplement and this Second Supplement, and in the revised Letter of Transmittal (which, as amended from time to time, collectively constitute the "Offer"). Unless the context otherwise requires, all references to Common Shares, ESOP Preferred Shares or Shares shall include the associated Rights, and all references to the Rights shall include the benefits that may enure to holders of the Rights pursuant to the Rights Agreement, including the right to receive any payment due upon redemption of the Rights.

The purpose of the Offer is to acquire control of, and the entire equity interest in, the Company. Parent is seeking to negotiate with the Company a definitive merger agreement pursuant to which the Company would, as soon as practicable following consummation of the Offer, consummate a merger or similar business combination with Purchaser or another direct or indirect subsidiary of Parent (the "Proposed Merger"). In the Proposed Merger, each Common Share and ESOP Preferred Share then outstanding (other than Shares held by the Company or any subsidiary of the Company and Shares owned by Parent, Purchaser or any direct or indirect subsidiary of Parent) would be converted into the right to receive an amount in cash equal to the price per Common Share and ESOP Preferred Share paid pursuant to the Offer. If Purchaser acquires 80% or more of the outstanding Shares in the Offer, Purchaser intends to effect the Proposed Merger as a "short-form" merger under the Pennsylvania Business Corporation Law (the "PBCL"), without a vote of the Company's shareholders or the Board of Directors of the Company (the "Company Board"). See Sections 11 and 12 of the Offer to Purchase, Sections 5 and 6 of the First Supplement and Sections 7 and 8 of this Second Supplement.

This Second Supplement should be read in conjunction with the Offer to Purchase and the First Supplement. Except as set forth in this Second Supplement and the revised Letter of Transmittal, the terms and conditions previously set forth in the Offer to Purchase, the First Supplement and the Letters of Transmittal mailed with either the Offer to Purchase or the First Supplement remain applicable in all respects to the Offer. Terms used but not defined herein have the meanings set forth in the Offer to Purchase or the First Supplement.

The Offer is no longer conditioned upon the satisfaction or waiver of either the Voting Trust Approval Condition or the HSR Condition. See Sections 9 and 10 of this Second Supplement.

On November 21, 1996, CSX announced that Green Acquisition Corp., a wholly owned subsidiary of CSX, had accepted for payment in the CSX Offer 17,860,124 Shares, purportedly representing 19.9% of the Company's then outstanding Shares. The CSX Offer expired at midnight, New York City time, on Wednesday, November 20, 1996.

On December 6, 1996, CSX commenced a second tender offer (the "CSX Second Offer") to purchase for cash an aggregate of up to 18,344,845 Shares of the Company at a price of $110 in cash per Share. The CSX Second Offer is currently scheduled to expire at 5 p.m., New York City time, on January 22, 1997, unless extended.

On December 19, 1996 the Company and CSX announced that an amendment to the CSX Merger Agreement (the "Second Amendment") had been entered into pursuant to which CSX increased the consideration to be paid in the Proposed CSX Merger. Pursuant to the Second Amendment, the 60% of the Shares expected to be outstanding at the time of the consummation of the Proposed CSX Merger (assuming the Proposed CSX Merger is consummated) and not owned by CSX will be exchanged for (i) CSX Common Stock at a rate of 1.85619 Shares of CSX Common Stock for each Share and (ii) an additional $1.6 per Share in CSX convertible preferred stock, the terms of which will be set prior to the Proposed CSX Merger so that such securities would trade at par on a fully distributed basis. Based on the closing sale price of the CSX Common Stock on the New York Stock Exchange (the "NYSE") on December 19, 1996, the total per Share consideration in the Proposed CSX Merger was worth approximately $97.21.

By reason of the increase in the Offer Price, the increased punitive effect of the CSX Lockup Option on Parent will be approximately $80 million. On such basis, in the event that the CSX Termination Fee is paid and the CSX Lockup Option Agreement is exercised by CSX, the aggregate additional cost to an acquiror of the Company (including Parent) by reason of the CSX Lockup Option Agreement and the CSX Termination Fee will amount to approximately $660 million (assuming an acquisition of the Company at $115 per Share). In the Pennsylvania Litigation, Parent and Purchaser are contesting the validity of both the CSX Lockup Option Agreement and the CSX Termination Fee. See Section 15 of the Offer to Purchase and Section 8 of the First Supplement.

In the CSX Merger Agreement, the Company and CSX agreed, among other things, to a provision (the "No Negotiation Provision") providing that, subject to certain exceptions, neither the Company nor CSX will, nor will they permit any of their subsidiaries to, nor will they authorize or permit any of their officers, directors or employees or any investment banker, financial advisor, attorney, accountant or other representative, retained by them or any of their subsidiaries to, directly or indirectly through another person, participate in any conversations, discussions or negotiations, or enter into any agreement, arrangement or understanding, with any other company engaged in the operation of railroads (including Parent) with respect to the acquisition by any such other company (including Parent) of any securities or assets of the Company and its subsidiaries or CSX and its subsidiaries, or any trackage rights or other concessions relating to the assets or operations of the Company and its subsidiaries or CSX and its subsidiaries, other than with respect to certain sales, leases, licenses, mortgages or other disposals of assets or properties.

In the Second Amendment, the Company also agreed to extend the term of the No Negotiation Provision from July 12, 1997 to December 31, 1998, with the intended effect of preventing the Company from considering or otherwise facilitating any competing proposal to acquire the Company, such as the Offer and the Proposed Merger, until such time.

The Second Amendment provides that the Proposed CSX Merger will occur as soon as practicable after the CSX and Company shareholders meetings to be held to consider matters related to the Proposed CSX Merger and that all of the Shares acquired by CSX in the Proposed CSX Merger would be placed in the voting trust holding Shares previously acquired by CSX pending the outcome of Surface Transportation Board (the "STB") proceedings relating to the proposed combination of CSX and the Company.

Also on December 19, 1996, the Company announced that the date of the special meeting of the Company's shareholders (the "Pennsylvania Special Meeting") to seek approval of an amendment (the "Articles Amendment") to the Company's Articles of Incorporation to "opt out" of Subchapter E of Chapter 25 of the PBCL had been changed to January 17, 1997. Parent has been soliciting proxies against the adoption of the Articles Amendment and intends to continue to solicit proxies against the Articles Amendment at any meeting of the Company's shareholders held to consider the Articles Amendment.

This Second Supplement does not constitute a solicitation of proxies for the Pennsylvania Special Meeting or any other meeting of the Company's shareholders. Any such solicitation which Parent or Purchaser might make would be made only pursuant to separate proxy materials complying with the requirements of Section 14(a) of the Securities Exchange Act of 1934, as amended (the "Exchange Act").

The Offer to Purchase, the First Supplement, this Second Supplement and the revised Letter of Transmittal contain important information which should be read carefully before any decision is made with respect to the Offer.

1. Terms of the Offer; Expiration Date. The discussion set forth in Section 1 of the Offer to Purchase and Section 1 of the First Supplement is hereby amended and supplemented as follows:

The price to be paid for Shares purchased pursuant to the Offer has been increased from $110 to $115 per Share, net to the seller in cash without interest thereon, upon the terms and subject to the conditions of the Offer.

As previously announced, the term "Expiration Date" has been amended to mean 12:00 Midnight, New York City time, on Friday, January 10, 1997, unless and until Purchaser, in its sole discretion, shall have extended the period of time during which the Offer is open, in which event the term "Expiration Date" shall refer to the latest time and date at which the Offer, as so extended by Purchaser, shall expire.

2. Procedures for Tendering Shares. The discussion set forth in Section 3 of the Offer to Purchase and Section 2 of the First Supplement is hereby amended and supplemented as follows:

The revised Letter of Transmittal and the revised Notice of Guaranteed Delivery distributed with this Second Supplement may be used to tender Shares. Tendering shareholders may also continue to use the Letters of Transmittal and the Notices of Guaranteed Delivery previously distributed with the Offer to Purchase or the First Supplement to tender Shares.

Shareholders who have previously validly tendered Shares pursuant to the Offer and not properly withdrawn such Shares have validly tendered such Shares for purposes of the Offer, as amended, and need not take any further action in order to receive the increased price of $115 net per Share pursuant to the Offer.

3. Price Range of Shares; Dividends. The discussion set forth in Section 6 of the Offer to Purchase and Section 3 of the First Supplement is hereby amended and supplemented as follows:

According to public sources, the high and low closing sale prices per Common Share on the NYSE for the Fourth Quarter of 1996 (through December 19, 1996) were $100¾ and $68½, respectively. On December 19, 1996, the last full trading day prior to Parent's announcement that it was amending the terms of the Offer upon the terms set forth in this Second Supplement, the reported closing sale price per Common Share on the NYSE Composite Tape was $100¾. **Shareholders are urged to obtain a current market quotation for the Common Shares.**

According to public sources, the Company paid its regular quarterly cash dividend of $0.475 per Common Share on December 16, 1996.

4. Certain Information Concerning the Company. The discussion set forth in Section 8 of the Offer to Purchase is hereby amended and supplemented as follows:

Financial Information. Set forth below is certain selected consolidated financial information relating to the Company and its subsidiaries which has been excerpted or derived from the unaudited financial statements contained in the Company's Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 1996 (the "Company Form 10-Q") and other documents filed by the Company with the SEC. More comprehensive financial information is included in the Company Form 10-Q and such other documents, and the financial information that follows is qualified in its entirety by reference to the Company Form 10-Q and such other documents. The Company Form 10-Q and such other documents may be examined and copies may be obtained from the offices of the SEC or the NYSE in the manner set forth in Section 8 of the Offer to Purchase.

CONRAIL INC.

Selected Consolidated Financial Information
(in millions, except per Common Share amounts)
(unaudited)

	Nine Months Ended September 30,	
	1996	1995
Income Statement Data:		
Revenues	$2,771	$2,735
Operating expenses	2,413	2,233
Operating income	358	502
Net income to common shareholders	195	294
Income Per Common Share Information:		
Net earnings per Common Share		
Primary	2.39	3.61
Fully diluted	2.21	3.28

	At September 30,	
	1996	1995
Balance Sheet Data:		
Current assets	$1,199	$1,187
Property and equipment (net)	6,495	6,680
Total assets	8,387	8,683
Current liabilities	1,250	1,238
Long-term debt, excluding current portion	1,891	2,037
Total shareholders' equity	2,938	3,080

5. Certain Information Concerning Parent and Purchaser. The discussion set forth in Section 9 of the Offer to Purchase is hereby amended and supplemented as follows:

Parent. Set forth below is certain selected consolidated financial information relating to Parent and its subsidiaries which has been excerpted or derived from the unaudited financial statements contained in Parent's Quarterly Report on Form 10-Q for the fiscal quarter ended September 30, 1996 (the "Parent Form 10-Q") and other documents filed by Parent with the SEC. More comprehensive financial information is included in the Parent Form 10-Q and such other documents, and the financial information that follows is qualified in its entirety by reference to the Parent Form 10-Q and such other documents. The Parent Form 10-Q and such other documents may be examined and copies may be obtained from the offices of the SEC or the NYSE in the manner set forth in Section 9 of the Offer to Purchase.

NORFOLK SOUTHERN CORPORATION

Selected Consolidated Financial Information
(in millions, except per share amounts)
(unaudited)

	Nine Months Ended September 30,	
	1996	1995
Income Statement Data:		
Revenues	$ 3,590.1	$ 3,512.8
Operating expenses	2,702.9	2,681.5
Operating income	887.2	831.3
Net income to common shareholders	569.9	535.8
Net Income Per Common Share:	4.49	4.07

	At September 30,	
	1996	1995
Balance Sheet Data:		
Current assets	$ 1,456.6	$ 1,340.3
Property and equipment (net)	9,460.2	9,233.1
Total assets	11,261.5	10,872.9
Current liabilities	1,208.4	1,180.9
Long-term debt, excluding current portion	1,811.2	1,588.3
Total shareholders' equity	4,854.6	4,808.1

6. Source and Amount of Funds. The discussion set forth in Section 10 of the Offer to Purchase and Section 4 of the First Supplement is hereby amended and supplemented as follows:

Purchaser estimates that the total amount of funds now required to acquire Shares pursuant to the Offer and the Proposed Merger (in each case as amended as described in this Second Supplement), to pay all related costs and expenses, to refinance Parent's and the Company's existing debt and for working capital purposes will be approximately $13 billion.

As of December 19, 1996, signed commitments (including the commitments of the Arrangers and their affiliates as Lenders) in excess of the amount needed to complete Parent's proposed acquisition of the Company had been received by the Arrangers from banks and other financial institutions (the "Potential Syndicate Members") in respect of the $12.5 billion financing for Parent's $110 per Share Offer described in the Summary of Terms and Conditions previously filed as an exhibit to the Schedule 14D-1, as amended, of Parent and Purchaser filed in connection with the Offer (the "Schedule 14D-1"). The respective commitments of the Potential Syndicate Members will expire on March 1, 1997 if a satisfactory definitive credit agreement is not entered into on or prior to such date.

In order to finance the Offer and the Proposed Merger at the $115 per Share Offer Price, Parent has begun the process of seeking confirmations from the Potential Syndicate Members that their respective commitments may apply to a $13 billion (as opposed to a $12.5 billion) financing for Parent in connection with the $115 per Share Offer Price. Parent has already received oral confirmations from the Arrangers (and their affiliates as Lenders) in respect of their original commitments of $2 billion each, and Parent and the Arrangers are highly confident that such confirmations will also be received from the other Potential Syndicate Members in respect of their original commitments in the near future. The terms and conditions on which the Potential Syndicate Members would be willing to make such confirmations, as well as the structure and pricing they may require for a larger financing, may vary from those previously disclosed by Parent and Purchaser in the Schedule 14D-1, as modified by the disclosure immediately below.

After giving effect to the confirmations being sought from the Potential Syndicate Members, it is contemplated that the size and scheduled maturities of the three term loan facilities included in the Credit Facility will be as described below. One term loan facility will have a principal amount of $3.5 billion, $1 billion of which will be repayable on the first anniversary of the initial borrowing under the Credit Facility and the remainder of which will be repayable on the date (the "Final Term Loan I Maturity Date") which is the earlier of (i) six months from the date on which the STB issues its final order with respect to the acquisition of control of the Company by Parent and (ii) the third anniversary of the Closing Date. The second term loan facility will have a principal amount of $3.5 billion repayable 24 months after the Final Term Loan I Maturity Date. The third term loan facility will have a principal amount of $3 billion repayable in unequal quarterly installments during the period from and including March 31, 1997 (subject to extension under certain circumstances) through and including June 30, 2003. It is contemplated that the size and maturity of the revolving portion of the Credit Facility will continue to be as previously disclosed.

To the extent Parent elects that any loans under the Credit Facility bear interest at a rate based on the adjusted CD rate, it is currently anticipated that such loans shall bear interest at the adjusted CD rate plus a margin which will initially be .875% and may be adjusted depending upon Parent's senior unsecured long-term debt ratings following the announcement of the Offer to between .350% and .100%.

It is currently anticipated that, during all times that both the Parent's senior unsecured long-term debt and the loans under the Credit Facility have ratings below subinvestment grade, such loans will bear interest at a rate per annum equal to the rates described in the Schedule 14D-1 (as modified hereby in the case of adjusted CD rate loans) that would otherwise be applicable to such loans plus an additional margin of .125%.

7. Background of the Offer; Contacts with the Company. The discussion set forth in Section 11 of the Offer to Purchase and Section 5 of the First Supplement is hereby amended and supplemented as follows.

On December 8, 1996, Parent announced its pledge that it will not be a party to any agreement with CSX or the Company that delivers anything less to the Company's shareholders than a $110 all-cash, all-Shares offer — with prompt payment through use of a voting trust — so long as the Company's shareholders reject the maneuvering by CSX and the Company's management to pay shareholders less than what Parent believes the Company's shareholders deserve for their Shares.

On December 11, 1996, Parent delivered the following letter to the Company Board:

December 11, 1996

BY FAX

Board of Directors
Conrail Inc.
2001 Market Street
Two Commerce Square
Philadelphia, Pennsylvania 19101

Attn: Chairman

Gentlemen:

As you know, both in a press release and in newspaper advertisements earlier this week, Norfolk Southern issued the following pledge to Conrail shareholders:

"Norfolk Southern will not be a party to any agreement with CSX or Conrail that delivers anything less to Conrail shareholders than a $110 all-cash, all-shares offer — with prompt payment through use of a voting trust — so long as Conrail shareholders reject the maneuvering by CSX and Conrail's management to pay you less than you deserve for your shares."

I am writing to underscore the seriousness of Norfolk Southern's pledge. We intend that the foregoing pledge be treated as a binding commitment to the Conrail shareholders. However, should you deem it necessary or otherwise appropriate, Norfolk Southern stands ready to enter into a written agreement with Conrail, on behalf of the Conrail shareholders, confirming this pledge.

Our attorneys are available to work with your attorneys to promptly work out the language of such an agreement. We look forward to your response.

Very truly yours,

/s/ DAVID R. GOODE

David R. Goode

Parent has extended such pledge to its $115 per Share Offer.

8. Purpose of the Offer and the Merger; Plans for the Company; Certain Considerations. The discussion set forth in Section 12 of the Offer to Purchase and Section 6 of the First Supplement is hereby amended and supplemented as follows:

Parent believes that the Offer and the Proposed Merger will ensure balanced competition among railroads in the Eastern portion of the United States with the least disruption to operations and service. In order to continue to ensure balanced competition, Parent may hold discussions with other railroads (including CSX) to address regulatory requirements and other competition issues arising from the Offer and the Proposed Merger. Such discussions may lead to various concessions, such as the grant of trackage rights or other dispositions of assets, by the post-merger combined company.

9. Conditions of the Offer. The discussion set forth in the Introduction and Sections 1 and 14 of the Offer to Purchase and the Introduction to the First Supplement is hereby amended and supplemented as follows:

On November 18, 1996, the staff of the STB issued an informal, nonbinding opinion to the effect that the Voting Trust Agreement, as proposed by Parent to be modified to delete the "proportional voting" provision modelled on CSX's proposed voting trust agreement, is consistent with the policies of the STB against unauthorized acquisitions of control of a regulated carrier. In the same opinion, the staff of the

STB reaffirmed its November 1, 1996 informal, nonbinding opinion concerning the Voting Trust Agreement as originally proposed and rejected various arguments submitted by the Company requesting the staff to rescind such November 1 opinion. Accordingly, Purchaser has determined that the Offer is no longer subject to the satisfaction or waiver of the Voting Trust Approval Condition.

On the basis of a confirmation from the Premerger Office of the FTC that the Offer and the Proposed Merger are not subject to, or are exempt from, the HSR Act, Purchaser also has determined that the Offer is no longer subject to the satisfaction or waiver of the HSR Condition.

10. Certain Legal Matters; Regulatory Approvals; Certain Litigation. The discussion set forth in Section 15 of the Offer to Purchase and Section 8 of the First Supplement is hereby amended and supplemented as follows:

STB Matters; The Voting Trust. On November 18, 1996, the staff of the STB issued an informal, nonbinding opinion to the effect that the Voting Trust Agreement (as amended) is consistent with the policies of the STB against unauthorized acquisitions of control of a regulated carrier. See Section 9 of this Second Supplement.

STB Matters; Acquisition of Control. On November 27, 1996, the STB requested public comment on a proposed schedule pursuant to which the STB would issue a final order 300 days from the filing of the application (the "STB Application") by Parent seeking approval of the Proposed Merger. Parent has not yet filed the STB Application. The STB is required by statute to enter a final order with respect to the STB Application within approximately 16 months after it is filed. The STB's proposed schedule is subject to a public comment process with written comments due no later than December 13, 1996 and Parent's reply due by December 23, 1996, after which the STB is then expected to issue a final schedule which may or may not be identical to the proposed schedule. Regardless of the final scheduling order, there can be no assurance that the STB will issue a final decision any sooner than the approximately 16-month period permitted by law, or that the decision, when issued, will be favorable to the Proposed Merger.

Certain Litigation. On November 15, 1996, Parent, Purchaser and a Company shareholder (collectively, the "Plaintiffs") filed a Motion for Leave to Supplement and Amend the Complaint in the litigation (the "Pennsylvania Litigation") brought by Plaintiffs against the Company, its directors and CSX (collectively, the "Defendants") in the United States District Court for the Eastern District of Pennsylvania (the "District Court"). On December 5, 1996, Defendants consented to such motion, and Plaintiffs filed their Second Amended Complaint with the District Court on December 12, 1996. In the Second Amended Complaint, Plaintiffs updated the description of counts contained in their earlier complaints and added certain additional allegations of disclosure and fiduciary duty violations relating to such updated description of events. In particular, *inter alia*, the Second Amended Complaint included allegations (i) concerning the coercive front-end loaded, two-tier structure of the Proposed CSX Transaction (and the fundamental unfairness thereof) and (ii) concerning material misrepresentations and omissions by Defendants in connection with the supplement to CSX's Offer to Purchase and with the Company Board's Schedule 14D-9 statements relating to the Proposed CSX Transaction and Parent's Offer and Proposed Merger.

On November 19, 1996, the District Court issued an oral ruling denying Plaintiffs' motion for preliminary injunctive relief after two days of hearings. After the ruling, Plaintiffs asked the District Court for an injunction pending appeal which was denied. On the same date, Plaintiffs filed an emergency motion for an injunction pending appeal and a motion seeking an expedited appeal to the United States Court of Appeals for the Third Circuit (the "Third Circuit"). On November 20, 1996, the Third Circuit denied Plaintiffs' motion for an injunction pending appeal.

On November 21, 1996, Parent announced that, in view of CSX's purchase of 19.9% of the Shares pursuant to the CSX Offer, no purpose would be served by seeking expedited review by the Third Circuit of the decision not to enjoin the CSX Offer. While the closing of the CSX Offer has made the need for an expedited review unnecessary, Parent continues to pursue its appeal on an unexpedited basis.

On December 5, 1996, Defendants filed their Answer and Defenses to Plaintiffs' Second Amended Complaint, generally denying, and asserting various defenses to, the allegations contained therein and requesting judgment on all claims and an award of costs and attorneys fees. The Company and CSX also filed a Counterclaim to Plaintiffs' Second Amended Complaint (the "Counterclaim"), naming Plaintiffs as counterclaim defendants, alleging that David R. Goode and another executive officer of Parent are co-conspirators/aiders and abettors, and purporting to state the following claims: tortious interference with current and prospective contractual relationships, intentional infliction of harm, unfair competition and civil conspiracy. Further, the Counterclaim alleges that Parent and certain of its executive officers have engaged in (i) dissemination of materially false and misleading information, (ii) promotion of an illusory tender offer, (iii) purportedly improper commencement of a lawsuit, (iv) false and misleading solicitation of proxies for the upcoming Company shareholder vote and (v) efforts to manipulate the market through unfair, tortious conduct, in violation of the federal securities laws. The Counterclaim requests a jury trial and an award of damages, punitive damages, costs and attorneys fees. Parent believes that the Counterclaim is without merit and intends to defend it vigorously.

On December 13, 1996, Plaintiffs filed a Motion for Leave to File their Third Amended Complaint (the "Third Amended Complaint"), which was granted on December 17, 1996, and a Motion for Preliminary Injunction. The Third Amended Complaint withdrew two counts relating to the originally scheduled November 14, 1996 special meeting of the Company's shareholders as moot, and added the following additional claims: (i) that Defendants' stated intention not to convene the special meeting of the Company's shareholders scheduled for December 23, 1996 constitutes a breach of fiduciary duty; (ii) that Defendants' stated intention to successively postpone the vote of the Company's shareholders scheduled for December 23, 1996 until such shareholders submit to Defendants' will constitutes fraudulent and fundamentally unfair conduct; (iii) that Section 5.1(b) of the CSX Merger Agreement, as amended, constitutes a breach of fiduciary duty in that it purports to delegate the Company directors' fiduciary responsibilities relating to the processes of corporate democracy, and, alternatively, that Section 5.1(b) is void and *ultra vires*; (iv) that consummation of the CSX Offer caused a "control transaction" to occur with respect to the Company pursuant to Subchapter 25E of the PBCL, thus obligating the group consisting of CSX, the Company directors and certain executive officers of the Company to pay to each demanding Company shareholder at least $110 cash per share; and (v) that Defendants' public statements suggesting that the consideration payable in the Proposed CSX Merger might be improved is misleading and constitutes a violation of the federal securities laws.

On December 17, 1996, the District Court held a hearing to consider Plaintiffs' Motion for a Preliminary Injunction. At the conclusion of the hearing, the District Court issued an order enjoining the Defendants from failing to convene, and/or from postponing, and/or from adjourning the Pennsylvania Special Meeting scheduled for Monday, December 23, 1996, by reason of the Company or its nominees not having received sufficient proxies to assure approval of the proposal set forth in the Company's "Notice of Special Meeting of Shareholders" and in the Company's proxy materials to "opt-out" of Subchapter E of Chapter 25 of the PBCL.

On December 19, 1996, the District Court scheduled a hearing for January 9, 1997 to consider Plaintiffs' challenge of the legality of the No Negotiation Provision, as extended, and the issue of whether CSX now owns 20% of the Shares, and is an "interested shareholder", under Subchapter 25E of the PBCL.

On December 20, 1996, Plaintiffs filed a Motion for Leave to File their Fourth Amended Complaint (the "Fourth Amended Complaint"). The Fourth Amended Complaint would update the allegations contained in their earlier complaints and add the following additional claims: (i) that the extended two-year No Negotiation Provision in the Second Amendment constitutes an abdication, by the Company directors, of their fiduciary duties and is illegal, *ultra vires*, fundamentally unfair and constitutes a breach of those fiduciary duties; (ii) that the extended two-year No Negotiation Provision purports to restrict the managerial discretion of future Company directors and thus violates Pennsylvania statutory law, the Company's By-laws and Articles of Incorporation, and the Company directors' fiduciary duties; and (iii) that the Company failed to disclose its number of Shares outstanding as of the record date for the Pennsylvania Special Meeting in violation of the federal proxy rules.

In addition, on December 20, 1996, Plaintiffs filed a Motion to Dismiss the Counterclaim for failure to state a claim pursuant to Rule 12(b) of the Federal Rules of Civil Procedure and an accompanying brief.

11. Miscellaneous. Parent and Purchaser have filed with the SEC amendments to the Schedule 14D-1, together with exhibits, pursuant to Rule 14d-3 of the General Rules and Regulations under the Exchange Act, furnishing certain additional information with respect to the Offer. The Schedule 14D-1, and any amendments thereto, may be inspected at, and copies may be obtained from, the same places and in the same manner as set forth in Section 8 of the Offer to Purchase (except that they may not be available at the regional offices of the SEC).

ATLANTIC ACQUISITION CORPORATION

December 20, 1996

Facsimile copies of the revised Letter of Transmittal or any Letter of Transmittal previously distributed by Parent and Purchaser, properly completed and duly signed, will be accepted. Any such Letter of Transmittal, certificates for the Shares and any other required documents should be sent by each shareholder of the Company or his broker, dealer, commercial bank, trust company or other nominee to the Depositary as follows:

The Depositary for the Offer is:

The Bank of New York

By Mail:
Tender & Exchange Department
P.O. Box 11248
Church Street Station
New York, New York 10286-1248

By Facsimile Transmission:
(for Eligible Institutions Only)
(212) 815-6213

By Hand or Overnight Courier:
Tender & Exchange Department
101 Barclay Street
Receive & Deliver Window
New York, New York 10286

For Information Telephone:
(800) 507-9357

Any questions or requests for assistance may be directed to the Information Agent or the Dealer Managers at their respective telephone numbers and locations listed below. Additional copies of the Offer to Purchase, the First Supplement, this Second Supplement, the revised Letter of Transmittal and the revised Notice of Guaranteed Delivery may be obtained from the Information Agent at its address and telephone numbers set forth below. Holders of Shares may also contact their broker, dealer, commercial bank or trust company or other nominee for assistance concerning the Offer.

The Information Agent for the Offer is:

GEORGESON & COMPANY INC.

Wall Street Plaza
New York, NY 10005
Banks and Brokers Call Collect: (212) 440-9800
All Others Call Toll-Free: (800) 223-2064

The Dealer Managers for the Offer are:

J.P. Morgan & Co.
60 Wall Street
Mail Stop 2860
New York, New York 10260
(800) 576-5070 (toll free)

Merrill Lynch & Co.
World Financial Center
North Tower
New York, New York 10281-1305
(212) 449-8211 (call collect)

Exhibit (a)(73)

Letter of Transmittal
To Tender Shares of Common Stock and
Series A ESOP Convertible Junior Preferred Stock
(including, in each case, the associated Common Stock Purchase Rights)
of

Conrail Inc.

Pursuant to the Offer to Purchase, dated October 24, 1996
as amended and supplemented by
the Supplement, dated November 8, 1996,
and the Second Supplement, dated December 20, 1996
by

Atlantic Acquisition Corporation,

a wholly owned subsidiary
of

Norfolk Southern Corporation

THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON FRIDAY, JANUARY 10, 1997, UNLESS THE OFFER IS EXTENDED.

The Depositary for the Offer is:

THE BANK OF NEW YORK

By Mail:	*By Facsimile Transmission:*	*By Hand or Overnight Courier:*
Tender & Exchange Department P.O. Box 11248 Church Street Station New York, New York 10286-1248	(for Eligible Institutions Only) (212) 815-6213	Tender & Exchange Department 101 Barclay Street Receive & Deliver Window New York, New York 10286

For Information Telephone:
(800) 507-9357

DELIVERY OF THIS LETTER OF TRANSMITTAL TO AN ADDRESS OTHER THAN AS SET FORTH ABOVE OR TRANSMISSION OF INSTRUCTIONS VIA FACSIMILE OR TELEX TRANSMISSION OTHER THAN AS SET FORTH ABOVE WILL NOT CONSTITUTE A VALID DELIVERY. YOU MUST SIGN THIS LETTER OF TRANSMITTAL WHERE INDICATED BELOW AND COMPLETE THE SUBSTITUTE FORM W-9 PROVIDED BELOW.

THE INSTRUCTIONS ACCOMPANYING THIS LETTER OF TRANSMITTAL SHOULD BE READ CAREFULLY BEFORE THIS LETTER OF TRANSMITTAL IS COMPLETED.

This revised Letter of Transmittal or either of the Letters of Transmittal previously delivered to shareholders is to be completed by shareholders of Conrail Inc. either if certificates evidencing Shares and/or Rights (each as defined below) are to be forwarded herewith, or if delivery of Shares and/or Rights is to be made by book-entry transfer to the Depositary's account at The Depository Trust Company or the Philadelphia Depository Trust Company (each, a "Book-Entry Transfer Facility" and collectively, the "Book-Entry Transfer Facilities") pursuant to the book-entry transfer procedure described in "Procedures for Tendering Shares" of the Offer to Purchase as supplemented by the First Supplement and the Second Supplement (each as defined below). Delivery of documents to a Book-Entry Transfer Facility in accordance with such Book-Entry Transfer Facility's procedures does not constitute delivery to the Depositary.

Shareholders who have previously validly tendered Shares and/or Rights to shareholders pursuant to the Offer using either of the Letters of Transmittal previously delivered to shareholders or either of the Notices of Guaranteed Delivery previously delivered to shareholders and who have not properly withdrawn such Shares and/or Rights have validly tendered such Shares and/or Rights for the purposes of the Offer, as amended, and need not take any further action.

Unless the Rights are redeemed prior to the Expiration Date (as defined in the Second Supplement) holders of Shares will be required to tender one Right for each Share tendered to effect a valid tender of such Share. Until the Distribution Date (as defined in the First Supplement) occurs, the Rights are represented by and transferred with the Shares. Accordingly, if the Distribution Date does not occur prior to the Expiration Date, a tender of Shares will constitute a tender of the associated Rights. If a Distribution Date has occurred and (i) Purchaser (as defined below) has waived that portion of the Rights Condition (as defined in the Offer to Purchase) requiring that a Distribution Date not have occurred and (ii) separate certificates ("Rights Certificates") have been distributed by the Company (as defined below) to holders of Shares prior to the date of tender pursuant to the Offer to Purchase, Rights Certificates representing a number of Rights equal to the number of Shares being tendered must be delivered to the Depositary in order for such Shares to be validly tendered. If a Distribution Date has occurred and (i) Purchaser has waived any portion of the Rights Condition (as defined in the Offer to Purchase) and (ii) Rights Certificates have not been distributed prior to the time Shares are tendered pursuant to the Offer to Purchase, a tender of Shares without Rights constitutes an agreement by the tendering shareholder to deliver Rights Certificates representing a number of Rights equal to the number of Shares tendered pursuant to the Offer to the Depositary within three business days after the date Rights Certificates are distributed. Purchaser reserves the right to require that it receive such Rights Certificates prior to accepting Shares for payment. Payment for Shares tendered and purchased pursuant to the Offer to Purchase will be made only after timely receipt by the Depositary of, among other things, Rights Certificates, if such certificates have been distributed to holders of Shares. Purchaser will not pay any additional consideration for the Rights tendered pursuant to the Offer to Purchase.

Shareholders whose certificates for Shares and, if applicable, Rights, are not immediately available or who cannot deliver such certificates and all other documents required hereby to the Depositary prior to the Expiration Date or who cannot complete the procedure for delivery by book-entry transfer on a timely basis and who wish to tender their Shares and Rights must do so pursuant to the guaranteed delivery procedure described in "Procedures for Tendering Shares" of the Offer to Purchase as supplemented by the First Supplement and the Second Supplement. See Instruction 2.

☐ **CHECK HERE IF TENDERED SHARES ARE BEING DELIVERED BY BOOK-ENTRY TRANSFER TO THE DEPOSITARY'S ACCOUNT AT ONE OF THE BOOK-ENTRY TRANSFER FACILITIES AND COMPLETE THE FOLLOWING:**

Name of Tendering Institution: _____

Check Box of Applicable Book-Entry Transfer Facility:

☐ The Depository Trust Company

☐ Philadelphia Depository Trust Company

Account Number _____

Transaction Code Number _____

☐ **CHECK HERE IF TENDERED RIGHTS ARE BEING DELIVERED BY BOOK-ENTRY TRANSFER TO THE DEPOSITARY'S ACCOUNT AT ONE OF THE BOOK-ENTRY TRANSFER FACILITIES AND COMPLETE THE FOLLOWING:**

Name of Tendering Institution: _____

Check Box of Applicable Book-Entry Transfer Facility:
☐ The Depository Trust Company
☐ Philadelphia Depository Trust Company

Account Number _____

Transaction Code Number _____

☐ **CHECK HERE IF TENDERED SHARES ARE BEING TENDERED PURSUANT TO A NOTICE OF GUARANTEED DELIVERY PREVIOUSLY SENT TO THE DEPOSITARY AND COMPLETE THE FOLLOWING:**

Name(s) of Registered Holder(s): _____

Window Ticket No. (if any): _____

Date of Execution of Notice of Guaranteed Delivery: _____

Name of Institution which Guaranteed Delivery: _____

If Delivered by Book-Entry Transfer, Check Box of Book-Entry Transfer Facility:
☐ The Depository Trust Company
☐ Philadelphia Depository Trust Company

Account Number _____

Transaction Code Number _____

☐ **CHECK HERE IF TENDERED RIGHTS ARE BEING TENDERED PURSUANT TO A NOTICE OF GUARANTEED DELIVERY PREVIOUSLY SENT TO THE DEPOSITARY AND COMPLETE THE FOLLOWING:**

Name(s) of Registered Holder(s): _____

Window Ticket No. (if any): _____

Date of Execution of Notice of Guaranteed Delivery: _____

Name of Institution which Guaranteed Delivery: _____

If Delivered by Book-Entry Transfer, Check Box of Book-Entry Transfer Facility:
☐ The Depository Trust Company
☐ Philadelphia Depository Trust Company

Account Number _____

Transaction Code Number _____

DESCRIPTION OF SHARES TENDERED

Name(s) and Address(es) of Registered Holder(s) (Please fill in, if blank)	Share Certificate(s) Tendered (Attach Additional List if Necessary)		
	Certificate Number(s)*	Total Number of Shares Represented By Certificate(s)	Number of Shares Tendered**
	Total Shares		

* Need not be completed by shareholders tendering by book-entry transfer.
** Unless otherwise indicated, it will be assumed that all Shares being delivered to the Depositary are being tendered. See Instruction 4.

DESCRIPTION OF RIGHTS TENDERED

Name(s) and Address(es) of Registered Holder(s) (Please fill in, if blank)	Rights Certificate(s) Tendered (Attach Additional List if Necessary)*		
	Certificate Number(s)**	Total Number of Rights Represented By Certificate(s)	Number of Rights Tendered***
	Total Rights		

* If the tendered Rights are represented by separate Rights Certificates, provided the certificate numbers of such Rights Certificates. Shareholders are tendering Rights which are not represented by separate certificates will need to submit an additional Letter of Transmittal if Rights Certificates are distributed.
** Need not be completed by shareholders tendering by book-entry transfer.
*** Unless otherwise indicated, it will be assumed that all Rights being delivered to the Depositary are being tendered. See Instruction 4.

The names and addresses of the registered holders should be printed, if not already printed above, exactly as they appear on the certificates representing Shares and/or Rights tendered hereby. The certificates and number of Shares and/or Rights that the undersigned wishes to tender should be indicated in the appropriate boxes.

NOTE: SIGNATURES MUST BE PROVIDED BELOW.
PLEASE READ THE INSTRUCTIONS SET FORTH IN THIS LETTER OF TRANSMITTAL CAREFULLY.

Ladies and Gentlemen:

The undersigned hereby tenders to Atlantic Acquisition Corporation, a Pennsylvania corporation ("Purchaser") and a wholly owned subsidiary of Norfolk Southern Corporation, a Virginia corporation, the above described shares of common stock, par value $1.00 per share (the "Common Shares"), or shares of Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc., a Pennsylvania corporation (the "Company"), including, in each case, the associated Common Stock Purchase Rights (the "Rights") issued pursuant to the Rights Agreement, dated as of July 19, 1989, as amended, between the Company and First Chicago Trust Company of New York, as Rights Agent (the "Rights Agreement"), pursuant to Purchaser's offer to purchase all outstanding shares, including, in each case, the associated Rights, at a price of $110 per Share, net to the seller in cash, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 24, 1996 (the "Offer to Purchase"), the Supplement to the Offer to Purchase, dated November 8, 1996 (the "First Supplement"), and the Second Supplement to the Offer to Purchase, dated December 20, 1996 (the "Second Supplement"), receipt of which is hereby acknowledged, and in this revised Letter of Transmittal (which, as amended from time to time, together constitute the "Offer"). Unless the context requires otherwise, all references herein to the Common Shares, ESOP Preferred Shares or Shares shall include the associated Rights, and all references to the Rights shall include all benefits that may inure to the holders of the Rights pursuant to the Rights Agreement.

The undersigned understands that Purchaser reserves the right to transfer or assign, in whole at any time, or in part from time to time, to one or more of its affiliates, the right to purchase all or any portion of the Shares and/or Rights tendered pursuant to the Offer, but any such transfer or assignment will not relieve Purchaser of its obligations under the Offer and will in no way prejudice the rights of tendering shareholders to receive payment for Shares validly tendered and accepted for payment pursuant to the Offer.

Subject to, and effective upon, acceptance for payment of the Shares and Rights tendered herewith, in accordance with the terms of the Offer (including, if the Offer is extended or amended, the terms and conditions of any such extension or amendment), the undersigned hereby sells, assigns and transfers to, or upon the order of, Purchaser all right, title and interest in and to all the Shares and Rights that are being tendered hereby (and any and all non-cash dividends, distributions, rights, other Shares or other securities issued or issuable in respect thereof or declared, paid or distributed in respect of such Shares on or after October 24, 1996 (collectively, "Distributions")), and irrevocably appoints the Depositary the true and lawful agent and attorney-in-fact of the undersigned with respect to such Shares, Rights and all Distributions, with full power of substitution (such power of attorney being deemed to be an irrevocable power coupled with an interest), to (i) deliver certificates for such Shares (individually, a "Share Certificate"), Rights and all Distributions, or transfer ownership of such Shares, Rights and all Distributions on the account books maintained by a Book-Entry Transfer Facility, together, in either case, with all accompanying evidence of transfer and authenticity to, or upon the order of Purchaser, (ii) present such Shares, Rights and all Distributions for transfer on the books of the Company and (iii) receive all benefits and otherwise exercise all rights of beneficial ownership of such Shares, Rights and all Distributions, all in accordance with the terms of the Offer.

If, on or after October 24, 1996, the Company should declare or pay any cash or stock dividend or other distribution on (other than regular quarterly cash dividends), or issue any rights (other than the Rights), or make any distribution with respect to, the Shares that is payable or distributable to shareholders of record on a date prior to the transfer to the name of Purchaser or its nominee or transferee on the Company's stock transfer records of the Shares accepted for payment pursuant to the Offer, then, subject to the provisions of Section 13 of the Offer to Purchase, (i) the purchase price per Share payable by Purchaser pursuant to the Offer will be reduced by the amount of any such cash dividend or cash distribution and (ii) any such non-cash dividend, distribution or right to be received by the tendering shareholder will be received and held by such tendering shareholder for the account of Purchaser and will be required to be remitted promptly and transferred by each such tendering shareholder to the Depositary for the account of Purchaser, accompanied by appropriate documentation of transfer. Pending such remittance, Purchaser will be entitled to all rights and privileges as owner of any such non-cash dividend, distribution or right and may withhold the entire purchase price or deduct from the purchase price the amount of value thereof, as determined by Purchaser in its sole discretion.

By executing this Letter of Transmittal, the undersigned irrevocably appoints David R. Goode, James C. Bishop, Jr. and Henry C. Wolf as proxies of the undersigned, each with full power of substitution, to the full extent of the undersigned's rights with respect to the Shares and Rights tendered by the undersigned and accepted for payment by Purchaser (and any and all

Distributions). All such proxies shall be considered coupled with an interest in the tendered Shares and Rights. This appointment will be effective if, when, and only to the extent that, Purchaser accepts such Shares and Rights for payment pursuant to the Offer. Upon such acceptance for payment, all prior proxies given by the undersigned with respect to such Shares, Rights, Distributions and other securities will, without further action, be revoked, and no subsequent proxies may be given. The individuals named above as proxies will, with respect to the Shares, Rights, Distributions and other securities for which the appointment is effective, be empowered (subject to the terms of the Voting Trust Agreement (as defined in the Offer to Purchase) so long as it shall be in effect with respect to the Shares) to exercise all voting and other rights of the undersigned as they in their sole discretion may deem proper at any annual, special, adjourned or postponed meeting of the Company's shareholders, by written consent or otherwise, and Purchaser reserves the right to require that, in order for Shares, Rights, Distributions or other securities to be deemed validly tendered, immediately upon Purchaser's acceptance for payment of such Shares and Rights, Purchaser or Purchaser's designee must be able to exercise full voting rights with respect to such Shares and Rights.

The undersigned hereby represents and warrants that the undersigned has full power and authority to tender, sell, assign and transfer the Shares and Rights tendered hereby and all Distributions, that the undersigned own(s) the Shares and Rights tendered hereby, and that, when such Shares and Rights are accepted for payment by Purchaser, Purchaser will acquire good, marketable and unencumbered title thereto and to all Distributions, free and clear of all liens, restrictions, charges and encumbrances, and that none of such Shares, Rights and Distributions will be subject to any adverse claim. The undersigned, upon request, shall execute and deliver all additional documents deemed by the Depositary or Purchaser to be necessary or desirable to complete the sale, assignment and transfer of the Shares and Rights tendered hereby and all Distributions. In addition, the undersigned shall remit and transfer promptly to the Depositary for the account of Purchaser all Distributions in respect of the Shares and Rights tendered hereby, accompanied by appropriate documentation of transfer, and, pending such remittance and transfer or appropriate assurance thereof, Purchaser shall be entitled to all rights and privileges as owner of each such Distribution and may withhold the entire purchase price of the Shares and Rights tendered hereby or deduct from such purchase price, the amount or value of such Distribution as determined by Purchaser in its sole discretion.

No authority herein conferred or agreed to be conferred shall be affected by, and all such authority shall survive, the death or incapacity of the undersigned. All obligations of the undersigned hereunder shall be binding upon the heirs, executors, personal and legal representatives, administrators, trustees in bankruptcy, successors and assigns of the undersigned. Except as stated in the Offer to Purchase, this tender is irrevocable, provided that Shares and Rights tendered pursuant to the offer may be withdrawn at any time prior to their acceptance for payment.

The undersigned understands that tenders of Shares and Rights pursuant to any one of the procedures described in "Procedures for Tendering Shares" of the Offer to Purchase, the First Supplement and the Second Supplement and in the Instructions hereto will constitute the undersigned's acceptance of the terms and conditions of the Offer. Purchaser's acceptance for payment of Shares and Rights tendered pursuant to the Offer will constitute a binding agreement between the undersigned and Purchaser upon the terms and subject to the conditions of the Offer. The undersigned recognizes that under certain circumstances set forth in the Offer to Purchase, Purchaser may not be required to accept for payment any of the Shares and Rights tendered hereby.

Unless otherwise indicated herein in the box entitled "Special Payment Instructions," please issue the check for the purchase price and/or return any certificates evidencing Shares or Rights not tendered or accepted for payment, in the name(s) of the registered holder(s) appearing above under "Description of Shares Tendered." Similarly, unless otherwise indicated in the box entitled "Special Delivery Instructions," please mail the check for the purchase price and/or return any certificates evidencing Shares or Rights not tendered or accepted for payment (and accompanying documents, as appropriate) to the address(es) of the registered holder(s) appearing above under "Description of Shares Tendered." In the event that the boxes entitled "Special Payment Instructions" and "Special Delivery Instructions" are both completed, please issue the check for the purchase price and/or return any certificates for Shares or Rights not purchased or not tendered or accepted for payment in the name(s) of, and mail such check and/or return such certificates to, the person(s) so indicated. Unless otherwise indicated herein in the box entitled "Special Payment Instructions," please credit any Shares or Rights tendered hereby and delivered by book-entry transfer, but which are not purchased, by crediting the account at the Book-Entry Transfer Facility designated above. The undersigned recognizes that Purchaser has no obligation, pursuant to the Special Payment Instructions, to transfer any Shares or Rights from the name of the registered holder(s) thereof if Purchaser does not accept for payment any of the Shares or Rights tendered hereby.

SPECIAL PAYMENT INSTRUCTIONS
(See Instructions 1, 5, 6 and 7 of this Letter of Transmittal)

To be completed ONLY if certificates for Shares and/or Rights not tendered or not purchased and/or the check for the purchase price of Shares and/or Rights purchased are to be issued in the name of someone other than the undersigned, or if Shares and/or Rights delivered by book-entry transfer which are not purchased are to be returned by credit to an account maintained at a Book-Entry Transfer Facility other than that designated above.

Issue check and/or certificates to:

Name _____
(Please Print)

Address _____
(Include Zip Code)

_____
(Taxpayer Identification or Social Security Number)
(Also Complete Substitute Form W-9 below)

☐ Credit unpurchased Shares and/or Rights delivered by book-entry transfer to the Book-Entry Transfer Facility account set forth below:

Check appropriate box:
☐ The Depository Trust Company
☐ Philadelphia Depository Trust Company

_____
Account Number

SPECIAL DELIVERY INSTRUCTIONS
(See Instructions 1, 5, 6 and 7 of this Letter of Transmittal)

To be completed ONLY if certificates for Shares and/or Rights not tendered or not purchased and/or the check for the purchase price of Shares and/or Rights purchased are to be sent to someone other than the undersigned, or to the undersigned at an address other than that shown above.

Mail check and/or certificates to:

Name _____
(Please Print)

Address _____
(Include Zip Code)

_____

SIGN HERE
(Complete Substitute Form W-9 on Reverse)

(Signature(s) of Holder(s))

Dated: , 199

(Must be signed by registered holder(s) exactly as name(s) appear(s) on Common or ESOP Preferred stock certificate(s) or on a security position listing or by person(s) authorized to become registered holder(s) by certificates and documents transmitted herewith. If signature is by trustees, executors, administrators, guardians, attorneys-in-fact, officers of corporations or others acting in a fiduciary or representative capacity, please provide the following information. See Instruction 5 of this Letter of Transmittal.)

Name(s) _____
(Please Print)

Capacity (full title) _____

Address _____
(Include Zip Code)

Area Code and Telephone Number _____

Tax Identification or Social Security No. _____
(Complete Substitute Form W-9 on Reverse)

GUARANTEE OF SIGNATURE(S)
(See Instructions 1 and 5 of this Letter of Transmittal)

Authorized Signature _____

Name _____
(Please Print)

Title _____

Name of Firm _____

Address _____
(Include Zip Code)

Area Code and Telephone Number _____

Dated: , 199

INSTRUCTIONS

Forming Part of the Terms and Conditions of the Offer

1. *Guarantee of Signatures.* Except as otherwise provided below, all signatures on this Letter of Transmittal must be guaranteed by a firm which is a bank, broker, dealer, credit union, savings association, or other entity that is a member in good standing of the Securities Transfer Agents Medallion Program (each, an "Eligible Institution"). No signature guarantee is required on this Letter of Transmittal (a) if this Letter of Transmittal is signed by the registered holder(s) (which term, for purposes of this document, shall include any participant in a Book-Entry Transfer Facility whose name appears on a security position listing as the owner of Shares or Rights) of Shares and/or Rights tendered herewith, unless such holder(s) has completed either the box entitled "Special Delivery Instructions" or the box entitled "Special Payment Instructions" on the reverse hereof, or (b) if such Shares or Rights are tendered for the account of an Eligible Institution. See Instruction 5. If a certificate evidencing Shares and/or Rights (a "Certificate") is registered in the name of a person other than the signer of this Letter of Transmittal, or if payment is to be made, or a Certificate not accepted for payment or not tendered is to be returned, to a person other than the registered holder(s), then the Certificate must be endorsed or accompanied by appropriate stock powers, in either case signed exactly as the name(s) of the registered holder(s) appear(s) on the Certificate, with the signature(s) on such Certificate or stock powers guaranteed as described above. See Instruction 5.

2. *Delivery of Letter of Transmittal and Share Certificates.* This Letter of Transmittal is to be used either if Certificates are to be forwarded herewith or if Shares and/or Rights are to be delivered by book-entry transfer pursuant to the procedure set forth in "Procedures for Tendering Shares" of the Offer to Purchase. Certificates evidencing all tendered Shares and/or Rights, or confirmation of a book-entry transfer of such Shares and/or Rights, if such procedure is available, into the Depositary's account at one of the Book-Entry Transfer Facilities pursuant to the procedures set forth in "Procedures for Tendering Shares" of the Offer to Purchase, together with a properly completed and duly executed Letter of Transmittal (or facsimile thereof) with any required signature guarantees (or, in the case of a book-entry transfer, an Agent's Message, as defined below) and any other documents required by this Letter of Transmittal, must be received by the Depositary at one of its addresses set forth on the reverse hereof prior to the Expiration Date (as defined in the Supplement). If Certificates are forwarded to the Depositary in multiple deliveries, a properly completed and duly executed Letter of Transmittal must accompany each such delivery. Shareholders whose Certificates are not immediately available, who cannot deliver their Certificates and all other required documents to the Depositary prior to the Expiration Date or who cannot complete the procedure for delivery by book-entry transfer on a timely basis may tender their Shares or Rights pursuant to the guaranteed delivery procedure described in "Procedures for Tendering Shares" of the Offer to Purchase. Pursuant to such procedure: (i) such tender must be made by or through an Eligible Institution; (ii) a properly completed and duly executed Notice of Guaranteed Delivery, substantially in the form provided by Purchaser, must be received by the Depositary prior to the Expiration Date; and (iii) in the case of a guarantee of Shares or Rights, the Certificates, in proper form for transfer, or a confirmation of a book-entry transfer of such Shares or Rights, if such procedure is available, into the Depositary's account at one of the Book-Entry Transfer Facilities, together with a properly completed and duly executed Letter of Transmittal (or manually signed facsimile thereof) with any required signature guarantees (or, in the case of a book-entry transfer, an Agent's Message), and any other documents required by this Letter of Transmittal, must be received by the Depositary within three New York Stock Exchange, Inc. trading days after the date of execution of the Notice of Guaranteed Delivery, all as described in "Procedures for Tendering Shares" of the Offer to Purchase as supplemented by the Supplement. The term "Agent's Message" means a message, transmitted by a Book-Entry Transfer Facility to, and received by the Depositary and forming a part of a Book-Entry Confirmation, which states that such Book-Entry Transfer Facility has received an express acknowledgment from the participant in such Book-Entry Transfer Facility tendering the Shares or Rights, that such participant has received and agrees to be bound by the terms of this Letter of Transmittal and that Purchaser may enforce such agreement against the participant.

The method of delivery of this Letter of Transmittal, Certificates and all other required documents, including delivery through any Book-Entry Transfer Facility, is at the sole option and risk of the tendering shareholder, and the delivery will be deemed made only when actually received by the Depositary. If delivery is by mail, registered mail with return receipt requested, properly insured, is recommended. In all cases, sufficient time should be allowed to ensure timely delivery.

No alternative, conditional or contingent tenders will be accepted and no fractional Shares or Rights will be purchased. By execution of this Letter of Transmittal (or a facsimile hereof), all tendering shareholders waive any right to receive any notice of the acceptance of their Shares or Rights for payment.

3. *Inadequate Space.* If the space provided herein under "Description of Shares Tendered" is inadequate, the Certificate numbers, the number of Shares or Rights evidenced by such Certificates and the number of Shares or Rights tendered should be listed on a separate schedule and attached hereto.

4. *Partial Tenders.* (Not applicable to shareholders who tender by book-entry transfer.) If fewer than all the Shares or Rights evidenced by any Certificate delivered to the Depositary herewith are to be tendered hereby, fill in the number of Shares or Rights which are to be tendered in the box entitled "Number of Shares Tendered." In such cases, new Certificate(s) evidencing the remainder of the Shares or Rights that were evidenced by the Certificates delivered to the Depositary herewith will be sent to the person(s) signing this Letter of Transmittal, unless otherwise provided in the box entitled "Special Delivery Instructions," as soon as practicable after the expiration or termination of the Offer. All Shares or Rights evidenced by Certificates delivered to the Depositary will be deemed to have been tendered unless otherwise indicated.

5. *Signatures on Letter of Transmittal; Stock Powers and Endorsements.* If this Letter of Transmittal is signed by the registered holder(s) of the Shares or Rights tendered hereby, the signature(s) must correspond with the name(s) as written on the face of the Certificates evidencing such Shares or Rights without alteration, enlargement or any other change whatsoever.

If any Shares or Rights tendered hereby is owned of record by two or more persons, all such persons must sign this Letter of Transmittal.

If any of the Shares or Rights tendered hereby are registered in the names of different holders, it will be necessary to complete, sign and submit as many separate Letters of Transmittal as there are different registrations of such certificates.

If this Letter of Transmittal is signed by the registered holder(s) of the Shares or Rights tendered hereby, no endorsements of Certificates or separate stock powers are required, unless payment is to be made to, or Certificates evidencing Shares or Rights not tendered or not purchased are to be issued in the name of, a person other than the registered holder(s), in which case, the Certificate(s) evidencing the Shares or Rights tendered hereby must be endorsed or accompanied by appropriate stock powers, in either case signed exactly as the name(s) of the registered holder(s) appear(s) on such Certificate(s). Signatures on such Certificate(s) and stock powers must be guaranteed by an Eligible Institution.

If this Letter of Transmittal is signed by a person other than the registered holder(s) of the Shares or Rights tendered hereby, the Share or Rights Certificate(s) evidencing the Shares or Rights tendered hereby must be endorsed or accompanied by appropriate stock powers, in either case signed exactly as the name(s) of the registered holder(s) appear(s) on such Certificate(s). Signatures on such Certificate(s) and stock powers must be guaranteed by an Eligible Institution.

If this Letter of Transmittal or any Certificate(s) or stock power is signed by a trustee, executor, administrator, guardian, attorney-in-fact, officer of a corporation or other person acting in a fiduciary or representative capacity, such person should so indicate when signing, and proper evidence satisfactory to Purchaser of such person's authority so to act must be submitted.

6. *Stock Transfer Taxes.* Except as otherwise provided in this Instruction 6, Purchaser will pay all stock transfer taxes with respect to the sale and transfer of any Shares or Rights to it or its order pursuant to the Offer. If, however, payment of the purchase price of any Shares or Rights purchased is to be made to, or Certificate(s) evidencing Shares or Rights not tendered or not purchased are to be issued in the name of, a person other than the registered holder(s), the amount of any stock transfer taxes (whether imposed on the registered holder(s), such other person or otherwise) payable on account of the transfer to such other person will be deducted from the purchase price of such Shares or Rights purchased, unless evidence satisfactory to Purchaser of the payment of such taxes, or exemption therefrom, is submitted.

Except as provided in this Instruction 6, it will not be necessary for transfer tax stamps to be affixed to the Certificate(s) evidencing the shares tendered hereby.

7. *Special Payment and Delivery Instructions.* If a check for the purchase price of any Shares or Rights tendered hereby is to be issued, or Certificate(s) evidencing Shares or Rights not tendered or not purchased are to be issued, in the name of a person other than the person(s) signing this Letter of Transmittal or if such check or any such Certificate is to be sent to someone other than the person(s) signing this Letter of Transmittal or to the person(s) signing this Letter of Transmittal but at an address other than that shown in the box entitled "Description of Shares Tendered," the appropriate boxes on this Letter of Transmittal must be completed. Shares or Rights tendered hereby by book-entry transfer may request that Shares or Rights not purchased be credited to such account maintained at a Book-Entry Transfer Facility as such shareholder may designate in the box entitled "Special Payment Instructions" on the reverse hereof. If no such instructions are given, all such Shares or Rights not purchased will be returned by crediting the account at the Book-Entry Transfer Facility designated on the reverse hereof as the account from which such Shares or Rights were delivered.

8. *Requests for Assistance or Additional Copies.* Requests for assistance may be directed to the Information Agent or the Dealer Managers at their respective addresses or telephone numbers set forth below. Additional copies of the Offer to Purchase, the First Supplement, the Second Supplement, this Letter of Transmittal, the revised Notice of Guaranteed Delivery and the Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9 may be obtained from the Information Agent or the Dealer Managers or from brokers, dealers, commercial banks or trust companies.

9. *Substitute Form W-9.* Each tendering shareholder is required to provide the Depositary with a correct Taxpayer Identification Number ("TIN") on the Substitute Form W-9 which is provided under "Important Tax Information" below, and to certify, under penalties of perjury, that such number is correct and that such shareholder is not subject to backup withholding of federal income tax. If a tendering shareholder has been notified by the Internal Revenue Service that such shareholder is subject to backup withholding, such shareholder must cross out item (2) of the Certification box of the Substitute Form W-9, unless such shareholder has since been notified by the Internal Revenue Service that such shareholder is no longer subject to backup withholding. Failure to provide the information on the Substitute Form W-9 may subject the tendering shareholder to 31% federal income tax withholding on the payment of the purchase price of all Shares or Rights purchased from such shareholder. If the tendering shareholder has not been issued a TIN and has applied for one or intends to apply for one in the near future, such shareholder should write "Applied For" in the space provided for the TIN in Part I of the Substitute Form W-9, and sign and date the Substitute Form W-9. If "Applied For" is written in Part I and the Depositary is not provided with a TIN within 60 days, the Depositary will withhold 31% on all payments of the purchase price to such shareholder until a TIN is provided to the Depositary.

10. *Lost, Destroyed or Stolen Certificates.* If any certificate(s) representing Shares or Rights has been lost, destroyed or stolen, the shareholder should promptly notify the Depositary. The shareholder will then be instructed as to the steps that must be taken in order to replace the certificate(s). This Letter of Transmittal and related documents cannot be processed until the procedures for replacing lost or destroyed certificates have been followed.

IMPORTANT: This Letter of Transmittal (or facsimile hereof), properly completed and duly executed, with any required signature guarantees, or an Agent's Message (together with share certificates or confirmation of book-entry transfer and all other required documents) or a properly completed and duly executed Notice of Guaranteed Delivery must be received by the Depositary prior to the Expiration Date (as defined in the Second Supplement).

IMPORTANT TAX INFORMATION

Under the federal income tax law, a shareholder whose tendered Shares or Rights are accepted for payment is required by law to provide the Depositary (as payer) with such shareholder's correct TIN on Substitute Form W-9 below. If such shareholder is an individual, the TIN is such shareholder's social security number. If the Depositary is not provided with the correct TIN, the shareholder may be subject to a $50 penalty imposed by the Internal Revenue Service. In addition, payments that are made to such shareholder with respect to Shares or Rights purchased pursuant to the Offer may be subject to backup withholding of 31%.

Certain shareholders (including, among others, all corporations and certain foreign individuals) are not subject to these backup withholding and reporting requirements. In order for a foreign individual to qualify as an exempt recipient, such individual must submit a statement, signed under penalties of perjury, attesting to such individual's exempt status. Forms of such statements can be obtained from the Depositary. See the enclosed Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9 for additional instructions.

If backup withholding applies with respect to a shareholder, the Depositary is required to withhold 31% of any payments made to such shareholder. Backup withholding is not an additional tax. Rather, the tax liability of persons subject to backup withholding will be reduced by the amount of tax withheld. If withholding results in an overpayment of taxes, a refund may be obtained from the Internal Revenue Service.

Purpose of Substitute Form W-9

To prevent backup withholding on payments that are made to a shareholder with respect to Shares or Rights purchased pursuant to the Offer, the shareholder is required to notify the Depositary of such shareholder's correct TIN by completing the form below certifying (a) that the TIN provided on Substitute Form W-9 is correct (or that such shareholder is awaiting

a TIN), and (b) that (i) such shareholder has not been notified by the Internal Revenue Service that such shareholder is subject to backup withholding as a result of a failure to report all interest or dividends or (ii) the Internal Revenue Service has notified such shareholder that such shareholder is no longer subject to backup withholding.

What Number to Give the Depositary

The shareholder is required to give the Depositary the social security number or employer identification number of the record holder of the Shares or Rights tendered hereby. If the Shares or Rights are in more than one name or are not in the name of the actual owner, consult the enclosed Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9 for additional guidance on which number to report. If the tendering shareholder has not been issued a TIN and has applied for a number or intends to apply for a number in the near future, the shareholder should write "Applied For" in the space provided for the TIN in Part I, and sign and date the Substitute Form W-9. If "Applied For" is written in Part I and the Depositary is not provided with a TIN within 60 days, the Depositary will withhold 31% of all payments of the purchase price to such shareholder until a TIN is provided to the Depositary.

PAYER'S NAME: The Bank of New York, as Depositary		
SUBSTITUTE **Form W-9** Department of the Treasury Internal Revenue Service	Part I — PLEASE PROVIDE YOUR TIN IN THE BOX AT RIGHT AND CERTIFY BY SIGNING AND DATING BELOW.	Social Security Number OR Employer Identification Number (If awaiting TIN write "Applied For")
Payer's Request for Taxpayer Identification Number (TIN)	**PART II** — For Payees Exempt From Backup Withholding, see the enclosed Guidelines and complete as instructed therein. *Certification* — Under penalties of perjury, I certify that: (1) The number shown on this form is my correct Taxpayer Identification Number (or a Taxpayer Identification Number has not been issued to me and either (a) I have mailed or delivered an application to receive a Taxpayer Identification Number to the appropriate Internal Revenue Service ("IRS") or Social Security Administration office or (b) I intend to mail or deliver an application in the near future. I understand that if I do not provide a Taxpayer Identification Number within sixty (60) days, 31% of all reportable payments made to me thereafter will be withheld until I provide a number), and (2) I am not subject to backup withholding because (a) I am exempt from backup withholding, (b) I have not been notified by the IRS that I am subject to backup withholding as a result of failure to report all interest or dividends or (c) the IRS has notified me that I am no longer subject to backup withholding. CERTIFICATE INSTRUCTIONS — You must cross out item (2) above if you have been notified by the IRS that you are subject to backup withholding because of underreporting interest or dividends on your tax return. However, if after being notified by the IRS that you were subject to backup withholding you received another notification from the IRS that you are no longer subject to backup withholding, do not cross out item (2). (Also see instructions in the enclosed Guidelines.)	
SIGNATURE _____ DATE _____ 199_		

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM MAY RESULT IN BACKUP WITHHOLDING OF 31% OF ANY PAYMENTS MADE TO YOU PURSUANT TO THE OFFER. PLEASE REVIEW THE ENCLOSED GUIDELINES FOR CERTIFICATION OF TAXPAYER IDENTIFICATION NUMBER ON SUBSTITUTE FORM W-9 FOR ADDITIONAL DETAILS.

Questions and requests for assistance or additional copies of the Offer to Purchase, the First Supplement, the Second Supplement, this Letter of Transmittal and other tender offer materials may be directed to the Information Agent or the Dealer Managers as set forth below:

The Information Agent for the Offer is:

GEORGESON & COMPANY INC.

Wall Street Plaza
New York, New York 10005
(800) 223-2064 (Toll-Free)
Banks and Brokers Call: (212) 440-9800 (Collect)

The Dealer Managers for the Offer are:

J.P. Morgan & Co.
60 Wall Street
Mail Stop 2860
New York, New York 10260
(800) 576-5070 (toll free)

Merrill Lynch & Co.
World Financial Center
North Tower
New York, New York 10281-1305
(212) 449-8211 (call collect)

Exhibit (a)(74)

Notice of Guaranteed Delivery
for
Tender of Shares of
Common Stock and Series A ESOP Convertible Junior Preferred Stock
(including, in each case, the associated Common Stock Purchase Rights)
of
Conrail Inc.
to
Atlantic Acquisition Corporation,
a wholly owned subsidiary of
Norfolk Southern Corporation
(Not To Be Used For Signature Guarantees)

This revised Notice of Guaranteed Delivery, or one substantially in the form hereof, must be used to accept the Offer (as defined below) if (i) certificates ("Share Certificates") evidencing shares of common stock, par value $1.00 per share (the "Common Shares"), or shares of Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc., a Pennsylvania corporation (the "Company"), including the associated Common Stock Purchase Rights (the "Rights") issued pursuant to the Rights Agreement, dated July 19, 1989, as amended, between the Company and First Chicago Trust Company of New York, as Rights Agent (the "Rights Agreement"), are not immediately available, (ii) time will not permit all required documents to reach The Bank of New York, as Depositary (the "Depositary"), prior to the Expiration Date (as defined in the Second Supplement, dated December 20, 1996 (the "Second Supplement")) or (iii) the procedure for book-entry transfer cannot be completed on a timely basis. All references herein to the Common Shares, ESOP Preferred Shares or Shares include the associated Rights. This Notice of Guaranteed Delivery may be delivered by hand or transmitted by telegram, facsimile transmission or mail to the Depositary. See "Procedures for Tendering Shares" of the Offer to Purchase, dated October 24, 1996 (the "Offer to Purchase"), as supplemented by the Supplement, dated November 8, 1996 (the "First Supplement"), and the Second Supplement.

The Depositary for the Offer is:

THE BANK OF NEW YORK

By Mail:

Tender & Exchange Department
P.O. Box 11248
Church Street Station
New York, New York 10286-1248

By Facsimile Transmission:

(for Eligible Institutions Only)
(212) 815-6213

For Information Telephone:
(800) 507-9357

By Hand or by Overnight Delivery:

Tender & Exchange Department
101 Barclay Street
Receive and Deliver Window
New York, New York 10286

DELIVERY OF THIS NOTICE OF GUARANTEED DELIVERY TO AN ADDRESS OTHER THAN AS SET FORTH ABOVE, OR TRANSMISSION OF INSTRUCTIONS VIA FACSIMILE TRANSMISSION OTHER THAN AS SET FORTH ABOVE, WILL NOT CONSTITUTE A VALID DELIVERY.

This form is not to be used to guarantee signatures. If a signature on a Letter of Transmittal is required to be guaranteed by an "Eligible Institution" under the instructions thereto, such signature guarantee must appear in the applicable space provided in the signature box on the Letter of Transmittal.

Ladies and Gentlemen:

The undersigned hereby tenders to Atlantic Acquisition Corporation, a Pennsylvania corporation and a wholly-owned subsidiary of Norfolk Southern Corporation, a Virginia corporation, upon the terms and subject to the conditions set forth in the Offer to Purchase, the First Supplement, the Second Supplement and the revised Letter of Transmittal (which, as amended from time to time, together constitute the "Offer"), receipt of each of which is hereby acknowledged, the number of Shares and Rights specified below pursuant to the guaranteed delivery procedures described in "Procedures for Tendering Shares" of the Offer to Purchase, the First Supplement and the Second Supplement.

Number of Shares (including the associated Rights): _____

Name(s) of Record Holder(s) _____

_____

(Please Type or Print)

Address(es): _____

(Include Zip Code)

Area Code and Telephone Number: _____

Certificate Number(s) (if available) _____

_____

Check ONE box if Shares or Rights will be tendered by book-entry transfer:

☐ The Depository Trust Company

☐ Philadelphia Depository Trust Company

Signature(s): _____

_____

Account Number _____

Dated _____, 199__

GUARANTEE

(Not To Be Used For Signature Guarantee)

The undersigned, a member firm of a registered national securities exchange, a member of the National Association of Securities Dealers, Inc. or a commercial bank or trust company having an office or correspondent in the United States, hereby guarantees delivery to the Depositary, at one of its addresses set forth above, of certificates evidencing the Shares and Rights tendered hereby in proper form for transfer, or confirmation of book-entry transfer of such Shares and Rights into the Depositary's accounts at The Depository Trust Company or the Philadelphia Depository Trust Company, in each case with delivery of a properly completed and duly executed revised Letter of Transmittal or other Letter of Transmittal previously delivered to shareholders by Parent and Purchaser (or any facsimile thereof) with any required signature guarantees, or an Agent's Message (as defined in "Acceptance for Payment and Payment for Shares" of the Offer to Purchase), and any other documents required by the revised Letter of Transmittal, (x) in the case of Shares, within three New York Stock Exchange, Inc. trading days after the date of execution of this revised Notice of Guaranteed Delivery, or (y) in the case of Rights, within a period ending the latter of (i) three New York Stock Exchange, Inc. trading days after the date of execution of this revised Notice of Guaranteed Delivery or (ii) three business days after the date Rights Certificates are distributed to shareholders.

The Eligible Institution that completes this form must communicate the guarantee to the Depositary and must deliver the revised Letter of Transmittal or other Letter of Transmittal previously delivered to shareholders by Parent and Purchaser (or any facsimile thereof) and certificates for Shares and Rights to the Depositary within the time period shown herein. Failure to do so could result in financial loss to such Eligible Institution.

Name of Firm: _____

_____

(Authorized Signature)

Address: _____

(Include Zip Code)

Area Code and
Telephone Number: _____

Name: _____

(Please Type or Print)

Title: _____

Date _____, 199__

NOTE: DO NOT SEND CERTIFICATES FOR SHARES OR RIGHTS WITH THIS NOTICE. SUCH CERTIFICATES SHOULD BE SENT WITH YOUR LETTER OF TRANSMITTAL.

Exhibit (a)(75)

Atlantic Acquisition Corporation,
a wholly owned subsidiary of

Norfolk Southern Corporation

Has Increased the Price of Its
Offer to Purchase for Cash
All Outstanding Shares
of
Common Stock and Series A ESOP Convertible Junior Preferred Stock
(including, in each case, the associated Common Stock Purchase Rights)
of

Conrail Inc.

to

$115 NET PER SHARE

THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON FRIDAY, JANUARY 10, 1997, UNLESS THE OFFER IS EXTENDED.

December 20, 1996

To Brokers, Dealers, Commercial Banks,
Trust Companies and Other Nominees:

We have been engaged by Atlantic Acquisition Corporation, a Pennsylvania corporation ("Purchaser") and a wholly owned subsidiary of Norfolk Southern Corporation, a Virginia corporation ("Parent"), to act as Dealer Managers in connection with Purchaser's offer to purchase all outstanding shares of (i) common stock, par value $1.00 per share (the "Common Shares"), and (ii) Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc., a Pennsylvania corporation (the "Company"), including, in each case, the associated Common Stock Purchase Rights (the "Rights") issued pursuant to the Rights Agreement, dated July 19, 1989, by and between the Company and First Chicago Trust Company of New York, as Rights Agent (as amended, the "Rights Agreement") at a price of $115 per Share, net to the seller in cash, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 24, 1996 (the "Offer to Purchase"), the Supplement, dated November 8, 1996 (the "First Supplement"), the Second Supplement, dated December 20, 1996 (the "Second Supplement"), and the revised Letter of Transmittal (which, as amended from time to time, together constitute the "Offer"). The Second Supplement and the revised Letter of Transmittal are enclosed herewith.

Unless the Rights are redeemed prior to the Expiration Date (as defined in the Second Supplement), holders of Shares will be required to tender one associated Right for each Share tendered in order to effect a valid tender of such Share. Accordingly, shareholders who sell their Rights separately from their Shares and do not otherwise acquire Rights may not be able to satisfy the requirements of the Offer for the tender of Shares. If the Distribution Date (as defined in the First Supplement) has not occurred prior to the Expiration Date, a tender of Shares will also constitute a tender of the associated Rights. If the Distribution Date has occurred and Purchaser has waived that portion of the Rights Condition (as defined in the Offer to Purchase) requiring that a Distribution Date not have occurred and Rights Certificates (as defined in the Offer to Purchase) have been distributed to holders of Shares prior to the time a holder's Shares are purchased pursuant to the Offer, in order for Rights (and the corresponding Shares) to be validly tendered, Rights Certificates representing a number of Rights equal to the number of Shares tendered must be delivered to the Depositary (as defined in the Offer to Purchase)

or, if available, a Book-Entry Confirmation (as defined in the Offer to Purchase) must be received by the Depositary with respect thereto. If the Distribution Date has occurred and Purchaser has waived that portion of the Rights Condition requiring that a Distribution Date not have occurred and Rights Certificates have not been distributed prior to the time Shares are purchased pursuant to the Offer, Rights may be tendered prior to a shareholder receiving Rights Certificates by use of the guaranteed delivery procedure described in Section 3 of the Offer to Purchase. In any case, a tender of Shares constitutes an agreement by the tendering shareholder to deliver Rights Certificates representing a number of Rights equal to the number of Shares tendered pursuant to the Offer to the Depositary within three business days after the date that Rights Certificates are distributed. Purchaser reserves the right to require that the Depositary receive Rights Certificates, or a Book-Entry Confirmation, if available, with respect to such Rights prior to accepting the relating Shares for payment pursuant to the Offer if the Distribution Date has occurred prior to the Expiration Date.

If a shareholder desires to tender Shares and Rights pursuant to the Offer and such shareholder's Share Certificates (as defined in the Offer to Purchase) or, if applicable, Rights Certificates are not immediately available (including, if the Distribution Date has occurred and Purchaser waives that portion of the Rights Condition requiring that a Distribution Date not have occurred, because Rights Certificates have not yet been distributed) or time will not permit all required documents to reach the Depositary prior to the Expiration Date or the procedure for book-entry transfer cannot be completed on a timely basis, such Shares or Rights may nevertheless be tendered according to the guaranteed delivery procedures set forth in Section 3 of the Offer to Purchase. See Instruction 2 of the revised Letter of Transmittal. Delivery of documents to a Book-Entry Transfer Facility (as defined in the Offer to Purchase) in accordance with the Book-Entry Transfer Facility's procedures does not constitute delivery to the Depositary.

THE OFFER IS NOW CONDITIONED UPON, AMONG OTHER THINGS, PRIOR TO THE EXPIRATION OF THE OFFER, (1) PARENT AND PURCHASER HAVING OBTAINED, ON TERMS REASONABLY ACCEPTABLE TO PARENT, SUFFICIENT FINANCING TO ENABLE CONSUMMATION OF THE OFFER AND THE PROPOSED MERGER, (2) THERE BEING VALIDLY TENDERED AND NOT PROPERLY WITHDRAWN PRIOR TO THE EXPIRATION OF THE OFFER A NUMBER OF COMMON SHARES AND ESOP PREFERRED SHARES WHICH TOGETHER CONSTITUTE AT LEAST A MAJORITY OF THE SHARES OUTSTANDING ON A FULLY DILUTED BASIS, (3) PURCHASER BEING SATISFIED, IN ITS SOLE DISCRETION, THAT SUBCHAPTER F OF CHAPTER 25 OF THE PENNSYLVANIA BUSINESS CORPORATION LAW HAS BEEN COMPLIED WITH OR IS INVALID OR OTHERWISE INAPPLICABLE TO THE OFFER AND THE PROPOSED MERGER, (4) THE RIGHTS HAVING BEEN REDEEMED BY THE BOARD OF DIRECTORS OF THE COMPANY OR PURCHASER BEING SATISFIED, IN ITS SOLE DISCRETION, THAT SUCH RIGHTS ARE INVALID OR OTHERWISE INAPPLICABLE TO THE OFFER AND THE PROPOSED MERGER AND (5) PURCHASER BEING SATISFIED, IN ITS SOLE DISCRETION, THAT THE PREVIOUSLY ANNOUNCED AGREEMENT AND PLAN OF MERGER, AS AMENDED, BETWEEN THE COMPANY AND CSX CORPORATION HAS BEEN TERMINATED IN ACCORDANCE WITH ITS TERMS OR OTHERWISE.

For your information and for forwarding to your clients for whom you hold Shares registered in your name or in the name of your nominee, or who hold Shares registered in their own names, we are enclosing the following documents:

1. Second Supplement, dated December 20, 1996;

2. Revised Letter of Transmittal to be used by holders of Shares and Rights in accepting the Offer and tendering Shares and/or Rights;

3. Revised Notice of Guaranteed Delivery to be used to accept the Offer if the certificates evidencing such Shares and/or Rights are not immediately available or time will not permit all required documents to reach the Depositary prior to the Expiration Date or the procedure for book-entry transfer cannot be completed on a timely basis;

4. A revised letter which may be sent to your clients for whose accounts you hold Shares and/or Rights registered in your name or in the name of your nominees, with space provided for obtaining such clients' instructions with regard to the Offer;

5. Guidelines of the Internal Revenue Service for Certification of Taxpayer Identification Number on Substitute Form W-9; and

6. Return envelope addressed to the Depositary.

Upon the terms and subject to the conditions of the Offer (including, if the Offer is extended or amended, the terms and conditions of any such extension or amendment), Purchaser will purchase, by accepting for payment, and will pay for, all

Shares (and, if applicable, Rights) validly tendered prior to the Expiration Date promptly after the later to occur of (i) the Expiration Date and (ii) the satisfaction or waiver of the conditions set forth in "Conditions of the Offer" of the Offer to Purchase as supplemented by the First Supplement and the Second Supplement. For purposes of the Offer, Purchaser will be deemed to have accepted for payment, and thereby purchased, tendered Shares and Rights if, as and when Purchaser gives oral or written notice to the Depositary of Purchaser's acceptance of such Shares and Rights for payment. In all cases, payment for Shares and Rights purchased pursuant to the Offer will be made only after timely receipt by the Depositary of (i) the certificates evidencing such Shares and Rights or timely confirmation of a book-entry transfer of such Shares and Rights, if such procedure is available, into the Depositary's account at The Depository Trust Company or the Philadelphia Depository Trust Company pursuant to the procedures set forth in "Procedures for Tendering Shares" of the Offer to Purchase, as supplemented by the First Supplement and the Second Supplement, (ii) the revised Letter of Transmittal delivered herewith or one of the Letters of Transmittal previously delivered to you (or any facsimilies of such Letters of Transmittal), properly completed and duly executed, or an Agent's Message (as defined in the Offer to Purchase) and (iii) any other documents required by the revised Letter of Transmittal.

Purchaser will not pay any fees or commissions to any broker or dealer or any other person (other than the Dealer Managers and the Information Agent as described in "Fees and Expenses" of the Offer to Purchase) in connection with the solicitation of tenders of Shares and Rights pursuant to the Offer. Purchaser will, however, upon request, reimburse you for customary mailing and handling expenses incurred by you in forwarding the enclosed materials to your clients.

Purchaser will pay any stock transfer taxes incident to the transfer to it of validly tendered Shares, except as otherwise provided in Instruction 6 of the revised Letter of Transmittal.

YOUR PROMPT ACTION IS REQUESTED. WE URGE YOU TO CONTACT YOUR CLIENTS AS PROMPTLY AS POSSIBLE. THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON FRIDAY, JANUARY 10, 1997, UNLESS THE OFFER IS EXTENDED.

In order to take advantage of the Offer, a duly executed and properly completed Letter of Transmittal (or facsimile thereof), with any required signature guarantees and any other required documents, should be sent to the Depositary, and certificates evidencing the tendered Shares or Rights should be delivered or such Shares and/or Rights should be tendered by book-entry transfer, all in accordance with the Instructions set forth in the revised Letter of Transmittal, the Offer to Purchase, the First Supplement and the Second Supplement.

If holders of Shares and/or Rights wish to tender, but it is impracticable for them to forward their certificates or other required documents prior to the Expiration Date, a tender may be effected by following the guaranteed delivery procedures specified under "Procedures for Tendering Shares" of the Offer to Purchase as supplemented by the First Supplement and the Second Supplement.

Any inquiries you may have with respect to the Offer should be addressed to the Dealer Managers or the Information Agent at their respective addresses and telephone numbers set forth on the back cover page of the Offer to Purchase, the First Supplement or the Second Supplement.

Additional copies of the enclosed materials may be obtained from J.P. Morgan Securities Inc. at 60 Wall Street, New York, New York 10260, telephone (800) 576-5070 (Toll Free), Merrill Lynch & Co. at World Financial Center, North Tower, New York, New York 10281-1305, telephone (212) 449-8211 (Collect) or the Information Agent, Georgeson & Company Inc. at Wall Street Plaza, New York, New York 10005, telephone (800) 223-2064 (Toll Free).

Very truly yours,

J.P. Morgan & Co. **Merrill Lynch & Co.**

NOTHING CONTAINED HEREIN OR IN THE ENCLOSED DOCUMENTS SHALL CONSTITUTE YOU OR ANY OTHER PERSON AS AN AGENT OF PARENT, PURCHASER, THE DEPOSITARY, THE INFORMATION AGENT OR THE DEALER MANAGERS, OR ANY AFFILIATE OF ANY OF THE FOREGOING, OR AUTHORIZE YOU OR ANY OTHER PERSON TO USE ANY DOCUMENT OR MAKE ANY STATEMENT ON BEHALF OF ANY OF THEM IN CONNECTION WITH THE OFFER OTHER THAN THE DOCUMENTS ENCLOSED AND THE STATEMENTS CONTAINED THEREIN.

Exhibit (a)(76)

Atlantic Acquisition Corporation,
a wholly owned subsidiary of
Norfolk Southern Corporation

Has Increased the Price of Its
Offer to Purchase for Cash
All Outstanding Shares
of
Common Stock and Series A ESOP Convertible Junior Preferred Stock
(including, in each case, the associated Common Stock Purchase Rights)
of
Conrail Inc.
to
$115 NET PER SHARE

THE OFFER AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON FRIDAY, JANUARY 10, 1997, UNLESS THE OFFER IS EXTENDED.

December 20, 1996

To Our Clients:

Enclosed for your consideration is the Second Supplement, dated December 20, 1996 (the "Second Supplement"), to the Offer to Purchase, dated October 24, 1996 (the "Offer to Purchase"), as supplemented by the Supplement, dated November 8, 1996 (the "First Supplement"), and the revised Letter of Transmittal (which, as amended from time to time, collectively constitute the "Offer") in connection with the offer by Atlantic Acquisition Corporation, a Pennsylvania corporation ("Purchaser") and a wholly owned subsidiary of Norfolk Southern Corporation, a Virginia corporation ("Parent"), to purchase all of the outstanding shares of (i) common stock, par value $1.00 per share (the "Common Shares"), and (ii) Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc., a Pennsylvania corporation (the "Company"), including, in each case, the associated Common Stock Purchase Rights (the "Rights") issued pursuant to the Rights Agreement, dated as of July 19, 1989, as amended, between the Company and First Chicago Trust Company of New York, as Rights Agent (the "Rights Agreement") at a price of $115 per Share, net to the seller in cash, upon the terms and subject to the conditions set forth in the Offer. All references herein to the Common Shares, ESOP Preferred Shares, or Shares shall, unless the context otherwise requires, include the associated Rights.

Unless the Rights are redeemed prior to the Expiration Date (as defined in the Second Supplement), holders of Shares will be required to tender one associated Right for each Share tendered in order to effect a valid tender of such Share. Accordingly, shareholders who sell their Rights separately from their Shares and do not otherwise acquire Rights may not be able to satisfy the requirements of the Offer for the tender of Shares. If the Distribution Date (as defined in the First Supplement) has not occurred prior to the Expiration Date, a tender of Shares will also constitute a tender of the associated Rights. If the Distribution Date has occurred and (i) Purchaser has waived that portion of the Rights Condition (as defined in the Offer to Purchase) requiring that a Distribution Date not have occurred and (ii) Rights Certificates (as defined in the

Offer to Purchase) have been distributed to holders of Shares prior to the time a holder's Shares are purchased pursuant to the Offer, in order for Rights (and the corresponding Shares) to be validly tendered, Rights Certificates representing a number of Rights equal to the number of Shares tendered must be delivered to the Depositary (as defined in the Offer to Purchase) or, if available, a Book-Entry Confirmation (as defined in the Offer to Purchase) must be received by the Depositary with respect thereto. If the Distribution Date has occurred and (i) Purchaser has waived that portion of the Rights Condition requiring that a Distribution Date not have occurred and (ii) Rights Certificates have not been distributed prior to the time Shares are purchased pursuant to the Offer, Rights may be tendered prior to a shareholder receiving Rights Certificates by use of the guaranteed delivery procedure described in Section 3 of the Offer to Purchase. In any case, a tender of Shares constitutes an agreement by the tendering shareholder to deliver Rights Certificates representing a number of Rights equal to the number of Shares tendered pursuant to the Offer to the Depositary within three business days after the date that Rights Certificates are distributed. Purchaser reserves the right to require that the Depositary receive Rights Certificates, or a Book-Entry Confirmation, if available, with respect to such Rights prior to accepting the related Shares for payment pursuant to the Offer if the Distribution Date has occurred prior to the Expiration Date.

If a shareholder desires to tender Shares and Rights pursuant to the Offer and such shareholder's Share Certificates (as defined in the Offer to Purchase) or, if applicable, Rights Certificates are not immediately available (including, if the Distribution Date has occurred and Purchaser waives that portion of the Rights Condition requiring that a Distribution Date not have occurred, because Rights Certificates have not yet been distributed) or time will not permit all required documents to reach the Depositary prior to the Expiration Date or the procedure for book-entry transfer cannot be completed on a timely basis, such Shares or Rights may nevertheless be tendered according to the guaranteed delivery procedures set forth in Section 3 of the Offer to Purchase. See Instruction 2 of the revised Letter of Transmittal. Delivery of documents to a Book-Entry Transfer Facility (as defined in the Offer to Purchase) in accordance with the Book-Entry Transfer Facility's procedures does not constitute delivery to the Depositary.

THE MATERIAL IS BEING SENT TO YOU AS THE BENEFICIAL OWNER OF SHARES HELD BY US FOR YOUR ACCOUNT BUT NOT REGISTERED IN YOUR NAME. WE ARE THE HOLDER OF RECORD OF SHARES HELD BY US FOR YOUR ACCOUNT. A TENDER OF SUCH SHARES CAN BE MADE ONLY BY US AS THE HOLDER OF RECORD AND PURSUANT TO YOUR INSTRUCTIONS. THE REVISED LETTER OF TRANSMITTAL IS FURNISHED TO YOU FOR YOUR INFORMATION ONLY AND CANNOT BE USED BY YOU TO TENDER SHARES HELD BY US FOR YOUR ACCOUNT.

We request instructions as to whether you wish to have us tender on your behalf any or all of the Shares held by us for your account, upon the terms and subject to the conditions set forth in the Offer.

Your attention is invited to the following:

1. The tender price has been increased to **$115 per Share**, net to the seller in cash.

2. The Offer and withdrawal rights will expire at 12:00 Midnight, New York City time, on Friday, January 10, 1997, unless the Offer is extended.

3. The Offer is being made for all of the outstanding Shares.

4. The Offer is now conditioned upon, among other things, prior to the expiration of the Offer, (1) Parent and Purchaser having obtained, on terms reasonably acceptable to Parent, sufficient financing to enable consummation of the Offer and the Proposed Merger, (2) there being validly tendered and not properly withdrawn prior to the expiration of the Offer a number of Common Shares and ESOP Preferred Shares which together constitute at least a majority of the Shares outstanding on a fully diluted basis, (3) Purchaser being satisfied, in its sole discretion, that Subchapter F of Chapter 25 of the Pennsylvania Business Corporation Law has been complied with or is invalid or otherwise inapplicable to the Offer and the Proposed Merger, (4) the Rights having been redeemed by the Board of Directors of the Company or Purchaser being satisfied, in its sole discretion, that such Rights are invalid or otherwise inapplicable to the Offer and the Proposed Merger and (5) Purchaser being satisfied, in its sole discretion, that the previously announced Agreement and Plan of Merger, as amended, between the Company and CSX Corporation has been terminated in accordance with its terms or otherwise.

5. Tendering shareholders will not be obligated to pay brokerage fees or commissions or, except as set forth in Instruction 6 of the revised Letter of Transmittal, stock transfer taxes on the purchase of Shares by Purchaser pursuant to the Offer.

The Offer is made solely by the Offer to Purchase, the First Supplement, the Second Supplement and the revised Letter of Transmittal and is being made to all holders of Shares. Purchaser is not aware of any state where the making of the Offer

is prohibited by administrative or judicial action pursuant to any valid state statute. If Purchaser becomes aware of any valid state statute prohibiting the making of the Offer or the acceptance of Shares pursuant thereto, Purchaser will make a good faith effort to comply with such state statute. If, after such good faith effort, Purchaser cannot comply with such state statute, the Offer will not be made to (nor will tenders be accepted from or on behalf of) the holders of Shares in such state. In any jurisdiction where the securities, blue sky or other laws require the Offer to be made by a licensed broker or dealer, the Offer shall be deemed to be made on behalf of Purchaser by the Dealer Managers or one or more registered brokers or dealers licensed under the laws of such jurisdiction.

If you wish to have us tender any or all of your Shares, please so instruct us by completing, executing and returning to us the instruction form contained in this letter. An envelope in which to return your instructions to us is enclosed. If you authorize the tender of your Shares, all such Shares will be tendered unless otherwise specified on the instruction form set forth in this letter. **YOUR INSTRUCTIONS SHOULD BE FORWARDED TO US IN AMPLE TIME TO PERMIT US TO SUBMIT A TENDER ON YOUR BEHALF PRIOR TO THE EXPIRATION OF THE OFFER.**

INSTRUCTIONS WITH RESPECT TO THE OFFER
TO PURCHASE FOR CASH ALL OUTSTANDING SHARES OF COMMON STOCK
AND SERIES A ESOP CONVERTIBLE JUNIOR PREFERRED STOCK
OF
CONRAIL INC.

The undersigned acknowledge(s) receipt of your letter and the enclosed Second Supplement, dated December 20, 1996, and the revised Letter of Transmittal (which, as amended from time to time, together constitute the "Offer"), in connection with the offer by Atlantic Acquisition Corporation, a Pennsylvania corporation ("Purchaser") and a wholly owned subsidiary of Norfolk Southern Corporation, a Virginia corporation ("Parent"), to purchase all outstanding shares of (i) common stock, par value $1.00 per share (the "Common Shares") and (ii) Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc., a Pennsylvania corporation (the "Company"), including, in each case, the associated Common Stock Purchase Rights (the "Rights") issued pursuant to the Rights Agreement, dated July 19, 1989, as amended, between the Company and First Chicago Trust Company of New York, as Rights Agent. All references herein to the Common Shares, ESOP Preferred Shares or Shares shall include the associated Rights.

This will instruct you to tender to Purchaser the number of Shares and Rights indicated below (or, if no number is indicated in either appropriate space below, all Shares and Rights) held by you for the account of the undersigned, upon the terms and subject to the conditions set forth in the Offer.

NUMBER OF SHARES AND RIGHTS TO BE TENDERED:*

_____ Shares and Rights

Account Number: _____

Dated: _____, 199__

SIGN HERE

_____

_____
Signature(s)

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Please Type or Print Name(s)

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Please Type or Print Address(es) Here

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Area Code and Telephone Number

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Taxpayer Identification or Social Security Number(s)

* Unless otherwise indicated, it will be assumed that all Shares and Rights held by us for your account are to be tendered.

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

SCHEDULE 14D-1

(Amendment No. 28)
Tender Offer Statement Pursuant to Section 14(d)(1)
of the Securities Exchange Act of 1934

Conrail Inc.

(Name of Subject Company)

Norfolk Southern Corporation
Atlantic Acquisition Corporation

(Bidders)

Common Stock, par value $1.00 per share
(Including the associated Common Stock Purchase Rights)
(Title of Class of Securities)

208368 10 0
(CUSIP Number of Class of Securities)

Series A ESOP Convertible Junior
Preferred Stock, without par value
(Including the associated Common Stock Purchase Rights)
(Title of Class of Securities)

Not Available
(CUSIP Number of Class of Securities)

James C. Bishop, Jr.
Executive Vice President-Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510-2191
Telephone: (757) 629-2750
(Name, Address and Telephone Number of Person Authorized
to Receive Notices and Communications on Behalf of Bidder)

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with a copy to:
Randall H. Doud, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
919 Third Avenue
New York, New York 10022
Telephone: (212) 735-3000

This Amendment No. 28 amends the Tender Offer Statement on Schedule 14D-1 filed on October 24, 1996, as amended (the "Schedule 14D-1"), by Norfolk Southern Corporation, a Virginia corporation ("Parent"), and its wholly owned subsidiary, Atlantic Acquisition Corporation, a Pennsylvania corporation ("Purchaser"), relating to Purchaser's offer to purchase all outstanding shares of (i) Common Stock, par value $1.00 per share (the "Common Shares"), and (ii) Series A ESOP Convertible Junior Preferred Stock, without par value (the "ESOP Preferred Shares" and, together with the Common Shares, the "Shares"), of Conrail Inc. (the "Company"), including, in each case, the associated Common Stock Purchase Rights, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 24, 1996 (the "Offer to Purchase"), as amended and supplemented by the Supplement, dated November 8, 1996 (the "First Supplement"), and the Second Supplement, dated December 20, 1996 (the "Second Supplement"), and in the revised Letter of Transmittal (which, together with any amendments or supplements thereto, constitute the "Offer"). Unless otherwise defined herein, all capitalized terms used herein shall have the respective meanings given such terms in the Offer to Purchase, the First Supplement, the Second Supplement or the Schedule 14D-1.

Item 11. Material to be Filed as Exhibits.

Item 11 is hereby amended and supplemented by the following:

(g)(9) Motion for Leave to Amend the Complaint, including as an exhibit thereto, Plaintiffs' Fourth Amended Complaint, filed by Parent, Purchaser and Kathryn B. McQuade against the Company, CSX *et. al.* (dated December 20, 1996, United States District Court for the Eastern District of Pennsylvania).

(g)(10) Motion to Dismiss Defendants' Counterclaim, filed by Parent, Purchaser and Kathryn B. McQuade (dated December 20, 1996, United States District Court for the Eastern District of Pennsylvania).

SIGNATURE

After due inquiry and to the best of its knowledge and belief, the undersigned certifies that the information set forth in this statement is true, complete and correct.

Dated: December 23, 1996

NORFOLK SOUTHERN CORPORATION

By: /s/ JAMES C. BISHOP, JR.
Name: James C. Bishop, Jr.
Title: Executive Vice President-Law

ATLANTIC ACQUISITION CORPORATION

By: /s/ JAMES C. BISHOP, JR.
Name: James C. Bishop, Jr.
Title: Vice President and General Counsel

EXHIBIT INDEX

Exhibit Number	Description
(g)(9)	Motion for Leave to Amend the Complaint, including as an exhibit thereto, Plaintiffs' Fourth Amended Complaint, filed by Parent, Purchaser and Kathryn B. McQuade against the Company, CSX *et. al*. (dated December 20, 1996, United States District Court for the Eastern District of Pennsylvania).
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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NORFOLK SOUTHERN CORPORATION, a Virginia Corporation, ATLANTIC ACQUISITION CORPORATION, A Pennsylvania corporation AND KATHRYN B. McQUADE,	:	
Plaintiffs,	:	
v.	:	
	:	C.A. No. 96-CV-7167
CONRAIL INC. a Pennsylvania corporation, DAVID M. LEVAN, H. FURLONG BALDWIN, DANIEL B. BURKE, ROGER S. HILLAS, CLAUDE S. BRINEGAR, KATHLEEN FOLEY FELDSTEIN, DAVID B. LEWIS, JOHN C. MAROUS, DAVID H. SWANSON, E. BRADLEY JONES, AND RAYMOND T. SCHULER AND CSX CORPORATION,	:	
Defendants,	:	

PLAINTIFFS' MOTION FOR LEAVE
TO FILE THEIR FOURTH AMENDED COMPLAINT

Pursuant to Rules 15(a) and 15(d) of the Federal Rules of Civil Procedure, plaintiffs, by and through their attorneys, respectfully move for leave of Court to file a Fourth Amended Complaint.

In support of their motion, plaintiffs rely upon the accompanying memorandum of law.

Respectfully Submitted:

_____

Mary A. McLaughlin
I.D. No. 24923
George G. Gordon
I.D. No. 63072
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Steven J. Rothschild
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One Rodney Square
P.O. Box 636
Wilmington, DE 19899
(302) 651-3000

DATED: December 20, 1996

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NORFOLK SOUTHERN CORPORATION, a Virginia corporation, ATLANTIC ACQUISITION CORPORATION, a Pennsylvania corporation, and KATHRYN B. McQUADE, Plaintiffs, -against- CONRAIL INC., a Pennsylvania corporation, DAVID M. LEVAN, H. FURLONG BALDWIN, DANIEL B. BURKE, ROGER S. HILLAS, CLAUDE S. BRINEGAR, KATHLEEN FOLEY FELDSTEIN, DAVID B. LEWIS, JOHN C. MAROUS, DAVID H. SWANSON, E. BRADLEY JONES, RAYMOND T. SCHULER and CSX CORPORATION, Defendants.	C.A. No. 96-CV-7167

FOURTH AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, by their undersigned attorneys, as and for their Fourth Amended Complaint, allege upon knowledge with respect to themselves and their own acts, and upon information and belief as to all other matters, as follows:

Nature of the Action

1. This action arises from the attempt by defendants Conrail Inc. ("Conrail"), its directors (the "Director Defendants"), and CSX Corporation ("CSX") to coerce, mislead and fraudulently manipulate Conrail's shareholders to swiftly deliver control of Conrail to CSX and to forestall

any competing higher bid for Conrail by plaintiff Norfolk Southern Corporation ("NS"). Although defendants have attempted to create the impression that NS's superior $115 per share all-cash offer for all of Conrail's stock is a "non-bid" or a "phantom offer," in reality the only obstacles to the availability of the $115 per share offered by NS are illegal actions and ultra vires agreements by defendants. The ultimate purpose of this action is to establish the illegality of such actions and agreements so that NS may proceed to provide superior value to Conrail's shareholders and a superior transaction to Conrail and all of its constituencies.

2. Additionally, plaintiffs have sought and will seek interim injunctive relief to maintain the status quo and ensure that Conrail shareholders will not be coerced, misled and fraudulently manipulated by defendants' illegal conduct to deliver control over Conrail to CSX before the Court can finally determine the issues raised in this action.

3. The event that set this controversy in motion was the unexpected announcement that CSX would take over Conrail. In a surprise move on October 15, 1996, defendants Conrail and CSX announced a deal to rapidly transfer control of Conrail to CSX and foreclose any other bids for Conrail (the "CSX Transaction"). The CSX Transaction is to be accomplished through a complicated multi-tier structure involving two coercive front-end loaded cash tender offers, a lock-up stock option and, following required regulatory approvals or exemptions, a back-end merger in which Conrail shareholders will receive stock and, under certain circumstances, cash. The original CSX Transaction had a blended value of slightly more than $85 per Conrail share as of October 29, 1996. The currently proposed CSX Transaction has a blended value of approximately $100 per Conrail share, over $14 per share less than the NS Proposal. The NS Proposal has a value of at least 1 billion more than the CSX Transaction. Integral to the inferior CSX Transaction are executive succession and compensation guarantees for Conrail management and board composition covenants effectively ensuring Conrail directors of continued board seats.

4. Because plaintiff NS believes that a business combination between Conrail and NS would yield benefits to both companies and their constituencies far superior to any benefits offered by the proposed Conrail/CSX combination, NS on October 23, 1996 announced its intention to commence, through its wholly-owned subsidiary, plaintiff Atlantic Acquisition Corporation ("AAC") a cash tender offer (the "NS Offer") for all shares of Conrail stock at $100 per share, to be followed by a cash merger at the same price (the "Proposed Merger," and together with the NS Offer, the "NS Proposal"). The following day, on October 24, 1996, the NS Offer commenced. On November 8, 1996, NS increased its offer to $110 in cash per Conrail share. On December 19, 1996, NS announced that it increased its offer to $115 in cash per Conrail share.

5. At the heart of this controversy is the assertion by defendants, both expressly and through their conduct, that the Director Defendants, as directors of a Pennsylvania corporation, have virtually no fiduciary duties. While it is true that Pennsylvania statutory law provides directors of Pennsylvania corporations with wide discretion in responding to acquisition proposals, defendants here have gone far beyond what even Pennsylvania law permits. As a result, this battle for control of Conrail presents the most audacious array of lock-up devices ever attempted:

- The Poison Pill Lock-In. The CSX Merger Agreement exempts the CSX Transaction from Conrail's Poison Pill Plan, and purports to prohibit the Conrail Board from redeeming, amending or otherwise taking any further action with respect to the Plan. Under the terms of the Poison Pill Plan, the Conrail directors would have lost their power to make the poison pill inapplicable to any acquisition transaction other than the CSX Transaction on November 7, unless CSX agreed to let them postpone that date. Thus, the Poison Pill Lock-In threatened to lock-up Conrail, even from friendly transactions, until the year 2005, when the poison pill rights expire. Put simply, the CSX Merger Agreement purported to require Conrail to swallow its own poison pill. Only after plaintiffs applied for a temporary restraining order did the Conrail board request CSX's permission to postpone the Distribution Date. Although it had no obligation to do so, CSX permitted the postponement. Adoption of this provision placed Conrail in serious jeopardy and at the mercy of CSX, which had no obligation to act in Conrail's best interests. Conrail remains at CSX's mercy due to the Poison Pill Lock-In. The Poison Pill Lock-in is ultra vires under Pennsylvania law and constitutes a complete abdication and breach of the Conrail directors' duties of loyalty and care.

- The Two-Year Lock-Out. The CSX Merger Agreement audaciously and unashamedly purported to prohibit Conrail's directors from withdrawing their recommendation that Conrail's shareholders accept and approve the CSX Transaction and from terminating the CSX Merger Agreement, even if their fiduciary duties require them to do so, for a period of 180 days from execution of the agreement. On November 6, Conrail and CSX announced that they had agreed to extend the lock-out period from 180 days to 270 days. On December 19, 1996, Conrail and CSX announced that they had agreed to extend the lock-out period another 18 months, to December 31, 1998. Put simply, Conrail's directors have agreed to take a two-year leave of absence during what may be the most critical period in Conrail's history. Moreover, while the Lock-Out originally permitted Conrail to provide information to and negotiate with an unsolicited competing bidder, the completion of the CSX Offer on November 20 changed that: now Conrail purportedly cannot even provide information or negotiate prior to December 31, 1998. The Two-year Lock-Out is ultra vires under Pennsylvania law and constitutes a complete abdication and breach of the Conrail directors' duties of loyalty and care.

- The Stock Option Lock-Up And The $300 Million Break-Up Fee. The CSX Merger Agreement provides, in essence, that Conrail must pay CSX a $300 million windfall if the CSX Merger Agreement is terminated and Conrail is acquired by another company. Further, a Stock Option Agreement granted by Conrail to CSX threatens over $358 million in dilution costs to any competing bidder for Conrail. This lock-up option is particularly onerous because the higher the competing bid, the greater the dilution it threatens.

- The Continuing Director Amendments To Conrail's Poison Pill Plan. Recognizing that Pennsylvania law permits shareholders of Pennsylvania corporations to elect a new board of directors if they disagree with an incumbent board's decisions concerning acquisition offers, the Conrail Board altered the Conrail Poison Pill Plan in September 1995 to deprive Conrail's shareholders of the ability to elect new directors fully empowered to act to render the poison pill ineffective or inapplicable to a transaction they deem to be in the corporation's best interests. This amendment to the Conrail Poison Pill Plan is ultra vires under Pennsylvania law and Conrail's Charter and By-Laws, and constitutes an impermissible interference in the stockholder franchise and a breach of the Conrail directors' duty of loyalty.

- The Rolling Special Meeting. On November 25, defendants announced that the special meeting of Conrail's shareholders to vote on a proposal to amend Conrail's Articles of Incorporation to opt-out of the protections of subchapter 25E of the PBCL, (the "Charter Amendment"), scheduled for December 23, would not be convened at all unless defendants had sufficient proxies in hand to assure approval of the Charter Amendment, and that such meeting may be successively postponed until Conrail's shareholders submit to the defendants' will. Further, the Conrail directors have in section 5.1(b) of the amended CSX Merger Agreement improperly delegated their responsibilities with respect to the processes of corporate democracy by purporting to contractually limit their actions pertaining to the special meeting to those to which

> CSX consents. Defendants' conduct strikes at the heart of corporate democracy and is fundamentally unfair. Such conduct constitutes a breach of the Director Defendants' fiduciary duties, aided and abetted by CSX. On December 17, 1996, this Court entered a preliminary injunction order requiring defendants to hold the scheduled vote on December 23, absent an intervening material development. The Court found the "rolling meeting" tactic to be fundamentally unfair and to constitute a "sham election".

At bottom, what defendants have attempted here is to litter the playing field with illegal, ultra vires apparent impediments to competing acquisition proposals, and then coerce Conrail shareholders to swiftly deliver control of Conrail to CSX before the illegality of such impediments can be determined and revealed.

6. Accordingly, by this action, plaintiffs NS, AAC, and Kathryn B. McQuade, a Conrail shareholder, seek emergency relief against defendants' illegal attempt to lock-up the rapid sale of control of Conrail to CSX through their scheme of coercion, deception and fraudulent manipulation, in violation of the federal securities laws, Pennsylvania statutory law, and the fiduciary duties of the Director Defendants. In addition, to facilitate the NS Proposal, plaintiffs seek certain declaratory relief with respect to replacement of Conrail's Board of Directors at Conrail's next annual meeting of shareholders.

Jurisdiction and Venue

7. This Court has jurisdiction over this complaint pursuant to 28 U.S.C. §§ 1331 and 1367.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391.

The Parties

9. Plaintiff NS is a Virginia corporation with its principal place of business in Norfolk, Virginia. NS is a holding company operating rail and motor transportation services through its subsidiaries. As of December 31, 1995, NS's railroads operated more than 14,500 miles of road in the states of Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland,

Michigan, Mississippi, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia, and the Province of Ontario, Canada. The lines of NS's railroads reach most of the larger industrial and trading centers in the Southeast and Midwest, with the exception of those in Central and Southern Florida. In the fiscal year ended December 31, 1995, NS had net income of $712.7 million on total transportation operating revenues of $4.668 billion. According to the New York Times, NS "is considered by many analysts to be the nation's best-run railroad." NS is the beneficial owner of 100 shares of common stock of Conrail.

10. Plaintiff AAC is a Pennsylvania corporation. The entire equity interest in AAC is owned by NS. AAC was organized by NS for the purpose of acquiring the entire equity interest in Conrail.

11. Plaintiff Kathryn B. McQuade is and has been, at all times relevant to this action, the owner of Conrail common stock.

12. Defendant Conrail is a Pennsylvania corporation with its principal place of business in Philadelphia, Pennsylvania. Conrail is the major freight railroad serving America's Northeast-Midwest region, operating over a rail network of approximately 11,000 route miles. Conrail's common stock is widely held and trades on the New York Stock Exchange. During the year ended December 31, 1995, Conrail had net income of $264 million on revenues of $3.68 billion. On the day prior to announcement of the CSX Transaction, the closing per share price of Conrail common stock was $71.

13. Defendant David M. LeVan is President, Chief Executive Officer, and Chairman of Conrail's Board of Directors. Defendants H. Furlong Baldwin, Daniel B. Burke, Roger S. Hillas, Claude S. Brinegar, Kathleen Foley Feldstein, David B. Lewis, John C. Marous, David H. Swanson, E. Bradley Jones, and Raymond T. Schuler are the remaining directors of Conrail. The

foregoing individual directors of Conrail owe fiduciary duties to Conrail and its stockholders, including plaintiffs.

14. Defendant CSX is a Virginia corporation with its principal place of business in Richmond, Virginia. CSX is a transportation company providing rail, intermodal, ocean container-shipping, barging, trucking and contract logistic services. CSX's rail transportation operations serve the southeastern and midwestern United States.

Factual Background

The Offer

15. In response to the surprise October 15 announcement of the CSX Transaction, on October 23, 1996, NS announced its intention to commence a public tender offer for all shares of Conrail common stock at a price of $100 cash per share. NS further announced that it intends, as soon as practicable following the closing of the NS Offer, to acquire the entire equity interest in Conrail by causing it to merge with AAC in the Proposed Merger. In the Proposed Merger as originally proposed, Conrail common stock not tendered and accepted in the NS Offer would have been converted into the right to receive $100 in cash per share. On October 24, 1996, NS, through AAC, commenced the NS Offer. The NS Offer and the Proposed Merger represented a 40.8% premium over the closing market price of Conrail stock on October 14, 1996, the day prior to announcement of the CSX Transaction.

16. In a letter delivered on October 23, 1996 to the Defendant Directors, NS stated that it was flexible as to all aspects of the NS Proposal and expressed its eagerness to negotiate a friendly merger with Conrail. The letter indicated, in particular, that while the NS Proposal is a proposal to acquire the entire equity interest in Conrail for cash, NS is willing to discuss, if the Conrail board so desires, including a substantial equity component to the consideration to be paid in a

negotiated transaction so that current Conrail shareholders could have a continuing interest in the combined NS/Conrail enterprise.

The Current Crisis: In a Surprise Move Intended To Foreclose Competing Bids, Conrail and CSX Announce On October 15 That Conrail Has Essentially Granted CSX A Lock-Up Over Control Of The Company

17. After many months of maintaining that Conrail was not for sale, on October 16, 1996, the Conrail Board announced an abrupt about-face: Conrail would be sold to CSX in a multiple-step transaction designed to swiftly transfer effective, if not absolute, voting control over Conrail to a voting trustee who would be contractually required to vote to approve CSX's acquisition of the entire equity interest in Conrail through a follow-up stock merger.

18. This Court denied plaintiffs' motion for a preliminary injunction barring the consummation of CSX's highly coercive front-end loaded tender offer for up to 19.9% of Conrail's shares. As a result, CSX and Conrail succeeded through this classic hostile takeover tactic in coercing Conrail's shareholders to cede nearly 20% of Conrail's voting power to CSX, gaining an overwhelming advantage in the vote of Conrail's shareholders on the Charter Amendment, now slated for December 23, 1996. This Court's ruling on plaintiffs' motion for preliminary injunction, and CSX's right to vote the shares it acquired in the completed CSX offer are currently subject to appeal.

19. The current crisis arises due to the imminent January 17, 1997 special meeting of Conrail's shareholders, scheduled for the purpose of conducting a shareholder vote on the Charter Amendment. Defendants originally scheduled this meeting for November 14, 1996. Thereafter, the meeting was rescheduled to December 23, 1996. At that time, defendants stated that this meeting would not be convened unless they held sufficient proxies to assure their victory. Defendants also stated that this special meeting could be successively postponed until Conrail's shareholders submit to their will.

20. Within days after this Court ordered that the December 23 vote be held, absent an intervening material event, Conrail and CSX amended the terms of the CSX Merger Agreement to increase the consideration to be paid in the back-end merger by adding a purported $16 per Conrail share in convertible preferred CSX stock and by adopting a new voting trust provision that would permit consummation of the entire transaction in the first quarter of 1997. The defendants accordingly rescheduled the vote on the Charter Amendment to January 17, 1997. Moreover, Conrail and CSX also announced that the Lock-Out provision in the CSX Merger Agreement had been extended from 270 days to approximately two years from now -- December 31, 1998. Defendant LeVan stated in the press release announcing the revised transaction that "This amendment to the merger agreement reaffirms the decision of the Conrail board that it is not willing to agree to the sale of Conrail to Norfolk Southern."

21. Thus, by extending the lock-out provision and by announcing that the Conrail board simply will not consider selling Conrail to NS, regardless of what might happen over the next two years, defendants are continuing to attempt to coerce, manipulate and mislead Conrail shareholders into delivering Conrail to CSX despite the fact that NS is offering a plainly superior transaction. In particular, the newly amended lock-out provision, constituting a two-year abdication of the Conrail directors' fiduciary duties, is illegal, ultra vires, and fundamentally unfair under Pennsylvania law, and constitutes a breach of the Conrail directors' fiduciary duties. Accordingly, plaintiffs seek a preliminary injunction barring defendants from taking any further steps toward consummation of the CSX Transaction until the illegality of their conduct can be adjudicated.

NS Promptly Responds

22. On December 19, 1996, NS announced that it increased its offer to $115 cash per Conrail Share. Thus, the current NS Proposal has a value of at least $1 billion more than the CSX Transaction.

Defendants Were Well Aware That A Superior Competing Acquisition Proposal By NS was Inevitable

23. For a number of years, certain members of senior management of NS, including David R. Goode, Chairman and Chief Executive Officer of NS, have spoken numerous times with senior management of Conrail, including former Conrail Chairman and Chief Executive Officer, James A. Hagen, and current Conrail Chairman and Chief Executive Officer, defendant David W. LeVan, concerning a possible business combination between NS and Conrail. Ultimately, Conrail management encouraged such discussions prior to Mr. Hagen's retirement as Chief Executive Officer of Conrail. Conrail discontinued such discussions in September 1994, when the Conrail Board elected Mr. LeVan as Conrail's President and Chief Operating Officer as a step toward ultimately installing him as Chief Executive Officer and Chairman upon Mr. Hagen's departure.

24. Prior to 1994, senior management of NS and Conrail discussed, from time to time, opportunities for business cooperation between the companies, and, in some of those discussions, the general concept of a business combination. While the companies determined to proceed with certain business cooperation opportunities, including the Triple Crown Services joint venture, no decisions were reached concerning a business combination at that time.

25. In March of 1994, Mr. Hagen approached Mr. Goode to suggest that under the current regulatory environment, Conrail management now believed that a business combination between Conrail and NS could be accomplished, and that the companies should commence discussion of such a transaction. Mr. Goode agreed to schedule a meeting between legal counsel for NS and Conrail for the purpose of discussing regulatory issues. Following that meeting, Mr. Goode met with

Mr. Hagen to discuss in general terms an acquisition of Conrail by NS. Thereafter, during the period from April through August 1994, management and senior financial advisors of the respective companies met on numerous occasions to negotiate the terms of a combination of Conrail and NS. The parties entered into a confidentiality agreement on August 17, 1994. During these discussions, Mr. Hagen and other representatives of Conrail pressed for a premium price to reflect the acquisition of control over Conrail by NS. Initially, NS pressed instead for a stock-for-stock merger of equals in which no control premium would be paid to Conrail shareholders. Conrail management insisted on a control premium, however, and ultimately the negotiations turned toward a premium stock-for-stock acquisition of Conrail.

26. By early September 1994, the negotiations were in an advanced stage. NS had proposed an exchange ratio of 1-to-1, but Conrail management was still pressing for a higher premium. In a meeting in Philadelphia on September 23, 1994, Mr. Goode increased the proposed exchange ratio to 1.1-to-1, and left the door open to an even higher ratio. Mr. Hagen then told Mr. Goode that they could not reach agreement because the Conrail board had determined to remain independent and to pursue a stand-alone policy. The meeting then concluded.

27. The 1.1-to-1 exchange ratio proposed by Mr. Goode in September of 1994 reflected a substantial premium over the market price of Conrail stock at that time. If one applies that ratio to NS's stock price on October 14, 1996 -- the day the Conrail Board approved the CSX Transaction -- it implies a per share acquisition price for Conrail of over $101. Thus, there can be no question that Mr. LeVan, if not Conrail's Board, was well aware that NS would likely be willing and able to offer more -- to Conrail's shareholders, rather than management, that is -- than CSX could offer for an acquisition of Conrail.

Defendant LeVan Actively Misleads NS Management In Order To Permit Him To Lock Up The Sale of Conrail to CSX

28. During the period following September of 1994, Mr. Goode from time to time had conversations with Mr. LeVan. During virtually all of these conversations, Mr. Goode expressed NS's strong interest in negotiating an acquisition of Conrail. Mr. LeVan responded that Conrail wished to remain independent. Nonetheless, Mr. Goode was led to believe that if and when the Conrail Board determined to pursue a sale of the company, it would do so through a process in which NS would have an opportunity to bid.

29. At its September 24, 1996 meeting, the NS Board reviewed its strategic alternatives and determined that NS should press for an acquisition of Conrail. Accordingly, Mr. Goode again contacted Mr. LeVan to (i) reiterate NS's strong interest in acquiring Conrail and (ii) request a meeting at which he could present a concrete proposal. Mr. LeVan responded that the Conrail board would be holding a strategic planning meeting that month and that he and Mr. Goode would be back in contact after that meeting. Mr. Goode emphasized that he wished to communicate NS's position so that Conrail's Board would be aware of it during the strategic planning meeting. Mr. LeVan stated that it was unnecessary for Mr. Goode to do so. At that point, the conversation concluded.

30. Following September 24, Mr. LeVan did not contact Mr. Goode. Finally, on Friday, October 4, 1996, Mr. Goode telephoned Mr. LeVan. Mr. Goode again reiterated NS's strong interest in making a proposal to acquire Conrail. Mr. LeVan responded that the Conrail Board would be meeting on October 16, 1996, and assumed that he and Mr. Hagen would contact Mr. Goode following that meeting. Mr. Goode again stated that NS wanted to make a proposal so that the Conrail Board would be aware of it. Mr. LeVan stated that it was unnecessary to do so.

CSX's Chairman Snow Contributes To LeVan's Deception

31. Several days prior to October 15, CSX's Chairman, John W. Snow, publicly stated that he did not expect to see any major business combinations in the railroad industry for several years. On October 16, 1996, the New York Times reported that "less than a week ago, Mr. Snow told Wall Street analysts that he did not expect another big merger in the industry (in the next few years)."

On the Day Before the Purportedly Scheduled Meeting of Conrail's Board, Defendants Announce the CSX Transaction

32. To NS's surprise and dismay, on October 15, 1996, Conrail and CSX announced that they had entered into a definitive merger agreement (the "CSX Merger Agreement") pursuant to which control of Conrail would be swiftly sold to CSX and then a merger would be consummated following required regulatory approvals. As of the close of business on October 29, 1996, the blended value of the original CSX Transaction was slightly more than $85 per Conrail share. The CSX Transaction includes a break-up fee of $300 million and a lock-up stock option agreement threatening substantial dilution to any rival bidder for control of Conrail. Integral to the CSX Transaction are covenants substantially increasing Mr. LeVan's compensation and guaranteeing that he will succeed John W. Snow, CSX's Chairman and Chief Executive Officer, as the combined company's CEO and Chairman.

CSX Admits That The Conrail Board Approved The CSX Transaction Rapidly.

33. On October 16, 1996, the New York Times reported that CSX's Snow on October 15, 1996, had stated that the multi-billion dollar sale of Conrail in the CSX Transaction "came together rapidly in the last two weeks." The Wall Street Journal reported on October 16 that Mr. Snow stated that negotiations concerning the CSX Transaction had gone "very quickly," and "much faster than he and Mr. LeVan had anticipated." On October 24, 1996, the Wall Street Journal

observed that "[i]n reaching its agreement with CSX, Conrail didn't solicit other bids ... and appeared to complete the accord at breakneck speed."

34. Thus, Conrail's board approved the CSX Transaction rapidly without a good faith and reasonable investigation. Given the nature of the CSX Transaction, with its draconian and preclusive lock-up mechanisms, the Conrail Board's rapid approval of the deal constitutes reckless and grossly negligent conduct.

CSX's Snow Implies That the CSX Transaction Is a Fait Accompli and States That Conrail's Directors Have Almost No Fiduciary Duties

35. On October 16, 1996, Mr. Goode met in Washington, D.C. with Mr. Snow to discuss the CSX Transaction and certain regulatory issues that its consummation would raise. Mr. Snow advised Mr. Goode during that meeting that Conrail's counsel and investment bankers had ensured that the CSX Transaction would be "bulletproof," implying that the sale of control of Conrail to CSX is now a fait accompli. Mr. Snow added that the "Pennsylvania statute," referring to Pennsylvania's Business Corporation Law, was "great" and that Conrail's directors have almost no fiduciary duties. Mr. Snow's comments were intended to discourage NS from making a competing offer for control of Conrail and to suggest that NS had no choice but to negotiate with CSX for access to such portions of Conrail's rail system as would be necessary to address the regulatory concerns that would be raised by consummation of the CSX Transaction. After Mr. Snow told Mr. Goode what CSX was willing to offer to NS in this regard, the meeting concluded.

NS Responds With A Superior Offer For Conrail

36. On October 22, the NS Board met to review its strategic options in light of the announcement of the CSX Transaction. Because the NS Board believes that a combination of NS and Conrail would offer compelling benefits to both companies, their shareholders and their other constituencies, it determined that NS should make a competing bid for Conrail. On October 23, 1996, NS publicly announced its intention to commence a cash tender offer for all shares of Conrail

stock for $100 per share, to be followed, after required regulatory approvals, by a cash merger at the same price. On October 24, 1996, NS, through AAC, commenced the NS Offer.

CSX Tells The Market That NS's Superior Proposal To Acquire Conrail Is Not Real

37. CSX responded to the NS Proposal by attempting to lead the market to believe that the superior NS Proposal does not represent a real, viable and actually available alternative to the CSX Transaction. On October 24, 1996, the Wall Street Journal reported:

> CSX issued a harshly worded statement last night that called Norfolk's move a "nonbid" that would face inevitable delays and be subject to numerous conditions. It said the Norfolk bid couldn't be approved without Conrail's board, and notes that the merger pact [with CSX] prohibited Conrail from terminating its pact until mid-April. It said the present value of the Norfolk bid was under $90 a share because of the minimum six-month delay....

On the same day, the New York Times reported that "a source close to CSX" characterized the NS Proposal as "a phantom offer."

38. These statements are an integral part of defendants' scheme to coerce, mislead and manipulate Conrail's shareholders to rapidly deliver control of Conrail to CSX by creating the false impression that the NS Proposal is not a viable and actually available alternative.

CSX Lures NS Into Settlement Discussions, Then Falsely Claims That NS Initiated The Talks In Order to Destabilize The Market For Conrail Shares

39. During the weekend of November 2 and November 3, representatives of NS and CSX met. The meetings were held at the suggestion of CSX, ostensibly for the purpose of exploring a settlement of the litigation between NS and CSX and a resolution of issues raised by their respective offers to acquire Conrail. CSX represented to NS that Conrail was aware of these meetings. NS participated in the meetings consistent with its announced position favoring a balanced competition structure for Eastern railroad service.

40. On the morning of November 4, 1996, however, CSX issued a false and misleading press release in which it claimed (i) that NS had initiated the discussions and (2) that the

subject matter of the discussions was which pieces of Conrail NS would purchase from CSX once CSX had purchased Conrail in its entirety. In fact, CSX had initiated the talks, as stated above, and the talks involved both an acquisition by NS of Conrail and an acquisition by CSX of Conrail, and what assets the non-acquiring party would ultimately receive.

41. CSX, with Conrail's knowing participation, issued its false and misleading press release for the purpose of manipulating and destabilizing the market for Conrail stock by creating the false perception that NS was not committed to its $100 per share bid to acquire Conrail.

42. The CSX press release had its intended effect. On the morning of November 4, Conrail's stock price dived from $95¼ to as low as $87 per share on heavy volume.

43. Later that morning, NS issued its own press release, explaining that it was CSX that initiated the talks with NS, that NS remained committed to its offer to acquire Conrail for $100 per share, and that the financing condition to its offer had been satisfied.

44. Following NS's announcement, Conrail's stock price returned to levels at which it had traded prior to CSX's false and misleading press release. Conrail stock closed the day down $1-5/8, at $93-5/8.

45. CSX's manipulative tactics are not surprising, given CSX's previous willingness to employ disinformation against the financial markets. As noted above, CSX's Snow had told analysts days prior to announcement of the CSX Transaction that he believed that a major rail merger was unlikely in the near future. On November 6, the Wall Street Journal reported:

> [S]ome...analysts think they will have trouble trusting CSX in the future. Two weeks before the announcement of a CSX-Conrail combination, Mr. Snow told analysts that further rail mergers may be inevitable, but not imminent, citing the backlash against Union Pacific Corp's $3.9 billion takeover of Southern Rail Corp.
>
> "I took that to mean that CSX certainly wouldn't be leading an acquisition attempt soon, and that was a sensible plan of action" said Anthony Hatch, an analyst at Norwest Securities Corp. "I found their subsequent merger announcement to be startling to say the least."

Defendants Are Forced To Amend The Conrail Poison Pill To Avert A Near Disaster.

46. As noted above and explained more fully below, the Poison Pill Lock-In feature of the CSX Merger Agreement purports to prevent the Conrail board from taking action with respect to the Conrail Poison Pill without CSX's consent. Yet, due to commencement of the NS Offer, such action was required in order to prevent a "Distribution Date" from occurring on November 7, 1996. If the Distribution Date had been permitted to occur, then Conrail would have been incapable of engaging in a business combination other than the CSX Transaction as originally agreed to on November 14, 1996, until the year 2005.

47. Conrail's directors had thus placed Conrail in grave strategic jeopardy by agreeing to the Poison Pill Lock-In provision. Essentially, the Conrail board had placed itself at CSX's mercy, with CSX having no obligation to act other than in its own best interests. What is worse, the Conrail directors were completely unaware that they had done so until NS pointed the problem out to counsel for Conrail and Conrail was forced to call a special board meeting to address the matter. Thus, in their haste to approve and lock up the CSX Transaction, Conrail's directors acted with extreme recklessness.

48. Because Conrail refused to give assurances to plaintiffs that its Board would take action to postpone the Distribution Date (which it could do only with CSX's consent), NS was forced to file a motion for a temporary restraining order. The Court scheduled a hearing on the motion for noon on November 4, 1996.

49. Just hours prior to the scheduled hearing, the Conrail directors met for the purpose of attempting to extricate Conrail from the grave jeopardy into which their reckless conduct had placed it. The Conrail directors adopted a resolution postponing the "Distribution Date" of the Conrail Poison Pill until the tenth business day following the date on which any person acquired 10%

or more of Conrail's stock. Although it had no obligation to do so, CSX assented to this postponement. As a result, the Court denied NS's application for a temporary restraining order as moot.

Defendants Announce That They Have Restructured The CSX Transaction By Substantially Front-End Loading The Cash Tender Offers In Order To Stampede Shareholders Into Effectively Foreclosing The NS Proposal

50. On November 5, 1996, the Conrail board met. The results of that meeting were announced on November 6, 1996. In that announcement, defendants disclosed that the cash tender offers contemplated by the CSX Transaction had been substantially front-end loaded. That is, the cash price offered to Conrail shareholders in the initial CSX cash tender offers was increased from $92.50 per share to $110 per share, while the stock consideration to be paid in the follow-up merger remains the same 1.85619 shares of CSX stock for each Conrail share. Based upon the closing sale price of CSX stock on November 7, 1996, 1.85619 shares were worth approximately $82.14.

51. Defendants also announced that the timing of the steps toward completion of the CSX Transaction had been changed. The special meeting of Conrail shareholders for the purpose of voting on the Charter Amendment, originally scheduled for November 14, was postponed until a date that defendants stated would likely fall in December 1996, and that has now been set at December 23, 1996. Further, the expiration date of the CSX Offer was extended from midnight on November 15 to midnight of November 20, 1996.

52. Accordingly, defendants planned to close a first tender offer for 19.9% of Conrail's shares on November 20, prior to the vote on the Charter Amendment. If the Charter Amendment is approved, defendants planned to proceed with a second front-end loaded tender offer, after which CSX will have acquired 40% of Conrail's stock, constituting effective control and foreclosing the NS Proposal as an alternative for Conrail's shareholders.

53. Both the front-end loaded structure of the CSX Offers and the perceived risk that the NS Proposal will not be consummated due to the draconian defensive measures adopted by

the defendants exerted and continue to exert tremendous coercive pressure upon Conrail shareholders to tender their shares to CSX.

54. A November 10, 1996 Philadelphia Inquirer article summed up the coercive situation created by defendants succinctly:

> [Conrail shareholders] face a daunting dilemma, which was deliberately constructed for them by CSX's attorneys and investment bankers. They can either tender their stock to CSX -- that is, offer it up to CSX for sale -- by Nov. 20, or hold back and risk getting a lower price if [CSX] ends up the successful bidder for Conrail.

55. In their Schedule 14D-9 disclosures, defendants admitted the coercive design and effect of the revised CSX Transaction:

> Shareholders should also be aware that shareholders may decide to tender their Shares to CSX in the CSX Offer and the Second CSX Offer, if applicable (even if they believe that the Proposed Norfolk Transactions, if they could be effected, would have a higher value to shareholders than the CSX Transactions), because shareholders may conclude that sufficient Shares will be tendered by other shareholders and that failure to tender will result in the non-tendering shareholders receiving only CSX shares which, based on current market prices, have a per Share value that is significantly less that the $110 per Share being offered in the CSX Offer and the Second CSX Offer, if applicable, may succeed regardless of the perceived relative values of the CSX Transactions and the Proposed Norfolk Transactions.

56. CSX and Conrail issued a joint press release on November 6 to announce the revised CSX Transaction. In that press release, defendants made several false and misleading statements calculated to affect the decision making of investors with respect to the CSX Offers and the NS Offer.

57. For instance, defendants stated in the press release that Conrail's "board of directors carefully considered the relative merits of a merger with Norfolk Southern rather than with CSX." However, review of the fairness opinion letters from Lazard Freres & Co. and Morgan Stanley attached to Amendment No. 4 to Conrail's Schedule 14D-9 with respect to the CSX Offer reveals that this representation is false. Both Lazard Freres and Morgan Stanley included a specific caveat to their letters to Conrail's board:

> [A]t your request, in rendering our opinion, we did not address the relative merits of the [CSX Transaction], the [NS Offer] and any alternative potential transactions.

Even were shareholders to discover this caveat, the stark contrast between it and the contrary statement in the joint press release will no doubt leave shareholders wondering just what the truth is.

58. The joint press release also quotes CSX Chairman Snow as claiming that CSX and Conrail have conveniently discovered an additional $180 million of synergies that "will be realized through the" CSX Transaction, over and above the $550 million in anticipated savings originally claimed. This claim of "newly discovered" synergies is material to investors' decisions with respect to the CSX Offer and the NS Offer because the claim bears directly upon the value of the follow-up stock merger consideration offered by CSX. The sudden discovery of such additional synergies is highly suspect, since the announcement coincides with an increase in the cash offered in the front end of the CSX Transaction, which increase would otherwise be expected to negatively impact the value of the back end merger. Making matters worse, defendants have failed to disclose any details of or support for these claimed "newly discovered" synergies.

NS Raises Its All Cash Offer For All of Conrail's Shares to $110 Per Share

59. On November 8, 1996, NS announced that it had raised its offer to acquire all of Conrail's outstanding shares to $110 cash per share. This represented, on a per share basis, a nearly $17 per share margin over the November 8 blended value of the CSX Transaction of approximately $93 per share. In the aggregate, CSX's offer amounts to approximately $8.5 billion, while NS's Proposal is $10 billion cash on the barrel. Thus, the challenged conduct of defendants threatens a massive $1.5 billion loss to Conrail's shareholders.

Unable To Persuade CSX To Improve The Financial Terms Of The CSX Transaction, The Conrail Board Is Forced To Reaffirm Its Support For The Inferior CSX Deal And To Reject NS's Improved Superior Bid

60. On November 12, 1996, the Conrail Board met. Upon information and belief, the topics discussed by the Conrail board at that meeting were (i) whether a revision of the CSX Transaction could be negotiated that would improve its financial terms for Conrail shareholders and (ii) what response should be made to NS's improved offer of $110 per Conrail share.

61. Apparently, Conrail was unable to negotiate an improvement in the financial consideration offered to Conrail shareholders in the CSX Transaction. Nevertheless, because of the 270-day lockout provision in the CSX Merger Agreement, the Conrail board was forced to maintain its recommendation that shareholders tender their shares to CSX and support the CSX Transaction and to recommend that shareholders reject the superior NS bid of $110 per share.

Defendants Represent That The CSX Transaction Might Be Improved

62. In a joint press release dated November 13, 1996, Conrail and CSX stated that "CSX and Conrail also stated that they have been having, and continue to have, discussions relating to an increase in the value of the consideration payable upon consummation of the CSX-Conrail merger. There can be no assurance as to when or if any such modifications will be made."

The First Preliminary Injunction Hearing

63. On November 18 and 19, this court heard the parties' presentations on plaintiffs' motion for a preliminary injunction.

64. During the hearing, defendants contended, contrary to plaintiffs' position that Conrail shareholders are being illegally coerced to tender shares to CSX, that Conrail shareholders have a choice of whether to or not accept the CSX Transaction since they would be asked to vote on the Charter Amendment:

(a) Conrail Director Furlong Baldwin testified that "No one has taken the shareholder's vote away from he or she. No one has taken it away. To get this thing done, it requires a shareholder's vote."

(b) Counsel for CSX represented to the Court as follows: "Here, of course, this transaction [the CSX Transaction] isn't going to go forward at all unless there's the opt out in December."

(c) CSX's counsel further represented to the Court that "Well, no one was suggesting that the directors can take away a vote that shareholders are entitled to under the statute, that's not happening here "

(d) Finally, CSX's counsel told the Court that "[T]here's going to be a proxy fight between now and the December meeting. And at that meeting, the shareholders will decide whether or not to opt out." (emphasis added).

These representations by defendants were not lost upon the Court. In its oral ruling, the Court observed "[A]ll or a majority of the shareholders could vote against the proposed opt-out of sub-chapter E."

65. Also during the hearing, defendants repeatedly suggested that the terms of the CSX Transaction might be improved:

(a) Conrail director E. Bradley Jones emphasized during his cross examination on November 19 that, "I think the process is still continuing. The situation as it sits today is one that hopefully is going to be represented in continuing discussions, as I believe we indicated in a press release between our corporation and CSX, and I am hopeful that we're going to be recognizing improved values."

(b) Jones conceded that as of that date, CSX still had made no commitment to improve the value of the consideration being proposed in the CSX Merger. Further, he testified that his only basis for believing the terms of the CSX Merger might be improved was that "[CSX] would recognize that if the Conrail shareholders vote against the opt-out they'll have 19.9 percent of our stock and the value of their stock is liable to decline appreciably if they lose."

(c) Although Jones testified that "[the Conrail Board was] hopeful that that process is going to continue and that that will not be a speculation in the future," he conceded that the Conrail stockholders are being forced to bear the risk of no increase in the CSX Merger consideration: "I think that is a risk that they're taking."

(d) Similar statements were made by CSX's Chairman, John Snow, during his cross examination on November 19, 1996. For example, Snow testified that "we're in discussions about some enhancement of value or protection of value on the back end of the transaction."

These statements were intended to further coerce and mislead the Conrail stockholders to believe that the terms of the CSX Merger, then valued at only $82.37 as of November 15, 1996, would be improved, so that the Conrail shareholders would tender into the first step tender offer that was set to close on November 20, 1996.

63. This Court issued its ruling denying plaintiffs' motion for a preliminary injunction from the bench on the evening of November 19. In its ruling, the Court held that it had not been established that plaintiffs were likely to succeed on the merits of their claims.

64. Plaintiffs immediately filed a notice of appeal and motions for injunction pending appeal and for expedited treatment of the appeal.

65. The following afternoon, on November 20, the United States Court of Appeals for the Third Circuit denied plaintiffs' motion for an injunction pending appeal.

Defendants Succeed In Coercing Conrail's Shareholders Into Vastly Oversubscribing The CSX Offer

66. The CSX Offer expired at midnight on November 20. CSX promptly accepted for payment the entire 19.9% of Conrail's shares that it had offered to purchase. Because approximately 85% of Conrail's shares were tendered, CSX was required to accept the tendered shares on a prorata basis.

67. As a result of consummation of the first CSX Offer, defendants gained a substantial leg up in the vote on the Charter Amendment scheduled for December 23. Also, consummation of the first CSX Offer purportedly bars Conrail, under Section 4.2 of the Revised Merger Agreement, from providing information to, and negotiating with a competing bidder, even if the fiduciary duties of its directors require such actions. Finally, upon information and belief, consummation of the first CSX tender offer caused a "control transaction" to occur with respect to Conrail under subchapter 25E of the PBCL. See Count Twenty-Five, infra.

68. Despite consummation of the first CSX Offer, plaintiffs continue their appeal of this Court's first preliminary injunction ruling. Until the shareholder vote on the Charter Amendment is held, CSX's power to vote the shares acquired will be subject to the equity power of the Court, and even thereafter, if the vote is held and thereafter found to have been tainted by the vote of CSX's illegally acquired shares, the Court could declare the vote invalid.

The New Special Meeting: Defendants Attempt to Convince Conrail's Shareholders That Resistance is Futile

69. On November 25, 1996, Conrail issued a Notice of Special Meeting of Shareholders and a definitive proxy statement. This special meeting (the "New Special Meet-

ing"), to be held for the purpose of conducting a vote of Conrail's shareholders on the Charter Amendment, was scheduled to be convened on December 23, 1996.

70. However, while defendants contended before this Court that Conrail's shareholders would have a choice with respect to the CSX Transaction since they will vote on whether the Charter Amendment will be adopted or not, in fact defendants determined to leave them no choice.

> Under the Merger Agreement, Conrail has agreed not to convene, adjourn or postpone the Special Meeting without the prior consent of CSX, which consent will not be unreasonably withheld. As a result, it is expected that the special meeting will not be convened if Conrail has not received sufficient proxies to assure approval of the Proposal. Under the Merger Agreement, either CSX or Conrail can require that additional special meetings be held for the purpose of considering the Proposal, and a new record date could be set for any such special meeting (a new record date would be required if such meeting is held after February 3, 1997).

71. The Philadelphia Inquirer on November 28, 1996 captured the essence of what defendants were attempting to do succinctly:

> As elections go, this one might have been devised in the old Kremlin: Conrail shareholders are scheduled to vote December 23 on a proposal that will likely decide the Philadelphia railroad's future. If they approve the management-endorsed proposal, Conrail's planned $8.5 billion merger with CSX Corp. will move forward. If the shareholders don't approve ... they won't vote.
>
> * * * *
>
> In other words, count ballots first, then hold the vote -- after we've won.

72. Thus, defendants were telling Conrail shareholders that the only vote that they will count as effective is a "for" vote. Defendants were essentially saying that "against" votes are futile, since there is no scenario in which the New Special Meeting will result in a vote rejecting the Charter Amendment, and, by implication, rejecting the CSX Transaction.

73. Moreover, by further announcing that successive additional special meetings could be held for the purpose of voting upon the Charter Amendment, defendants

attempted to discourage opposition and coerce approval. The intended message was plain: Resistance is futile.

74. Plaintiffs contended that by entering into the Revised Merger Agreement, which includes a covenant subjecting the Conrail Board's actions regarding the voting process to CSX's consent, the Conrail directors have once again improperly delegated their managerial responsibilities. Moreover, plaintiffs contended that, acting in concert with CSX, the Conrail directors are manipulating the processes of corporate democracy by scheduling the New Special Meeting, announcing that they will permit the vote to proceed only if they are assured of victory, and further announcing that they may pursue successive special meetings until the shareholders submit. Such conduct constitutes a breach of the Conrail directors' fiduciary duties, aided and abetted by CSX, as well as fraudulent, coercive, and fundamentally unfair conduct. The Court scheduled a hearing for December 17, 1996 on plaintiffs' motion for a preliminary injunction against postponement of the December 23 vote.

The Second Front-End Loaded CSX Offer

75. On December 6, 1996, CSX commenced a second front-end loaded tender offer to purchase up to a aggregate of 18,344,845 Conrail shares at $110 each per share (the "Second CSX Offer"). The Second CSX Offer is conditioned on, among other things, approval by Conrail's shareholders of the Charter Amendment.

76. The Second CSX Offer is coercive in precisely the same manner as was the first. In their Definitive Proxy Statement, the Conrail defendants admit:

> "Shareholders should be aware that if the [Charter Amendment] is approved and CSX is therefore in a position to consummate the Second CSX Tender Offer for approximately 20.1% of the fully diluted Shares, shareholders may decide to tender their Shares to CSX (even if they believe that the Norfolk Offer (as defined below), if it could be effected, has a higher value) because shareholders may conclude that sufficient Shares will be tendered by other shareholders and that failure to tender will result in the

non-tendering shareholders receiving only CSX shares pursuant to the Merger which, based on current market prices, have a per Share value that is less than the amount to be offered in the Second CSX Tender Offer. Therefore, if the Proposal is approved, the Second CSX Tender Offer may succeed regardless of the perceived relative values of such offer and the Norfolk Offer."

The Second Preliminary Injunction Hearing

77. On December 17, 1996, this Court conducted a hearing on plaintiffs' motion for a preliminary injunction against postponement of the December 23 vote. After hearing the presentations of the parties, the Court entered an order requiring the December 23 vote to proceed absent any intervening material events. The Court viewed the defendants' "rolling meeting" tactic as "fundamentally unfair" and as a "sham election".

78. The Court's ruling contains an important implicit message: Resistance is not futile. Conrail's directors do indeed have fiduciary duties, and are charged with an obligation of fairness to Conrail's shareholders in the conduct of corporate elections. Moreover, the Conrail board's decisions are not the final word with respect to the sale of Conrail -- Conrail's shareholders will have an opportunity to elect a new board of directors no later than December 1997.

Recognizing that they will not Be Permitted To Manipulate The Charter Amendment Vote By Successive Postponements and That They Would Lose The December 23 Vote, Defendants Adopt An Even More Desperate Tactic: Defendants Announce A Paper Improvement To The Back-End CSX Merger Consideration And Extend The Lock-Out Provision to Two-Years -- One Year Past The Next Election of Directors

79. On December 19, 1996, just two days after this Court's issuance of its preliminary injunction requiring the December 23 vote to be held, defendants announced new terms to the CSX Transaction. The consideration to be paid in the back-end merger would be modified to include, in addition to the 1.85619 shares of CSX stock per Conrail share, an

additional purported $16 worth of CSX convertible preferred stock per Conrail share. Moreover, defendants announced that the 270-Day Lock-out provision had been extended to expire not in July 1997, but instead, over two-years from now, on December 31, 1998. Significantly, this extension purportedly would extend beyond the next required election of Conrail's directors by at least one-year, thus purporting to bind not only the current Conrail board, but also any newly elected board.

80. Thus, again the defendants are seeking to convey the plain message to Conrail's shareholders that resistance is futile. In other words, defendants are telling Conrail's shareholders that even if they vote against the Charter Amendment, even if they vote against the CSX Merger, and even if they vote to remove the current Conrail Board and replace it with new directors who would support a sale of Conrail for the highest reasonably available price, the superior NS proposal would still not be available to them until at least one year after replacement of the Conrail Board.

81. This latest tactic continues defendants' attempts to coerce, manipulate, and mislead Conrail's shareholders into delivering Conrail to CSX.

NS Promptly Responds

82. On December 19, 1996, NS announced that it increased its offer to $115 cash per Conrail share. Thus, the current NS Proposal has a value of at least $1 billion more than the CSX Transaction.

The CSX Transaction

83. Consistent with Mr. Snow's remarks, discussed above, that Conrail's advisers had ensured that the CSX Transaction is "bullet-proof" and that Conrail's directors have almost no fiduciary duties, the CSX Merger Agreement contains draconian "lock-up" provisions which are unprecedented. These provisions are designed to foreclose success by any competing

bidder for Conrail and to protect the lucrative compensation increase and executive succession deal promised to defendant LeVan by CSX.

The Poison Pill Lock-In

84. The CSX Merger Agreement purports to bind the Conrail board not to take any action with respect to the Conrail Poison Pill to facilitate any offer to acquire Conrail other than the CSX Transaction. At the same time, the Conrail board has amended the Conrail Poison Pill to facilitate the CSX Transaction.

85. Because of certain unusual provisions to the Conrail Poison Pill Plan -- which provisions, as noted below, not only were not disclosed in the Schedule 14D-1 filed with the Securities and Exchange Commission or in the Offer to Purchase circulated to Conrail's stockholders by CSX, or in the Schedule 14D-9 circulated to Conrail's shareholders by Conrail, but were in fact affirmatively misdescribed in CSX's Schedule 14D-1 and Offer to Purchase -- the provision in the CSX Merger Agreement barring the Conrail Board from taking action with respect to the Conrail Poison Pill threatened grave, imminent and irreparable harm to Conrail and all of its constituencies.

86. The problem was that on November 7, 1996, a "Distribution Date", as that term is defined in the Conrail Poison Pill Plan, would have occurred. Once that were to happen, the "Rights" issued under the Plan would no longer be redeemable by the Conrail Board, and the Plan would no longer be capable of amendment to facilitate any takeover or merger proposal. Put simply, once the Distribution Date occurs, Conrail's directors would have no control over the Conrail Poison Pill's dilutive effect on an acquiror. Because of the draconian effects of the poison pill dilution on a takeover bidder, no bidder other than CSX would be able to acquire Conrail until the poison pill rights expire in the year 2005, regardless of whether such other bidder offers a transaction that is better for Conrail and its legitimate constituencies than the CSX Transaction.

Further, not even CSX would be able to acquire Conrail in a transaction other than the CSX Transaction. In other words, if Conrail were not acquired by CSX in the CSX Transaction for the level of cash and stock originally offered by CSX, then it appears that Conrail would not have been capable of being acquired until at least 2005. In essence, as a result of the Poison Pill Lock-In, Conrail was about to swallow its own poison pill.

87. Poison Pills -- typically referred to as "shareholders rights plans" by the corporations which adopt them -- are normally designed to make an unsolicited acquisition prohibitively expensive to an acquiror by diluting the value and proportional voting power of the shares acquired.

88. Under such a plan, stockholders receive a dividend of originally uncertificated, unexercisable rights. The rights become exercisable and certificated on the so-called "Distribution Date," which under the Conrail Poison Pill Plan was until recently defined as the earlier of 10 days following public announcement that a person or group has acquired beneficial ownership of 10% or more of Conrail's stock or 10 days following the commencement of a tender offer that would result in 10% or greater ownership of Conrail stock by the bidder. On the Distribution Date, the corporation would issue certificates evidencing the rights, each of which would allow the holder to purchase a share of stock at a set price. Initially, the exercise price of poison pill rights is set very substantially above market to ensure that the rights will not be exercised. Once rights certificates were issued, the rights could trade separately from the associated shares of stock.

89. The provisions of a poison pill plan that cause the dilution to an acquiror's position in the corporation are called the "flip-in" and "flip-over" provisions. Poison pill rights typically "flip in" when, among other things, a person or group obtains some specified percentage of the corporation's stock; in the Conrail Poison Pill plan, 10% is the "flip-in" level. Upon "flip-

ping in," each right would entitle the holder to receive common stock of Conrail having a value of twice the exercise price of the right. That is, each right would permit the holder to purchase newly issued common stock of Conrail at half price (specifically, $410 worth of Conrail stock for $205). The person or group acquiring the 10% or greater ownership, however, would be ineligible to exercise such rights. In this way, a poison pill plan dilutes the acquiror's equity and voting position. Poison pill rights "flip over" if the corporation engages in a merger in which it is not the surviving entity. Holders of rights, other than the acquiror, would then have the right to buy stock of the surviving entity at half price, again diluting the acquiror's position. The Conrail Poison Pill Plan contains both a "flip-in" provision and a "flip-over" provision.

90. So long as corporate directors retain the power ultimately to eliminate the anti-takeover effects of a poison pill plan in the event that they conclude that a particular acquisition would be in the best interests of the corporation, a poison pill plan can be used to promote legitimate corporate interests. Thus, typical poison pill plans reserve power in a corporation's board of directors to redeem the rights in toto for a nominal payment, or to amend the poison pill plan, for instance, to exempt a particular transaction or acquiror from the dilutive effects of the plan.

91. The Conrail Poison Pill Plan contains provisions for redemption and amendment. However, an unusual aspect of the Conrail Poison Pill Plan is that the power of Conrail's directors to redeem the rights or amend the plan to exempt a particular transaction or bidder terminates on the Distribution Date. While the Conrail Poison Pill Plan gives Conrail directors the power to effectively postpone the Distribution Date, the CSX Merger Agreement purports to bind them contractually not to do so. Thus, the Distribution Date under Conrail's Poison Pill Plan would have occurred on November 7, 1996 -- ten business days after the date

when NS commenced the Offer -- and Conrail's directors had entered into an agreement which purports to tie their hands so that they could do nothing to prevent it.

92. Ironically, the specific provisions of the CSX Merger Agreement which purport to prevent the Conrail directors from postponing the Distribution Date are the very same sections which require Conrail to exempt the CSX Transaction from the Conrail Poison Pill -- Sections 3.1(n) and 5.13. Section 3.1(n) provides, in pertinent part:

> Green Rights Agreement and By-laws. (A) The Green Rights Agreement has been amended (the "Green Rights Plan Amendment") to (i) render the Green Rights Agreement inapplicable to the Offer, the Merger and the other transactions contemplated by this Agreement and the Option Agreements and (ii) ensure that (y) neither White nor any of its wholly owned subsidiaries is an Acquiring Person (as defined in the Green Rights Agreement) pursuant to the Green Rights Agreement and (z) a Shares Acquisition Date, Distribution Date or Trigger Event (in each case as defined in the Green Rights Agreement) does not occur by reason of the approval, execution or delivery of this Agreement, and the Green Stock Option Agreement, the consummation of the Offer, the Merger or the consummation of the other transactions contemplated by this Agreement and the Green Stock Option Agreement, and the Green Rights Agreement may not be further amended by Green without the prior consent of White in its sole discretion. (emphasis added)

Section 5.13 provides, in pertinent part:

> The Board of Directors of Green shall take all further action (in addition to that referred to in Section 3.1(n)) reasonably requested in writing by White (including redeeming the Green Rights immediately prior to the Effective Time or amending the Green Rights Agreement) in order to render the Green Rights inapplicable to the Offer, the Merger and the other transactions contemplated by this Agreement and the Green Stock Option Agreement. Except as provided above with respect to the Offer, the Merger and the other transactions contemplated by this Agreement and the Green Stock Option Agreement, the Board of Directors of Green shall not (a) amend the Green Rights Agreement or (b) take any action with respect to, or make any determination under, the Green Rights Agreement, including a redemption of the Green Rights or any action to facilitate a Takeover Proposal in respect of Green.

93. Thus, although under the Conrail Poison Pill Plan the Conrail Board is empowered to "determine[] by action ... prior to such time as any person becomes an Acquiring Person" that the Distribution Date will occur on a date later than November 7, the Conrail board had contractually purported to bind itself not to do so.

94. If the Distribution Date had been permitted to occur, Conrail, its shareholders, and its other constituents would have faced catastrophic irreparable injury. If the Distribution Date occurs and then the CSX Transaction does not occur for any number of reasons -- for instance, because (i) the Conrail shareholders do not tender sufficient shares in the CSX offer, (ii) the Conrail shareholders do not approve the CSX merger, (iii) the merger does not receive required regulatory approvals, or (iv) CSX exercises one of the conditions to its obligation to complete its offer -- Conrail would be essentially incapable of being acquired or engaging in a business combination until 2005. This would be so regardless of the benefits and strategic advantages of any business combination which might otherwise be available to Conrail. In the present environment of consolidation in the railroad industry, such a disability would plainly be a serious irremediable disadvantage to Conrail, its shareholders and all of its constituencies.

95. As a result of plaintiffs' demand that the Distribution Date be postponed and of their motion for a temporary restraining order, the Conrail board met on November 4, hours prior to the scheduled hearing on plaintiffs' motion, and, with the required permission of CSX, extended the Distribution Date until ten days after any person acquires 10% or more of Conrail's shares. As a result, the Court denied plaintiffs' motion as moot.

The Two-Year Lock-Out

96. Setting aside the Poison Pill Lock-In, the CSX Merger Agreement also contains an unprecedented provision purporting to bind Conrail's directors not to terminate the CSX Merger Agreement for two years regardless of whether their fiduciary duties require them to do so. The pertinent provisions appear in Section 4.2 of the CSX Merger Agreement. Under that section, Conrail covenants not to solicit, initiate or encourage other takeover proposals, or to provide information to any party interested in making a takeover proposal. The CSX Merger Agreement builds in an exception to this prohibition -- it provides that prior to the earlier of the

closing of the first CSX Offer and Conrail shareholder approval of the CSX Merger, or after December 31, 1998, if the Conrail board determines upon advice of counsel that its fiduciary duties require it to do so, Conrail may provide information to and engage in negotiations with another bidder. Consummation of the first CSX offer resulted, under this provision, in barring Conrail from providing information to or negotiating with a competing bidder until after expiration of the Two-Year Lock-Out. However, inclusion of the "fiduciary out" language in Section 4.2 plainly indicated that the drafters of the CSX Merger Agreement -- no doubt counsel for Conrail and CSX -- recognize that there are circumstances in which Conrail's directors would be required by their fiduciary duties to consider a competing acquisition bid.

97. However, despite the recognition in the CSX Merger Agreement that the fiduciary duties of the Conrail Board may require it to do so, Section 4.2(b) of the agreement (the "Two-Year Lock-Out") purports to prohibit the Conrail Board from withdrawing its recommendations that Conrail shareholders tender their shares in the CSX Offer and approve the CSX Merger until December 31, 1998. Likewise, it prohibits the Conrail Board from terminating the CSX Merger Agreement, even if the Conrail Board's fiduciary duties require it to do so, for the same period.

98. Thus, despite the plain contemplation of circumstances under which the Conrail Board's fiduciary duties would require it to entertain competing offers and act to protect Conrail and its constituencies by (i) withdrawing its recommendation that Conrail shareholders approve the CSX Transaction and (ii) terminating the CSX Merger Agreement, Conrail's Board has seen fit to disable itself contractually from doing so.

99. As with the Poison Pill Lock-In, this "Two-Year Lock-Out" provision amounts to a complete abdication of the duty of Conrail's directors to act in the best interests of the corporation. With the Two-Year Lock-Out, the Conrail directors have determined to take a

two-year leave of absence despite their apparent recognition that their fiduciary duties could require them to act during this critical time.

100. The effect of this provision is to lock out competing superior proposals to acquire Conrail until December 31, 1998, thus giving the CSX Transaction an unfair time value advantage over other offers and adding to the coercive effects of the CSX Transaction.

101. Because it purports to restrict or limit the exercise of the fiduciary duties of the Conrail directors, the Two-Year Lock-Out provision of the CSX Merger Agreement is ultra vires, void and unenforceable. Moreover, because the Two-Year Lock-Out would purport to bind a newly-elected Conrail board, it is ultra vires, void and unenforceable. Further, by agreeing to the Two-Year Lock-Out as part of the CSX Merger Agreement, the Conrail directors breached their fiduciary duties of loyalty and care.

Rapid Transfer of Control

102. The CSX Transaction is structured to include (i) the now-completed first-step cash tender offer for up to 19.9% of Conrail's stock, (ii) an amendment to Conrail's charter to opt out of coverage under Subchapter 25E of Pennsylvania's Business Corporation Law (the "Charter Amendment"), which requires any person acquiring control of over 20% or more of the corporation's voting power to acquire all other shares of the corporation for a "fair price," as defined in the statute, in cash, (iii) following such amendment, an acquisition of additional shares which, in combination with other shares already acquired, would constitute at least 40% and up to approximately 50% of Conrail's stock, and (iv) following required regulatory approvals, consummation of a follow-up stock-for-stock merger.

103. Thus, once the Charter Amendment is approved, CSX will be in a position to acquire either effective or absolute control over Conrail. Conrail admits that the CSX Transaction contemplates a sale of control of Conrail. In its preliminary proxy materials filed with the

Securities and Exchange Commission, Conrail stated that if CSX acquires 40% of Conrail's stock, approval of the merger will be "virtually certain." CSX could do so either by increasing the number of shares it will purchase by tender offer, or, if tenders are insufficient, by accepting all tendered shares and exercising the Stock Option. CSX could obtain "approximately 50 percent" of Conrail's shares by purchasing 40% pursuant to tender offer and by exercising the Stock Option, in which event shareholder approval of the CSX Merger will be, according to Conrail's preliminary proxy statement, "certain."

104. The swiftness with which the CSX Transaction is designed to transfer control over Conrail to CSX can only be viewed as an attempt to lock up the CSX Transaction and benefits it provides to Conrail management, despite the fact that a better deal, financially and otherwise, is available for Conrail, its shareholders, and its other legitimate constituencies.

The Charter Amendment

105. Conrail's Definitive Proxy Materials for the December 23, 1996 Special Meeting set forth the resolution to be voted upon by Conrail's shareholders as follows:

> An amendment of the Articles of Incorporation of Conrail is hereby approved and adopted, by which, upon the effectiveness of such amendment, Article Ten thereof will be amended and restated in its entirety as follows: Subchapter E, Subchapter G and Subchapter H of Chapter 25 of the Pennsylvania Business Corporation Law of 1988, as amended, shall not be applicable to the Corporation.

The $300 Million Breakup Fee

106. The CSX Merger Agreement provides for a $300 million break-up fee. This fee would be triggered if the CSX Merger Agreement were terminated following a competing takeover proposal.

107. This breakup fee is disproportionally large, constituting over 3.5% of the aggregate value of the CSX Transaction. The breakup fee unreasonably tilts the playing field in favor of the CSX Transaction -- a transaction that the defendant directors knew, or reasonably

should have known, at the time they approved the CSX Transaction, provided less value and other benefits to Conrail and its constituencies than would a transaction with NS.

The Lock-Up Stock Option

108. Concurrently with the CSX Merger Agreement, Conrail and CSX entered into an option agreement (the "Stock Option Agreement") pursuant to which Conrail granted to CSX an option, exercisable in certain events, to purchase 15,955,477 shares of Conrail common stock at an exercise price of $92.50 per share, subject to adjustment.

109. If, during the time that the option under the Stock Option Agreement is exercisable, Conrail enters into an agreement pursuant to which all of its outstanding common shares are to be purchased for or converted into, in whole or in part, cash, in exchange for cancellation of the Option, CSX shall receive an amount in cash equal to the difference (if positive) between the closing market price per Conrail common share on the day immediately prior to the consummation of such transaction and the purchase price. In the event (i) Conrail enters into an agreement to consolidate with, merge into, or sell substantially all of its assets to any person, other than CSX or a direct or indirect subsidiary thereof, and Conrail is not the surviving corporation, or (ii) Conrail allows any person, other than CSX or a direct or indirect subsidiary thereof, to merge into or consolidate with Conrail in a series of transactions in which the Conrail common shares or other securities of Conrail represent less than 50% of the outstanding voting securities of the merged corporation, then the option will be adjusted, exchanged, or converted into options with identical terms as those described in the Stock Option Agreement, appropriately adjusted for such transaction.

110. CSX and Conrail also entered into a similar option agreement, pursuant to which CSX granted to Conrail an option, exercisable only in certain events, to purchase 43,090,773 shares of CSX Common Stock at an exercise price of $54.82 per share.

111. The exercise price of the option under the Stock Option Agreement is $92.50 per share. The Stock Option Agreement contemplates that 15,955,477 authorized but unissued Conrail shares would be issued upon its exercise. Thus, for each dollar above $92.50 that is offered by a competing bidder for Conrail, such as NS, the competing acquiror would suffer $15,955,477 in dilution. Moreover, there is no cap to the potential dilution. At NS's original offer of $100 per share, the dilution attributable to the Stock Option would have been $119,666,077.50. At a hypothetical offering price of $101 per share, the dilution would total $135,621,554.50. At NS's current bid of $115 per share, the dilution would total $358,988,232.50. Thus, NS's 15% increase in its offer resulted in a more than doubling of such dilution costs. This lock-up structure serves no legitimate corporate purpose, as it imposes increasingly severe dilution penalties the higher the competing bid!

112. At the current $115 per share level of NS's bid, the sum of the $300 million break-up fee and Stock Option dilution of $358,988,232.50 constitutes over 7% of the CSX Transaction's 9.36 billion value. This is an unreasonable impediment to NS's offer. Moreover, because these provisions were not necessary to induce an offer that is in Conrail's best interests, but rather were adopted to lock up a deal providing Conrail's management with personal benefits while selling Conrail to the low bidder, their adoption constituted a plain breach of the Director Defendants' fiduciary duty of loyalty.

Selective Discriminatory Treatment of Competing Bids

113. Finally, the Conrail board has breached its fiduciary duties by selectively (i) rendering Conrail's Poison Pill Plan inapplicable to the original CSX Transaction, (ii) approving the CSX Transaction and thus exempting it from the 5-year merger moratorium under Pennsylvania's Business Combination Statute, and (iii), as noted above, purporting to approve the Charter Amendment in favor of CSX only.

114. While Pennsylvania law does not require directors to amend or redeem poison pill rights or to take action rendering anti-takeover provisions inapplicable, the law is silent with respect to the duties of directors once they have determined to do so. Once directors have determined to render poison pill rights and anti-takeover statutes inapplicable to a change of control transaction, their fundamental fiduciary duties of care and loyalty require them to take such actions fairly and equitably, in good faith, after due investigation and deliberation, and only for the purpose of fostering the best interests of the corporation, and not to protect selfish personal interests of management.

115. Thus, Conrail's directors are required to act evenhandedly, redeeming the poison pill rights and rendering anti-takeover statutes inapplicable only to permit the best competing control transaction to prevail. Directors cannot take such selective and discriminatory defensive action to favor corporate executives' personal interests over those of the corporation, its shareholders, and other legitimate constituencies.

LeVan's Deal

116. As an integral part of the CSX Transaction, CSX, Conrail and defendant LeVan have entered into an employment agreement dated as of October 14, 1996 (the "LeVan Employment Agreement"), covering a period of five-years from the effective date of any merger between CSX and Conrail. The LeVan Employment Agreement provides that Mr. LeVan will serve as Chief Operating Officer and President of the combined CSX/Conrail company, and as Chief Executive Officer and President of the railroad businesses of Conrail and CSX, for two years from the effective date of a merger between CSX and Conrail (the "First Employment Segment"). Additionally, Mr. LeVan will serve as Chief Executive Officer of the combined CSX/Conrail company for a period of two years beginning immediately after the First Employment Segment (the "Second Employment Segment"). During the period commencing immediately after the Second

Employment Segment, or, if earlier, upon the termination of Mr. Snow's status as Chairman of the Board (the "Third Employment Segment"), Mr. LeVan will additionally serve as Chairman of the Board of the combined CSX/Conrail company.

117. Defendant LeVan received a base salary from Conrail of $514,519 and a bonus of $24,759 during 1995. The LeVan Employment Agreement ensures substantially enhanced compensation for defendant LeVan. It provides that during the First Employment Segment, Mr. LeVan shall receive annual base compensation at least equal to 90% of the amount received by the Chief Executive Officer of CSX, but not less than $810,000, together with bonus and other incentive compensation at least equal to 90% of the amount received by the Chief Executive Officer of CSX. During 1995, Mr. Snow received a base salary of $895,698 and a bonus having a cash value of $1,687,500. Thus, if Mr. Snow's salary and bonus were to equal Mr. Snow's 1995 salary and bonus, the LeVan Employment Agreement would provide LeVan with a salary of $810,000 and a bonus of $1,518,750 in the First Employment Period. During the Second and Third Employment Segments, Mr. LeVan will receive compensation in an amount no less than that received by the Chief Executive Officer during the First Employment Segment, but not less than $900,000.

118. If CSX terminates Mr. LeVan's employment for a reason other than cause or disability or Mr. LeVan terminates employment for good reason (as those terms are defined in the LeVan Employment Agreement), Mr. LeVan will be entitled to significant lump sum cash payments based on his compensation during the five year term of the employment agreement, continued employee welfare benefits for the longer of three years or the number of years remaining in the employment agreement; and the immediate vesting of outstanding stock-based awards.

Improper Delegation of Responsibility Regarding
The Processes of Corporate Democracy

119. In connection with amending the CSX Merger Agreement, the Conrail Board has contracted away and improperly delegated its responsibilities relating to its ability to convene, adjourn or postpone the December 23, 1996 Shareholders Meeting. Pursuant to the terms of the amended CSX Merger Agreement, Conrail now must have the prior consent of CSX in order to convene, adjourn or postpone the Shareholders Meeting on the proposed Charter Amendment.

120. Section 5.1(b) of the amended CSX Merger Agreement provides in this regard that:

> Green [Conrail] shall not convene, adjourn or postpone the Green Pennsylvania Shareholders Meeting without the prior consent of White [CSX], which consent shall not be unreasonably withheld.

121. In addition to this improper delegation of power to CSX, the Conrail Board has purported to give to CSX a right to call a special meeting in violation of the provisions of the PBCL which provide that a shareholder of a registered corporation has no right to call a special meeting, regardless of the size of its holdings, except in certain limited situations not applicable here.

122. Section 5.1(b) of the amended Merger Agreement provides in this regard that:

> In the event that the matters to be considered at the Green Merger Shareholders Meeting are not approved at a meeting called for such purpose, from time to time Green may, and shall at the request of White, duly call, give notice of, convene and hold one or more meeting(s) of shareholders thereafter for the purpose of obtaining the Green Merger Shareholder Approval, in which case all obligations hereunder respecting the Green Merger Shareholders Meeting shall apply in respect of such other meeting(s), subject in any event to either party's right to terminate this Agreement pursuant to Section 7.1(b)(ii) or (iii). Subject to the foregoing, Green shall convene each such meeting(s) as soon as practicable after receipt of any request to do so by White (and in the case of the initial Green Pennsylvania Shareholders Meeting, as soon as practicable after December 5, 1996). The

foregoing shall not affect White's obligations to make the Amended Offer, and, if the conditions therefor in Section 1.1(d) are satisfied, the Second Offer, whether or not the Green Merger Shareholder Approval has been received or any such Green Merger Shareholders Meeting(s) have been called or held.

123. Under Section 5.1(b), CSX, in effect, purports to have the right to call a special meeting of stockholders as the Conrail Board has no discretion not to call a special meeting if CSX so demands.

124. This provision of the amended CSX Merger Agreement is a deliberate attempt to circumvent Section 2521 of the PBCL.

125. Section 2521(a) of the PBCL provides that, "the shareholders of a registered corporation shall not be entitled by statute to call a special meeting of shareholders." Section 2521(b) states that subsection (a) "shall not apply to the call of a special meeting by an interested shareholder (as defined in section 2553 (relating to interested shareholders) for the purpose of approving a business combination under section 2555(3) or (4) (relating to requirements relating to certain business combinations.) Under section 2553, an "interested shareholder" is the beneficial holder of at least 20% of the votes entitled to be cast in an election of directors. Section 2555, in Subchapter F, relates to the five-year moratorium provision.

126. Section 2501(c) provides, in effect, that section 2521 will not apply only if Conrail chose in its articles of incorporation to grant to its stockholders a right to call a special meeting.

127. Because Conrail has no such provision in its Articles of Incorporation, section 2521 applies and CSX cannot call a special meeting of Conrail's stockholders. Thus, section 5.1(b) of the amended CSX Merger Agreement is illegal, ultra vires, and void, and its adoption constituted a breach of the Director Defendants' fiduciary duties, aided and abetted by CSX.

Defendants' Campaign Of Misinformation

128. On October 15, 1996, Conrail and CSX issued press releases announcing the CSX Transaction, and Conrail published and filed preliminary proxy materials with the SEC. On October 16, 1996, CSX filed and published its Schedule 14D-1 Tender Offer Statement and Conrail filed its Schedule 14D-9 Solicitation/Recommendation Statement. These communications to Conrail's shareholders reflect a scheme by defendants to coerce, mislead and fraudulently manipulate such shareholders to swiftly deliver control of Conrail to CSX and effectively frustrate any competing higher bid.

129. Conrail's Preliminary Proxy Statement contains the following misrepresentations of fact:

(a) Conrail states that "certain provisions of Pennsylvania law effectively preclude ... CSX from purchasing 20% or more" of Conrail's shares in the CSX Offer "or in any other manner (except the [CSX] Merger." This statement is false. The provisions of Pennsylvania law to which Conrail is referring are those of Subchapter 25E of the Pennsylvania Business Corporation Law. This law does not "effectively preclude" CSX from purchasing 20% or more of Conrail's stock other than through the CSX Merger. Rather, it simply requires a purchaser of 20% or more of Conrail's voting stock to pay a fair price in cash, on demand, to the holders of the remaining 80% of the shares. The real reason that CSX will not purchase 20% or more of Conrail's voting stock absent the Charter Amendment is that, unlike NS, CSX is unable or unwilling to pay a fair price in cash for 100% of Conrail's stock.

(b) Conrail states that its "Board of Directors believes that Conrail shareholders should have the opportunity to receive cash in the near-term for 40%

of [Conrail's] shares," and that "[t]he Board of Directors believes it is in the best interests of shareholders that they have the opportunity to receive cash for 40% of their shares in the near term." These statements are false. First of all, the Conrail Board believes that Conrail shareholders should have the opportunity to receive cash in the near-term for 40% of Conrail's shares only if such transaction will swiftly deliver effective control of Conrail to CSX. Second, the Conrail Board of Directors does not believe that such swift transfer of control to CSX is in the best interests of Conrail shareholders; rather, the Conrail Board of Directors believes that swift transfer of effective control over Conrail to CSX through the CSX Offer will lock up the CSX Transaction and preclude Conrail shareholders from any opportunity to receive the highest reasonably available price in a sale of control of Conrail.

130. CSX's Schedule 14D-1 contains the following misrepresentations of fact:

(a) CSX states that:

> At any time prior to the announcement by [Conrail] or an Acquiring Person that an Acquiring Person has become such, [Conrail] may redeem the [Conrail Poison Pill Plan] rights ....

This statement is false. In fact, the Conrail Poison Pill rights are redeemable any time prior to the Distribution Date. After the Distribution Date, they cannot be redeemed. CSX further states that:

> The terms of the [Conrail Poison Pill] rights may be amended by the [Conrail Board] without the consent of the holders of the Rights ... to make any other provision with respect to the Rights which [Conrail] may deem desirable; provided that from and after such time as Acquiring Person becomes such, the Rights may not be amended in any manner which would adversely affect the interests of holders of Rights.

This statement is also false. The Conrail Board's power to freely amend the poison pill rights terminates on the Distribution Date, not the date when someone becomes an Acquiring Person.

(b) CSX states that the "purpose of the [CSX] Offer is for [CSX] . . . to acquire a significant equity interest in [Conrail] as the first step in a business combination of [CSX] and [Conrail]." This statement is false. The purpose of the CSX Offer is to swiftly transfer effective control over Conrail to CSX in order to lock up the CSX Transaction and foreclose the acquisition of Conrail by any competing higher bidder.

(c) CSX states that "the Pennsylvania Control Transaction Law effectively precludes [CSX, through its acquisition subsidiary] from purchasing 20% or more of Conrail's shares pursuant to the [CSX] Offer." This statement is false. The provisions of Pennsylvania law to which Conrail is referring are those of Subchapter 25E of the Pennsylvania Business Corporation Law. This law does not "effectively preclude" CSX from purchasing 20% or more of Conrail's stock other than through the CSX Merger. Rather, it simply requires a purchaser of 20% or more of Conrail's voting stock to pay a fair price in cash, on demand, to the holders of the remaining 80% of the shares. The real reason that CSX will not purchase 20% or more of Conrail's voting stock absent the Charter Amendment is that, unlike NS, CSX is unable or unwilling to pay a fair price in cash for 100% of Conrail's stock.

131. Conrail's Schedule 14D-9 states that "the [CSX Transaction] . . . is being structured as a true merger-of-equals transaction." This statement is false. The CSX Transaction

is being structured as a rapid, locked-up sale of control of Conrail to CSX involving a significant, albeit inadequate, control premium.

132. Each of the Conrail Preliminary Proxy Statement, the CSX Schedule 14D-1 and the Conrail Schedule 14D-9 omit to disclose the following material facts, the disclosure of which are necessary to make the statements made in such documents not misleading:

(a) That the Conrail Board will lose its power to redeem or freely amend the Conrail Poison Pill Plan rights on the "Distribution Date."

(b) That both Conrail (and its senior management) and CSX (and its senior management) knew (i) that NS was keenly interested in acquiring Conrail, (ii) that NS has the financial capacity and resources to pay a higher price for Conrail than CSX could, and (iii) that a financially superior competing bid for Conrail by NS was inevitable.

(c) That Conrail management led NS to believe that if and when the Conrail Board determined to sell Conrail, it would do so through a process in which NS would be given the opportunity to bid, and that in the several weeks prior to the announcement of the CSX Transaction, defendant LeVan on two occasions prevented Mr. Goode from presenting an acquisition proposal to Conrail by stating to him that making such a proposal would be unnecessary and that Mr. LeVan would contact Mr. Goode concerning NS's interest in acquiring Conrail following (i) the Conrail Board's strategic planning meeting scheduled for September 1996 and (ii) a meeting of the Conrail Board purportedly scheduled for October 16, 1996.

(d) That in September of 1994, NS had proposed a stock-for-stock acquisition of Conrail at an exchange ratio of 1.1 shares of NS stock for each share

of Conrail stock, which ratio, if applied to the price of NS stock on the day before announcement of the CSX Transaction, October 14, 1996, implied a bid by NS worth over $101 per Conrail share.

(e) That the CSX Transaction was structured to swiftly transfer effective, if not absolute voting control over Conrail to CSX, and to prevent any other bidders from acquiring Conrail for a higher price.

(f) That although Conrail obtained opinions from Morgan Stanley and Lazard Freres that the consideration to be received by Conrail stockholders in the CSX Transaction was "fair" to such shareholders from a financial point of view, Conrail's Board did not ask its investment bankers whether the CSX Transaction consideration was adequate, from a financial point of view, in the context of a sale of control of Conrail such as the CSX Transaction.

(g) That although in arriving at their "fairness" opinions, both Morgan Stanley and Lazard Freres purport to have considered the level of consideration paid in comparable transactions, both investment bankers failed to consider the most closely comparable transaction -- NS's September 1994 merger proposal, which as noted above, would imply a price per Conrail share in excess of $101.

(h) That, if asked to do so, Conrail's investment bankers would be unable to opine in good faith that the consideration offered in the CSX Transaction is adequate to Conrail's shareholders from a financial point of view.

(i) That Conrail's Board failed to seek a fairness opinion from its investment bankers concerning the $300 million breakup fee included in the CSX Transaction.

(j) That Conrail's Board failed to seek a fairness opinion from its investment bankers concerning the Stock Option Agreement granted by Conrail to CSX in connection with the CSX Transaction.

(k) That the Stock Option Agreement is structured so as to impose increasingly severe dilution costs on a competing bidder for control of Conrail for progressively higher acquisition bids.

(l) That the Conrail Board intends to withhold the filing of the Charter Amendment following its approval by Conrail's stockholders if the effectiveness of such amendment would facilitate any bid for Conrail other than the CSX Transaction.

(m) That the Charter Amendment and/or its submission to a vote of the Conrail shareholders is illegal and ultra vires under Pennsylvania law.

(n) That the Conrail Board's discriminatory (i) use of the Charter Amendment, (ii) amendment of the Conrail Poison Pill and (iii) action exempting the CSX Transaction from Pennsylvania's Business Combination Statute, all to facilitate the CSX Transaction and to preclude competing financially superior offers for control of Conrail, constitute a breach of the Director Defendants' fiduciary duty of loyalty.

(o) That Conrail's Board failed to conduct a reasonable, good faith investigation of all reasonably available material information prior to approving the CSX transaction and related agreements, including the lock-up Stock Option Agreement.

(p) That in recommending that Conrail's shareholders tender their shares to CSX in the CSX Offer, Conrail's Board did not conclude that doing so would be in the best interests of Conrail's shareholders.

(q) That in recommending that Conrail's shareholders approve the Charter Amendment, the Conrail Board did not conclude that doing so would be in the best interests of Conrail's shareholders.

(r) That in recommending that Conrail shareholders tender their shares to CSX in the CSX Offer, primary weight was given by the Conrail Board to interests of persons and/or groups other than Conrail's shareholders.

(s) That in recommending that Conrail shareholders tender their shares to CSX in the CSX Offer, primary weight was given to the personal interests of defendant LeVan in increasing his compensation and succeeding Mr. Snow as Chairman and Chief Executive Officer of the combined CSX/Conrail company.

(t) That the Continuing Director Requirement in Conrail's Poison Pill (described above in paragraphs 84 through 91), adopted by Conrail's board in September 1995 and publicly disclosed at that time, is illegal and ultra vires under Pennsylvania law and therefore is void and unenforceable.

133. In connection with the defendants' announcement of the Revised CSX Transaction on November 6, 1996 and the Conrail Board's Schedule 14D-9 recommendation against the NS Offer, defendants issued several false and misleading statements:

(a) In their joint press release dated November 6, 1996, defendants:

(i) stated that the Conrail Board carefully considered the relative merits of the CSX Transaction and the NS Proposal, when in fact they specifically

directed their financial advisors not to do so in rendering their fairness opinions; and

(ii) claim that they have discovered additional synergies of $180 million that "will be realized" in connection with the CSX Transaction, yet omitted disclosure in the press release or in any disclosure materials of any support or explanation of how and why these claimed additional synergies were suddenly discovered at or about the time of announcement of the increase in the cash component of the CSX Transaction.

(b) In CSX's Schedule 14D-1, Amendment No. 4, defendant CSX, with Conrail's knowing and active participation:

(i) states that the NS Proposal is a "nonbid," when in fact it is a bona fide superior offer that is available to Conrail shareholders if the Conrail board were to properly observe its fiduciary duties and recognize that the purported contractual prohibitions against doing so contained in the CSX Merger Agreement are illegal and unenforceable;

(ii) states falsely that Norfolk Southern initiated discussions with CSX during the weekend of November 2 and 3, when in fact CSX initiated those talks;

(iii) states that the November 2 and 3 talks concerned sales of Conrail assets to NS after an acquisition of Conrail by CSX, while in fact such discussions also included scenarios in which NS would acquire Conrail and then sell certain Conrail assets to CSX;

(iv) state that the Conrail board "carefully considered" the relative merits of a merger with Norfolk Southern rather than with CSX, while in fact

Conrail's financial advisors were instructed not to do so in rendering their fairness opinions;

(b) fails to disclose the basis for and analysis, if any, underlying the "discovery" of an additional $180 million in CSX/Conrail merger synergies.

(c) In Conrail's Schedule 14D-9 with respect to the NS Offer, defendant Conrail, with CSX's knowing and active participation:

(i) stated that Conrail's board of directors "unanimously recommends" that Conrail shareholders not tender their shares into the NS Offer while failing to disclose that the directors were bound by contract, under the CSX Merger Agreement, to make such recommendation, that such contractual obligation is void under Pennsylvania law, and what effect the unenforceability of such contractual obligation, if considered by the Conrail board, would have upon their recommendation;

(ii) stated that Conrail's board of directors "unanimously recommends" that Conrail shareholders who desire to receive cash for their shares tender their shares in the CSX Offer, while failing to disclose that the CSX Merger Agreement bound the directors contractually to make such recommendation, that such contractual obligation is void under Pennsylvania law, and what effect the unenforceability of such contractual obligation, if considered by the Conrail board, would have upon their recommendation;

(iii) failed to disclose that in negotiating the revised terms of the CSX Transaction, Conrail could have demanded, in consideration for agreeing to the revised terms, that its board of directors be released from the poison pill lock-in and 180-day lock-out provisions, that Conrail management and Conrail's

advisors failed to so inform the Conrail board, and that instead, management unilaterally determined to negotiate an increase in the lock-out provision from 180 days to 270 days;

(iv) failed to disclose the basis for and analysis underlying the defendants "discovery" of $180 million in new CSX/Conrail merger synergies.

(d) In Conrail's Schedule 14D-9, Amendment No. 4, with respect to the CSX Offer, defendant Conrail, with CSX's knowing and active participation:

(i) stated that Conrail's board of directors "unanimously recommends" that Conrail shareholders not tender their shares into the NS Offer while failing to disclose that the directors were bound by contract, under the CSX Merger Agreement, to make such recommendation, that such contractual obligation is void under Pennsylvania law, and what effect the unenforceability of such contractual obligation, if considered by the Conrail board, would have upon their recommendation;

(ii) stated that Conrail's board of directors "unanimously recommends" that Conrail shareholders who desire to receive cash for their shares tender their shares in the CSX Offer, while failing to disclose that the CSX Merger Agreement bound the directors contractually to make such recommendation, that such contractual obligation is void under Pennsylvania law, and what effect the unenforceability of such contractual obligation, if considered by the Conrail board, would have upon their recommendation;

(iii) failed to disclose that in negotiating the revised terms of the CSX Transaction, Conrail could have demanded, in consideration for agreeing to the revised terms, that its board of directors be released from the poison pill lock-

in and 180-day lock-out provisions, that Conrail management and Conrail's advisors failed to so inform the Conrail board, and that instead, management unilaterally determined to negotiate an increase in the lock-out provision from 180 days to 270 days;

(iv) failed to disclose the basis for and analysis, if any, underlying the defendants "discovery" of $180 million in new CSX/Conrail merger synergies.

134. Each of the misrepresentations and omitted facts detailed above are material to the decisions of Conrail's shareholders concerning whether to vote in favor of the Charter Amendment and whether, in response to the CSX Offer, to hold, sell to the market, or tender their shares, because such misrepresentations and omitted facts bear upon (i) the good faith of the Conrail directors in recommending that Conrail shareholders approve the Charter Amendment and tender their shares in the CSX Offer, (ii) whether taking such actions are in the best interests of Conrail shareholders, (iii) whether the CSX Offer represents financially adequate consideration for the sale of control of Conrail and/or (iv) whether the economically superior NS Proposal is a viable, available alternative to the CSX Transaction. Absent adequate corrective disclosure by the defendants, these material misrepresentations and omissions threaten to coerce, mislead, and fraudulently manipulate Conrail shareholders to approve the Charter Amendment and deliver control of Conrail to CSX in the CSX Offer, in the belief that the NS Proposal is not an available alternative.

Conrail's Directors Attempt To Override Fundamental Principles of Corporate Democracy By Imposing A Continuing Directors Requirement in Conrail's Poison Pill And By Extending The Lock-Out Provision of the CSX Merger Agreement Past The Next Election of Conrail Directors

135. As noted above, Conrail's directors have long known that it was an attractive business combination candidate to other railroad companies, including NS.

136. Neither Conrail management nor its Board, however, had any intention to give up their control over Conrail, unless the acquiror was willing to enter into board composition, executive succession, and compensation and benefit arrangements satisfying the personal interests of Conrail management and the defendant directors, such as the arrangements provided for in the CSX Transaction. They were aware, however, that through a proxy contest, they could be replaced by directors who would be receptive to a change in control of Conrail regardless of defendants' personal interests. Accordingly, on September 20, 1995, the Conrail directors attempted to eliminate the threat to their continued incumbency posed by the free exercise of Conrail's stockholders' franchise. They drastically altered Conrail's existing Poison Pill Plan, by adopting a "Continuing Director" limitation to the Board's power to redeem the rights issued pursuant to the Rights Plan (the "Continuing Director Requirement").

137. Prior to adoption of the Continuing Director Requirement, the Conrail Poison Pill Plan was a typical "flip-in, flip-over" plan, designed to make an unsolicited acquisition of Conrail prohibitively expensive to an acquiror, and reserving power in Conrail's duly elected board of directors to render the dilative effects of the rights ineffective by redeeming or amending them.

138. The September 20, 1995 adoption of the Continuing Director Requirement changed this reservation of power. It added an additional requirement for amendment of the plan or redemption of the rights. For such action to be effective, at least two members of the Board must be "Continuing Directors," and the action must be approved by a majority of such "Continuing Directors." "Continuing Directors" are defined as members of the Conrail Board as of September 20, 1995, i.e., the incumbents, or their hand-picked successors.

139. By adopting the Continuing Director Requirement, the Director Defendants intentionally and deliberately have attempted to destroy the right of stockholders of Conrail to

replace them with new directors who would have the power to redeem the rights or amend the Rights Agreement in the event that such new directors deemed such action to be in the best interests of the company. That is, instead of vesting the power to accept or reject an acquisition in the duly elected Board of Directors of Conrail, the Rights Plan, as amended, destroys the power of a duly elected Board to act in connection with acquisition offers, unless such Board happens to consist of the current incumbents or their hand-picked successors. Thus, the Continuing Director Requirement is the ultimate entrenchment device.

140. The Continuing Director Requirement is invalid per se under Pennsylvania statutory law, in that it purports to limit the discretion of future Boards of Conrail. Pennsylvania law requires that any such limitation on Board discretion be set forth in a By-Law adopted by the stockholders. See Pa. BCL § 1721. Thus, the Director Defendants were without power to adopt such a provision unilaterally by amending the Rights Agreement.

141. Additionally, the Continuing Director Requirement is invalid under Conrail's By-Laws and Articles of Incorporation. Under Section 3.5 of Conrail's By-Laws, the power to direct the management of the business and affairs of Conrail is broadly vested in its duly elected board of directors. Insofar as the Continuing Director Requirement purports to restrict the power of Conrail's duly elected board of directors to redeem the rights or amend the plan, it conflicts with Section 3.5 of Conrail's By-Laws and is therefore of no force or effect. Article Eleven of Conrail's Articles of Incorporation permits Conrail's entire board to be removed without cause by stockholder vote. Read together with Section 3.5 of Conrail's By-Laws, Article Eleven enables Conrail's stockholders to replace the entire incumbent board with a new board fully empowered to direct the management of Conrail's business and affairs, and, specifically, to redeem the rights or amend the plan. Insofar as the Continuing Director Requirement purports to render

such action impossible, it conflicts with Conrail's Articles of Incorporation and is therefore of no force or effect.

142. Furthermore, the adoption of the Continuing Director Requirement constituted a breach of the Director Defendants' fiduciary duty of loyalty. There existed no justification for the directors to attempt to negate the right of stockholders to elect a new Board in the event the stockholders disagree with the incumbent Board's policies, including their response to an acquisition proposal.

143. Moreover, while the Director Defendants disclosed the adoption of the Continuing Director Requirement, they have failed to disclose its illegality and the illegality of their conduct in adopting it. If they are not required to make corrective disclosures, defendants will permit the disclosure of the Continuing Director Requirement's adoption to distort stockholder choice in connection with the CSX Offer, the Special Meeting, and (if they have not successfully locked up voting control of Conrail by then) in the next annual election of directors. The Director Defendants' conduct is thus fraudulent, in that they have failed to act fairly and honestly toward the Conrail stockholders, and intended to preserve their incumbency and that of current management, to the detriment of Conrail's stockholders and other constituencies. Accordingly, such action should be declared void and of no force or effect. Furthermore, adequate corrective disclosure should be required.

144. The newly-extended Two-Year Lock-Out provision in the CSX Merger Agreement is invalid not only because it constitutes an abdication and breach of the current Conrail directors' fiduciary duties, but also for the same reasons as the Continuing Director Provision. The Two-Year Lock-Out purports to restrict the managerial discretion of future Conrail directors -- new directors who could be elected at Conrail's 1997 Annual Meeting. Thus, as does the

Continuing Director Provision, the Two-Year Lock-Out violates Pennsylvania statutory law, Conrail's Bylaws and Articles of Incorporation, and the Conrail directors' fiduciary duties.

Conrail's Charter Permits The Removal and Replacement of Its Entire Board of Directors At Its Next Annual Meeting

145. As noted above, plaintiff NS intends to facilitate the NS Proposal, if necessary, by replacing the Conrail board at Conrail's next annual meeting. Conrail's next annual meeting is scheduled to be held on May 21, 1997 (according to Conrail's April 3, 1996 Proxy Statement, as filed with the Securities and Exchange Commission).

146. The Director Defendants adopted the Continuing Director Requirement in part because they recognized that under Conrail's Articles, its entire Board, even though staggered, may be removed without cause at Conrail's next annual meeting.

147. Section 3.1 of Conrail's By-Laws provides that the Conrail Board shall consist of 13 directors, but presently there are only 11. The Conrail Board is classified into three classes. Each class of directors serves for a term of three years, which terms are staggered.

148. Article 11 of Conrail's Articles of Incorporation provides that:

> The entire Board of Directors, or a class of the Board where the Board is classified with respect to the power to elect directors, or any individual director may be removed from office without assigning any cause by vote of stockholders entitled to cast at least a majority of the votes which all stockholders would be entitled to cast at any annual election of directors or of such class of directors.

149. Under the plain language of Article 11, the entire Conrail Board, or any one or more of Conrail's directors, may be removed without cause by a majority vote of the Conrail stockholders entitled to vote at the annual meeting. Plaintiffs anticipate, however, that defendants will argue that under Article 11, only one class may be removed at each annual meeting. Accordingly, plaintiffs seek a declaratory judgment that pursuant to Article 11, the entire Conrail Board, or any one or more of Conrail's directors, may be removed without cause at Conrail's next annual meeting.

Declaratory Relief

150. The Court may grant the declaratory relief sought herein pursuant to 28 U.S.C. § 2201. The Director Defendants' adoption of the CSX Transaction (with its discriminatory Charter Amendment poison pill, and state anti-takeover statute treatment and draconian lock-up provisions) as well as their earlier adoption of the Continuing Director Requirement, clearly demonstrate their bad faith entrenchment motivation and, in light of the NS Proposal, that there is a substantial controversy between the parties. Indeed, given the NS Proposal, the adverse legal interests of the parties are real and immediate. Defendants can be expected to vigorously oppose each judicial declaration sought by plaintiffs, in order to maintain their incumbency and defeat the NS Proposal -- despite the benefits it would provide to Conrail's stockholders and other constituencies.

151. The granting of the requested declaratory relief will serve the public interest by affording relief from uncertainty and by avoiding delay and will conserve judicial resources by avoiding piecemeal litigation.

Irreparable Injury

152. The Director Defendants' adoption of the CSX Transaction (with its discriminatory Charter Amendment, poison pill and state antitakeover statute treatment and draconian lock-up provisions), their adoption of the revised CSX Transaction with its highly coercive, multi-tier, front end loaded structure, as well as their earlier adoption of the Continuing Director Requirement threaten to deny Conrail's stockholders of their right to exercise their corporate franchise without manipulation, coercion or false and misleading disclosures and to deprive them of a unique opportunity to receive maximum value for their stock. The resulting injury to plaintiffs and all of Conrail's stockholders would not be adequately compensable in money damages and would constitute irreparable harm.

Derivative Allegations

153. Plaintiffs bring each of the causes of action reflected in Counts One through Seven and Fourteen and Fifteen below individually and directly. Alternatively, to the extent required by law, plaintiffs bring such causes of action derivatively on behalf of Conrail.

154. No demand has been made on Conrail's Board of Directors to prosecute the claims set forth herein since, for the reasons set forth below, any such demand would have been a vain and useless act since the Director Defendants constitute the entire Board of Directors of Conrail and have engaged in fraudulent conduct to further their personal interests in entrenchment and have ratified defendant LeVan's self-dealing conduct:

(a) The Director Defendants have acted fraudulently by pursuing defendants' campaign of misinformation, described above, in order to coerce, mislead, and manipulate Conrail shareholders to swiftly deliver control of Conrail to the low bidder.

(b) The form of resolution by which the shareholders are being asked to approve the Charter Amendment is illegal and ultra vires in that it purports to authorize the Conrail Board to discriminatorily withhold filing the certificate of amendment even after shareholder approval. Thus, its submission to the shareholders is illegal and ultra vires and, therefore, not subject to the protections of the business judgment rule.

(c) The Conrail directors' selective amendment of the Conrail poison pill and discriminatory preferential treatment of the CSX Transaction under the Pennsylvania Business Combination Statute were motivated by their personal interest in entrenchment, constituting a breach of their fiduciary duty of loyalty and rendering the business judgment rule inapplicable.

(d) The Director Defendants' adoption of the breakup fee and stock option lock-ups in favor of CSX was motivated by their personal interest in entrenchment, constituting a breach of their duty of loyalty and rendering the business judgment rule inapplicable.

(e) The Continuing Director Requirement is illegal and ultra vires under Pennsylvania statutory law and under Conrail's charter and by-laws, rendering the business judgment rule inapplicable to its adoption by the Director Defendants.

(f) In adopting the Continuing Director Requirement, each of the Defendant Directors has failed to act fairly and honestly toward Conrail and its stockholders, insofar as by doing so the Defendant Directors, to preserve their own incumbency, have purported to eliminate the stockholders' fundamental franchise right to elect directors who would be receptive to a sale of control of Conrail to the highest bidder. There is no reason to think that, having adopted this ultimate in entrenchment devices, the Director Defendants would take action that would eliminate it.

(g) Additionally, the Director Defendants have acted fraudulently, in that they intentionally have failed to disclose the plain illegality of their conduct.

(h) There exists no reasonable prospect that the Director Defendants would take action to invalidate the Continuing Director Requirement. First, pursuant to Pennsylvania statute, their fiduciary duties purportedly do not require them to amend the Rights Plan in any way. Second, given their dishonest and fraudulent entrenchment motivation, the Director Defendants would certainly not commence legal proceedings to invalidate the Continuing Director Requirement.

155. Plaintiffs are currently beneficial owners of Conrail common stock. Plaintiffs' challenge to the CSX Transaction (including the coercive front end loaded tender offer, the illegal Charter Amendment, discriminatory treatment, and lock-ups) and to the Continuing Director Requirement presents a strong prima facie case, insofar as the Director Defendants have deliberately and intentionally, without justification, acted to foreclose free choice by Conrail's shareholders. If this action were not maintained, serious injustice would result, in that defendants would be permitted illegally and in pursuit of personal, rather than proper corporate interests to deprive Conrail stockholders of free choice and a unique opportunity to maximize the value of their investments through the NS Proposal, and to deprive plaintiff NS of a unique acquisition opportunity.

156. This action is not a collusive one to confer jurisdiction on a Court of the United States that it would not otherwise have.

COUNT ONE
(Breach of Fiduciary Duty with
Respect to the Charter Amendment)

157. Plaintiffs withdraw Count One as moot.

COUNT TWO
(Breach of Fiduciary Duty
With Respect to the Poison Pill)

158. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

159. The Conrail board of directors adopted its Poison Pill Plan with the ostensible purpose of protecting its shareholders against the consummation of unfair acquisition proposals that may fail to maximize shareholder value.

160. The Conrail Board has announced its intention to merge with CSX, and the Conrail Board has also sought to exempt CSX from the provisions of the Poison Pill.

161. Additionally, the Conrail Board has committed itself to not pursue any competing offer for the Company.

162. By selectively and discriminately determining to exempt CSX, and only CSX, from the Poison Pill provisions, to the detriment to Conrail's shareholders, the Conrail directors have breached their fiduciary duties of care and loyalty.

163. Plaintiffs have no adequate remedy at law.

COUNT THREE
(Breach of Fiduciary Duty
with Respect to the Pennsylvania
Business Combinations Statute)

164. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

165. By approving the CSX Offer prior to its consummation, the Director Defendants have rendered the Pennsylvania Business Combinations Statute, subchapter 25F of the Pennsylvania Business Corporation Law, and, particularly, its five-year ban on mergers with substantial stockholders, inapplicable to the CSX Transaction, while it remains as an impediment to competing higher acquisition offers such as the NS Proposal.

166. By selectively and discriminately exempting the CSX Transaction from the five-year merger ban, for the purpose of facilitating a transaction that will provide substantial personal benefits to Conrail management while delivering Conrail to the low bidder, the Director Defendants have breached their fiduciary duties of care and loyalty.

167. Plaintiffs have no adequate remedy at law.

COUNT FOUR
(Declaratory Judgment Against All
Defendants that the Poison Pill
Lock-In is Void Under Pennsylvania Law)

168. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

169. By purporting to bind Conrail and its directors not to amend or take any action with respect to the Conrail Poison Pill Plan without CSX's consent, the CSX Merger Agreement purports to restrict the managerial discretion of Conrail's directors.

170. Under Pennsylvania law, agreements restricting the managerial discretion of the board of directors are permissible only in statutory close corporations. Conrail is not a statutory close corporation.

171. No statute countenances Conrail's and the Director Defendants' adoption of the Poison Pill Lock-In terms of the CSX Merger Agreement. No Conrail By-Law adopted by the Conrail shareholders provides that Conrail's directors may contractually abdicate their fiduciary duties and managerial powers and responsibilities with respect to the Conrail Poison Pill Plan.

172. Plaintiffs have no adequate remedy at law.

COUNT FIVE
(Against the Defendant Directors
for Breach of Fiduciary Duty with
Respect to the Poison Pill Lock-In)

173. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

174. By entering into the Poison Pill Lock-In provisions of the CSX Merger Agreement, the Director Defendants purported to relinquish their power to act in the best interests of Conrail in connection with proposed acquisitions of Conrail.

175. Thus, by entering into the CSX Transaction with its poison pill lock-in provisions, the Director Defendants have intentionally, in violation of their duty of loyalty, completely abdicated their fiduciary duties and responsibilities.

176. Absent prompt injunctive relief, plaintiffs, as well as Conrail and all of its legitimate constituencies, face imminent irreparable harm.

177. Plaintiffs have no adequate remedy at law.

COUNT SIX
(Declaratory Judgment Against All Defendants That the Two-Year Lock-Out is Void Under Pennsylvania Law)

178. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

179. By purporting to bind Conrail and its directors from acting to protect the interests of Conrail, its shareholders and its other legitimate constituencies by withdrawing its recommendation that Conrail's shareholders accept the CSX Offer and approve the CSX Merger even when the fiduciary duties of Conrail's directors would require them to do so, the Two-Year Lock-Out provision of the CSX Merger Agreement purports to restrict the managerial discretion of Conrail's directors.

180. By purporting to prohibit Conrail's directors from terminating the CSX Merger Agreement when their fiduciary duties would require them to do so, the Two-Year Lock-Out provision of the CSX Merger Agreement purports to restrict the managerial discretion of Conrail's directors.

181. Under Pennsylvania law, agreements restricting the managerial discretion of the board of directors are permissible only in statutory close corporations. Conrail is not a statutory close corporation.

182. No statute countenances Conrail's and the Director Defendants' adoption of the Two-Year Lock-Out terms of the CSX Merger Agreement. No Conrail By-Law adopted by the Conrail shareholders provides that Conrail's directors may contractually abdicate their fiduciary duties and managerial powers and responsibilities.

183. Moreover, to the extent that the Two-Year Lock-Out purports to bind future directors of Conrail, it is ultra vires, void and unenforceable.

184. Unless the Two-Year Lock-Out provision is declared ultra vires and void and defendants are enjoined from taking any action enforcing it, Conrail and its legitimate constituencies face irreparable harm.

185. Plaintiffs have no adequate remedy at law.

COUNT SEVEN
(Against the Defendant Directors
for Breach of Fiduciary Duty with
Respect to the Two-Year Lock-Out)

186. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

187. By entering into the Two-Year Lock-Out provision of the CSX Merger Agreement, the Director Defendants purported to relinquish their power to act in the best interest of Conrail in connection with proposed acquisitions of Conrail.

188. Thus, by entering into the Two-Year Lock-Out provision, the Conrail directors have abdicated their fiduciary duties, in violation of their duties of loyalty and care.

189. Plaintiffs have no adequate remedy at law.

COUNT EIGHT
(Breach of Fiduciary Duty with
Respect to the Lock-Up Provisions)

190. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

191. In conjunction with the CSX Merger Agreement, the Conrail Board has agreed to termination fees of $300 million and to the lock-up Stock Option Agreement.

192. These provisions confer no benefit upon Conrail's shareholders and in fact operate and are intended to operate to impede or foreclose further bidding for Conrail.

193. The Conrail directors have adopted these provisions without regard to what is in the best interest of the Company and its shareholders, in violation of their fiduciary duties.

194. Plaintiffs have no adequate remedy at law.

COUNT NINE
(Declaratory Relief Against
Conrail and Director Defendants That
The Continuing Director Requirement
Is Void Under Pennsylvania Law)

195. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

196. Under Pennsylvania law, the business and affairs of a Pennsylvania corporation are to be managed under the direction of the Board of Directors unless otherwise provided by statute or in a By-Law adopted by the stockholders. Pa. BCL § 1721.

197. Under Pennsylvania law, agreements restricting the managerial discretion of directors are permissible only in statutory close corporations.

198. No statute countenances Conrail's and the current Board's adoption of the Continuing Director Requirement. No Conrail By-Law adopted by the Conrail stockholders

provides that the current Board may limit a future Board's management and direction of Conrail. Conrail is not a statutory close corporation.

199. Adoption of the Continuing Director Requirement constitutes an unlawful attempt by the Director Defendants to limit the discretion of a future Board of Directors with respect to the management of Conrail. In particular, under the Continuing Director Requirement, a duly elected Board of Directors that includes less than two continuing directors would be unable to redeem or modify Conrail's Poison Pill even upon determining that to do so would be in Conrail's best interests.

200. Plaintiffs seek a declaration that the Continuing Director Requirement is contrary to Pennsylvania statute and, therefore, null and void.

201. Plaintiffs have no adequate remedy at law.

COUNT TEN
(Declaratory Relief Against Conrail and The Director Defendants That The Continuing Director Requirement Is Void Under Conrail's Articles of Incorporation And By-Laws)

202. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

203. Under Section 3.5 of Conrail's By-Laws,

> The business and affairs of the Corporation shall be managed under the direction of the Board which may exercise all such powers of the Corporation and do all such lawful acts and things as are not by statute or by the Articles or by these By-Laws directed or required to be exercised and done by the shareholders.

204. Pursuant to Section 1505 of the Pennsylvania Business Corporation Law, the By-Laws of a Pennsylvania corporation operate as regulations among the shareholders and affect contracts and other dealings between the corporation and the stockholders and among the

stockholders as they relate to the corporation. Accordingly, the Rights Plan and the rights issued thereunder are subject to and affected by Conrail's By-Laws.

205. Insofar as it purports to remove from the duly elected board of Conrail the power to redeem the rights or amend the Rights Plan, the Continuing Director Requirement directly conflicts with Section 3.5 of Conrail's By-Laws, and is therefore void and unenforceable.

206. Article Eleven of Conrail's Articles of Incorporation provides that Conrail's entire board may be removed without cause by vote of a majority of the stockholders who would be entitled to vote in the election of directors. Read together with Section 3.5 of Conrail's By-Laws, Article Eleven enables the stockholders to replace the entire incumbent board with a new board with all powers of the incumbent board, including the power to redeem the rights or to amend the Rights Agreement. The Continuing Director Requirement purports to prevent the stockholders from doing so, and is therefore void and unenforceable.

207. Plaintiffs have no adequate remedy at law.

COUNT ELEVEN
(Declaratory Relief Against Conrail
and The Director Defendants That Adoption
of the Continuing Director Requirement
Constituted A Breach of the Duty of Loyalty)

208. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

209. Adoption of the Continuing Director Requirement constituted a breach of the duty of loyalty on the part of the Director Defendants. Such adoption was the result of bad faith entrenchment motivation rather than a belief that the action was in the best interests of Conrail. In adopting the Continuing Director Requirement, the Director Defendants have purported to circumvent the Conrail stockholders' fundamental franchise rights, and thus have failed to act honestly and fairly toward Conrail and its stockholders. Moreover, the Director

Defendants adopted the Continuing Director Requirement without first conducting a reasonable investigation.

210. The Continuing Director Requirement not only impedes acquisition of Conrail stock in the NS Offer, it also impedes any proxy solicitation in support of the NS Proposal because Conrail stockholders will, unless the provision is invalidated, believe that the nominees of plaintiffs will be powerless to redeem the Poison Pill rights in the event they conclude that redemption is in the best interests of the corporation. Thus, stockholders may believe that voting in favor of plaintiffs' nominees would be futile. The Director Defendants intended their actions to cause Conrail's stockholders to hold such belief.

211. Plaintiffs seek a declaration that the Director Defendants' adoption of the Continuing Director Requirement was in violation of their fiduciary duties and, thus, null, void and unenforceable.

212. Plaintiffs have no adequate remedy at law.

COUNT TWELVE
(Against Conrail And The Director Defendants For Actionable Coercion)

213. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

214. The Director Defendants owe fiduciary duties of care and loyalty to Conrail. Furthermore, Conrail and the Director Defendants, insofar as they undertake to seek and recommend action by Conrail's shareholders, for example with respect to the Charter Amendment, the CSX Offer or the NS Offer, stand in a relationship of trust and confidence vis a vis Conrail's shareholders, and accordingly have a fiduciary obligation of good faith and fairness to such shareholders in seeking or recommending such action. Furthermore, shareholders are entitled to injunctive relief against fundamental unfairness pursuant to PBCL § 1105.

215. Conrail and its directors are seeking the approval by Conrail's shareholders of the Charter Amendment and are recommending such approval.

216. Conrail and its directors are seeking the tender by Conrail's shareholders of their shares into the CSX Offer and are recommending such tender.

217. In seeking such action and making such recommendations, Conrail and its directors have sought to create the impression among the Conrail shareholders that the NS Proposal is not a financially superior, viable, and actually available alternative to the CSX Transaction. This impression, however, is false. The only obstacles to the NS Proposal are the ultra vires, illegal impediments constructed by defendants, including the Poison Pill Lock-In, the Two-Year Lock-Out, and the continuing director provisions of the Conrail Poison Pill Plan.

218. The purpose for which defendants' seek to create this impression is to coerce Conrail shareholders into delivering control over Conrail swiftly to CSX. Furthermore, the effect of this false impression is to coerce Conrail shareholders into delivering control over Conrail to CSX.

219. This coercion of the Conrail shareholders constitutes a breach of the fiduciary relation of trust and confidence owed by the Corporation and its directors to shareholders from whom they seek action and to whom they recommend the action sought. Moreover, this coercion, as well as the intense structural coercion imposed by the revised CSX Transaction's highly front end loaded first step tender offer, constitutes fundamental unfairness to Conrail shareholders.

220. The conduct of defendants Conrail and its directors is designed to, and will, if not enjoined, wrongfully induce Conrail's shareholders to sell their shares to CSX in the CSX Offer not for reasons related to the economic merits of the sale, but rather because the illegal conduct of defendants has created the appearance that the financially (and otherwise) superior NS

Proposal is not available to them, and that the CSX Transaction is the only opportunity available to them to realize premium value on their investment in Conrail.

221. Plaintiffs have no adequate remedy at law.

COUNT THIRTEEN
(Against CSX For Aiding And Abetting)

222. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

223. Defendant CSX, through its agents, was aware of and knowingly and actively participated in the illegal conduct and breaches of fiduciary duty committed by Conrail and the Director Defendants and set forth in Counts One through Eight, Twelve and Twenty-Two through Twenty-Four of this complaint.

224. CSX's knowing and active participation in such conduct has harmed plaintiffs and threatens irreparable harm to plaintiffs if not enjoined.

225. Plaintiffs have no adequate remedy at law.

COUNT FOURTEEN
(Declaratory and Injunctive Relief Against
Conrail and the Director Defendants for
Violation of Section 14(a) of the Exchange Act
and Rule 14a-9 Promulgated Thereunder)

226. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

227. Section 14(a) of the Exchange Act provides that it is unlawful to use the mails or any means or instrumentality of interstate commerce to solicit proxies in contravention of any rule promulgated by the SEC. 15 U.S.C. § 78n(a).

228. Rule 14a-9 provides in pertinent part: "No solicitation subject to this regulation shall be made by means of any ... communication, written or oral, containing any

statement which, at the time, and in light of the circumstances under which it is made, is false and misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading...." 17 C.F.R. § 240.14a-9.

229. Conrail's Preliminary Proxy Statement contains the misrepresentations detailed in paragraph 123 above. It also omits to disclose the material facts detailed in paragraph 126 above.

230. Further, Conrail's press releases, public filings, and November 25, 1996 Definitive Proxy Statement detailed in paragraphs 59, 62, and 129 to 133 above, are misleading as set forth in such paragraphs.

231. Conrail's November 25, 1996 Definitive Proxy Statement also omits to disclose, as to each class of voting securities of Conrail entitled to vote, the number of shares outstanding as of the December 5, 1996 record date.

232. This omission is a violation of the proxy rules and in particular, Item 6 of Schedule 14A which provides that: "As to each class of voting securities of the registrant entitled to be voted at the meeting ... state the number of shares outstanding and the number of votes to which each class is entitled."

233. Each of the false and misleading statements and omissions made by defendants and alleged in this Compiaint were made under circumstances that should be expected to result in the granting or withholding of proxies in the vote on the Charter Amendment, and was intended to have such result.

234. Unless defendants are required by this Court to make corrective disclosures, Conrail's stockholders will be deprived of their federal right to exercise meaningfully their voting franchise.

235. The defendants' false and misleading statements and omissions described above are essential links in defendants' effort to deprive Conrail's shareholders of their ability to exercise choice concerning their investment in Conrail and their voting franchise.

236. Plaintiffs have no adequate remedy at law.

COUNT FIFTEEN
(Against Defendant CSX For Violation
Of Section 14(d) Of The Exchange Act
And Rules Promulgated Thereunder)

237. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

238. Section 14(d) provides in pertinent part: "It shall be unlawful for any person, directly or indirectly by use of the mails or by any means or instrumentality of interstate commerce ... to make a tender offer for ... any class of any equity security which is registered pursuant to section 78l of this title, ... if, after consummation thereof, such person would, directly or indirectly, be the beneficial owner of more than 5 per centum of such class, unless at the time copies of the offer, request or invitation are first published, sent or given to security holders such person has filed with the Commission a statement containing such of the information specified in section 78m(d) of this title, and such additional information as the Commission may by rules and regulations prescribe ..." 15 U.S.C. § 78n(d).

239. On October 16, 1996, defendant CSX filed with the SEC its Schedule 14D-1 pursuant to Section 14(d).

240. CSX's Schedule 14D-1 contains each of the false and misleading material misrepresentations of fact detailed in paragraph 124 above. Furthermore, CSX's Schedule 14D-1 omits disclosure of the material facts detailed in paragraph 126 above. Additionally, CSX's Amendment No. 4 to its Schedule 14D-1 contains the misstatements and/or omissions alleged in

paragraphs 127(a) and (d) above. As a consequence of the foregoing, CSX has violated, and unless enjoined will continue to violate, Section 14(d) of the Exchange Act and the rules and regulations promulgated thereunder.

241. CSX made the material misrepresentations and omissions described above intentionally and knowingly, for the purpose of fraudulently coercing, misleading and manipulating Conrail's shareholders to tender their shares into the CSX Offer.

242. Plaintiffs have no adequate remedy at law.

COUNT SIXTEEN
(Against Defendant Conrail For Violation
Of Section 14(d) Of The Exchange Act
And Rules Promulgated Thereunder)

243. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

244. Section 14(d)(4) provides in pertinent part: "Any solicitation or recommendation to the holders of [securities for which a tender offer has been made] to accept or reject a tender offer or request or invitation for tender shall be made in accordance with such rules and regulations as the [SEC] may prescribe as necessary or appropriate in the public interest of investors." Rule 14d-9 provides in pertinent part: "No solicitation or recommendation to security holders shall be made by [the subject company] with respect to a tender offer for such securities unless as soon as practicable on the date such solicitation or recommendation is first published or sent or given to security holders such person ... file[s] with the [SEC] eight copies of a Tender Offer Solicitation/Recommendation Statement on Schedule 14D-9."

245. On October 16, 1996, Conrail (i) published its board of directors' recommendation that Conrail shareholders tender their shares in the CSX Offer and (ii) filed with the SEC its Schedule 14D-9.

246. Conrail's Schedule 14D-9 contains each of the false and misleading material misrepresentations detailed in paragraph 125 above. Further, Conrail's Schedule 14D-9 omits disclosure of the material facts detailed in paragraph 126 above. Additionally, Conrail's Amendment No. 4 to its Schedule 14D-9 with respect to the CSX Offer and its Schedule 14D-9 with respect to the NS Offer contain the misstatements and/or omissions alleged in paragraphs 127 (a), (c) and (d) above. As a consequence of the foregoing, Conrail has violated, and unless enjoined will continue to violate, Section 14(d) of the Exchange Act and the rules and regulations promulgated thereunder.

247. Conrail made the material misrepresentations and omissions described above intentionally and knowingly, for the purpose of fraudulently coercing, misleading and manipulating Conrail's shareholders to tender their shares into the CSX Offer.

248. Plaintiffs have no adequate remedy at law.

COUNT SEVENTEEN
(Against Conrail and CSX for Violation of Section 14(e) of the Exchange Act and Rules Promulgated Thereunder)

249. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

250. Section 14(e) provides in pertinent part: "It shall be unlawful for any person to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or to engage in any fraudulent, deceptive, or manipulative acts or practices in connection with any tender offer . . . or any solicitation of security holders in opposition to or in favor of any such offer . . . ." Defendants have violated and threaten to continue to violate Section 14(e).

251. The CSX Schedule 14D-1 constitutes a communication made under circumstances reasonably calculated to result in the procurement of tenders from Conrail shareholders in favor of the CSX Offer.

252. The Conrail Schedule 14D-9 and Proxy Statement constitute communications made under circumstances reasonably calculated to result in the procurement of tenders from Conrail shareholders in favor of the CSX Offer.

253. The CSX Schedule 14D-1 contains the false and misleading material misrepresentations detailed in paragraph 124 above. The CSX Schedule 14D-1 omits disclosure of the material facts detailed in paragraph 126 above. Additionally, Amendment No. 4 to such Schedule contains the misstatements and/or omissions alleged in paragraphs 127(a) and (b) above.

254. The Conrail Schedule 14D-9 contains the false and misleading material misrepresentations detailed in paragraph 125 above. The Conrail Schedule 14D-9 omits disclosure of the material facts detailed in paragraph 126 above. Additionally, Amendment No. 4 to such Schedule contains the misstatements and/or omissions alleged in paragraphs 127(a) and (d) above. Also, Conrail's Schedule 14D-9 with respect to the NS Offer contains the misstatements and/or omissions alleged in paragraphs 127(a) and (c) above.

255. The Conrail Preliminary Proxy Statement contains the false and misleading material misrepresentations detailed in paragraph 124 above. The Conrail Proxy Statement omits disclosure of the material facts detailed in paragraph 126 above.

256. These omitted facts are material to the decisions of Conrail shareholders to hold, sell to market, or tender their shares in the CSX tender offer.

257. The defendants intentionally and knowingly made the material misrepresentations and omissions described above, for the purpose of coercing, misleading, and manipulating

Conrail shareholders to swiftly transfer control over Conrail to CSX by tendering their shares in the CSX Tender Offer.

258. Absent declaratory and injunctive relief requiring adequate corrective disclosure, plaintiffs, as well as all of Conrail's shareholders, will be irreparably harmed. Conrail shareholders will be coerced by defendants' fraudulent and manipulative conduct to sell Conrail to the low bidder. Plaintiffs NS and AAC will be deprived of the unique opportunity to acquire and combine businesses with Conrail.

259. Plaintiffs have no adequate remedy at law.

COUNT EIGHTEEN
(Against Defendants Conrail and CSX
For Civil Conspiracy To Violate
Section 14 Of The Exchange Act
And Rules Promulgated Thereunder)

260. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

261. Defendants Conrail and CSX conspired and agreed to conduct the campaign of misinformation described in paragraphs 95 through 101 above for the purpose of coercing, misleading and manipulating Conrail shareholders to swiftly transfer control over Conrail to CSX. As set forth in Counts Fourteen through Seventeen above, which are incorporated by reference herein, the defendants' campaign of misinformation is violative of Section 14 of the Exchange Act and the rules and regulations promulgated thereunder.

262. Plaintiffs have no adequate remedy at law.

COUNT NINETEEN
(Against Conrail for
Estoppel/Detrimental Reliance)

263. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

264. By his actions, silence and statements during the period from September 1994 to October 15, 1996, and particularly by his statements to Mr. Goode in September and October of 1996 (as detailed above in paragraphs 24 through 26, defendant LeVan, purporting to act on behalf of Conrail and its Board of Directors and with apparent authority to so act, led Mr. Goode to believe that Conrail's Board was not interested in a sale of the company and that if and when the Conrail Board decided to pursue such a sale, it would let NS know and give NS an opportunity to bid.

265. Prior to October 15, 1996, NS had justifiably relied on Mr. LeVan's false statements and representations in refraining from making a proposal to Conrail's Board or initiating a tender offer of its own for Conrail shares.

266. Mr. LeVan and Conrail knew or should have known that their actions, silence, statements and representations to NS would induce NS to believe that Conrail's board was not interested in selling the company and that NS would be given an opportunity to bid if Conrail's Board decided that Conrail would be sold.

267. Mr. LeVan and Conrail knew or should have known that NS would rely upon their actions, silence, statements and representations to its detriment in refraining from making a proposal to Conrail's Board or initiating a tender offer of its own for Conrail shares.

268. NS did in fact rely upon LeVan's and Conrail's actions, silence, statements and representations to its detriment in refraining from making a proposal to Conrail's Board or initiating a tender offer of its own for Conrail shares.

269. Conrail and its Board are estopped from effectuating a sale of the company without giving NS an adequate opportunity to present its competing tender offer to the Conrail Board of Directors and Conrail shareholders. Similarly, any provision in the CSX Merger Agreement that would impede directors' or shareholders' ability to approve a competing tender offer or takeover proposal, such as that made by NS, is null and void.

270. By virtue of NS's justifiable reliance on Conrail's and Mr. LeVan's actions, silence and statements, it has suffered and will continue to suffer irreparable harm.

271. Plaintiffs have no adequate remedy at law.

COUNT TWENTY
(Unlawful And Ultra Vires Amendment of Conrail's Articles of Incorporation)

272. Plaintiffs withdraw Count Twenty as moot.

COUNT TWENTY-ONE
(Declaratory Judgment Against Conrail and the Director Defendants That the Entire Conrail Board, Or Any One or More of Conrail's Directors, Can Be Removed Without Cause)

273. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

274. Plaintiffs intend, if necessary to facilitate the NS Proposal, to solicit proxies to be used at Conrail's next annual meeting to remove Conrail's current Board of Directors.

275. There is presently a controversy among Conrail, the Director Defendants and the plaintiffs as to whether the entire Conrail Board, or any one or more of Conrail's directors, may be removed without cause at the annual meeting by a vote of the majority of Conrail stockholders entitled to cast a vote at the Annual Meeting.

276. Plaintiffs seek a declaration that Article 11 of Conrail's Articles of Incorporation permits the removal of the entire Conrail Board, or any one or more of Conrail's

directors, without cause by a majority vote of the Conrail stockholders entitled to cast a vote at an annual election.

277. Plaintiffs have no adequate remedy at law.

COUNT TWENTY-TWO

(For Breach of Fiduciary Duty
with Respect to the New Special Meeting)

278. Plaintiffs repeat each of the foregoing allegations as if fully set forth herein.

279. The director defendants, as members of the Conrail Board, owe fiduciary duties to plaintiffs and all Conrail shareholders to exercise their positions of trust and confidence with due care, loyalty and fair dealing.

280. By acting with improper motivations, including, but not limited to, indicating their intention to deny plaintiffs and all Conrail shareholders the exercise of their right of shareholder suffrage in an effort to ensure victory for the Charter Amendment, defendants have breached their fiduciary duties to (i) plaintiffs and (ii) to all Conrail shareholders by attempting to manipulate the shareholders' vote and interfering with the exercise of shareholders' voting rights.

281. The director defendants' conduct is, and, unless corrected, will continue to be, wrongful, unfair and harmful to plaintiffs as shareholders of Conrail.

282. Because the threatened failure to convene the Special Meeting of December 23 will interfere with the shareholders' ability to exercise their voting rights, it also is contrary to public policy.

283. Plaintiffs have been and will continue to be irreparably damaged by the acts of the director defendants.

284. Plaintiffs have no adequate remedy at law.

COUNT TWENTY-THREE
(For An Injunction Pursuant to
Pennsylvania Business Corporations Law,
15 Pa. Cons. Stat. § 1105)

285. Plaintiffs repeat each of the foregoing allegations above, as if fully set forth herein.

286. As more fully alleged above, the director defendants' conduct with regard to the December 23 Special Meeting has been taken with improper motives and in bad faith for the sole or primary purpose of depriving plaintiffs and Conrail's other shareholders the free exercise of their right of shareholder suffrage. Such conduct strikes at the foundation of corporate democracy and governance and is fundamentally unfair.

287. The director defendants have acted fraudulently in at least two respects: first, contrary to their public representations and representations before this Court that Conrail shareholders would have a choice with respect to the CSX Transaction, defendants now say that only a vote approving the Charter Amendment will be counted and given effect; and second, by recommending approval of the Charter Amendment without disclosing that they do not believe such approval is in the shareholders' best interests.

288. Moreover, by announcing that the New Special Meeting may be successively postponed until the Conrail shareholders submit to their will, defendants are attempting to discourage opposition and coerce approval of the Charter Amendment. This, too, constitutes fundamental unfairness.

289. Further, defendants are threatening to utilize corporate assets to solicit proxies to be voted at successively postponed meetings, while shareholders such as NS must utilize their own assets to finance countersolicitations. Thus, the successive postponement of the New Special Meeting threatens to multiply the costs of opposing management's solicitation, while management draws upon the corporate coffers. This, too, constitutes fundamental unfairness.

290. Plaintiffs have been and will continue to be irreparably harmed by the conduct of the director defendants.

291. Plaintiffs have no adequate remedy at law.

COUNT TWENTY-FOUR
(Against the Defendant Directors
for Breach of Fiduciary Duty with
Respect to Section 5.1(b) of the Merger Agreement)

292. Plaintiffs repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

293. In conjunction with the Amended Merger Agreement, the Conrail Board has relinquished its power to act in the best interest of Conrail in connection with the proposed acquisitions of Conrail by improperly delegating to CSX the ability to call a Special Meeting of Conrail's stockholders.

294. The Conrail Board improperly has given to CSX, pursuant to the amended Merger Agreement, the ability to call a Special Meeting of Conrail stockholders in violation of Section 2521 of the PBCL. CSX is not entitled to call a special meeting of Conrail's stockholders under Section 2521. Conrail has not opted out of Section 2521 by providing its stockholders in its Articles of Incorporation with a right to call a special meeting.

295. Thus, by contractually binding itself to call a special meeting of stockholders at the request of CSX, the Conrail directors have abdicated their fiduciary duties, in violation of their duties of care and loyalty. In addition, they have attempted to circumvent the provisions of the PBCL by allowing CSX to call special meetings of Conrail stockholders, which CSX cannot do under the PBCL.

296. If CSX is going to assert that it should have the power to call special meetings of stockholders under Section 5.1 of the amended Merger Agreement -- a power which