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47. 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.

48. 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

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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 nearterm 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

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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.

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

(a) 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.

(b) 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

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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.

50. 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.



51. 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:

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(a) 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.

(b) 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.

(c) 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

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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.

(d) 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.

(e) 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.

(f) 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

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closely comparable transaction -- NS's September 1994 merger proposal, which as noted above, would imply a price per Conrail share in excess of \$101.

(g) 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.

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

(i) 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.

(j) 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.

(k) That the Conrail Board intends to withhold the filing of the Charter Amendment following its approval by Conrail's stockholders if

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the effectiveness of such amendment would facilitate any bid for Conrail other than the CSX Transaction.

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

(m) 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 defendant directors' fiduciary duty of loyalty.

(n) 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.

(o) That in recommending that Conrail's shareholders tender their shares to CSX in the CSX Offer, Conrail's Board did not conclude that doing

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so would be in the best interests of Conrail's shareholders.

(p) 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.

(q) 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.

(r) 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.



(s) That the Continuing Director Requirement in Conrail's Poison Pill (described below in paragraphs 54 through 60, adopted by Conrail's board in September 1995 and publicly disclosed at that time, is illegal and ultra vires

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under Pennsylvania law and therefore is void and unenforceable.

52. 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 the 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 Pill

53. As noted above, Conrail's directors have long known that it was an attractive business combination candidate to other railroad companies, including NS.

54. 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 compensation, executive succession, and compensation and benefit arrangements satisfying the personal interests of Conrail management and the defendant directors, such as the assignments 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").

55. Prior to adoption of the Continuing Director Requirement, Conrail's Rights Plan was a typical "flip-in, flip-over" plan, designed to make an unsolicited acquisition of Conrail prohibitively expensive to an acquiror.

56. Under the plan, stockholders received a dividend of originally uncertificated, unexercisable rights. The rights would become exercisable and certificated on the so-called "Distribution Date," which under the Rights Agreement is 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, Conrail would issue certificates evidencing the rights, each of which would allow the holder to purchase a share of Conrail stock at a price set above market. Once certificates were issued, the rights could trade separately from the associated shares of Conrail stock.

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57. The rights would "flip in" when, among other things, a person or group obtained 10% ownership of Conrail stock. Upon "flipping 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. The person or group acquiring the 10% or greater ownership, however, would be ineligible to exercise such rights. Thus, the Rights Plan would dilute the acquiror's equity and voting position. The rights would "flip over" if Conrail were to engage in a merger in which it was 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.

58. At any time prior to the Distribution Date, the Board of Directors of Conrail could either redeem the rights for a nominal payment or amend the Rights Agreement to render the rights inapplicable to an acquiror approved by the Board. By virtue of its redemption and amendment provisions, the original Rights Plan placed the power to approve or prevent an acquisition in Conrail's duly elected Board of Directors.

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59. The September 20, 1995 adoption of the Continuing Director Requirement changed this reservation of power. It added an additional requirement for amendment of the Rights Agreement 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 handpicked successors.

60. By adopting the Continuing Director Requirement, the Defendant Directors 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

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hand-picked successors. Thus, the Continuing Director Requirement is the ultimate entrenchment device.

61. 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 Section 1721. Thus, the Defendant Directors were without power to adopt such a provision unilaterally by amending the Rights Agreement.

62. 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 Rights Agreement, it conflicts with Section 3.5 of Conrail's By-Laws and is therefore of no cause or effect. Article Eleven of Conrail's Articles of Incorporation permits Conrail's entire board to be removed without cause by



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 Rights Agreement. 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 cause or effect.

63. Furthermore, the adoption of the Continuing Director Requirement constituted a breach of the Defendant Directors' 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.

64. Moreover, while the Defendant Directors 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 special meeting, the CSX Offer, and (if they have not successfully locked up voting control of Conrail by then) in the next annual election of



directors. The Defendant Directors' 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.

Conrail's Charter Permits The Removal  
and Replacement of Its Entire Board of  
Directors At Its Next Annual Meeting

65. As noted above, plaintiff NS intends to facilitate the NS Proposal 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).

66. The Defendant Directors adopted the Continuing Director Requirement in part because they recognized that under Conrail's Articles, its entire

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Board, even though staggered, may be removed without cause at Conrail's next annual meeting.

67. 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.

68. Article 11 of Conrail's Articles 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.

69. 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

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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

70. The Court may grant the declaratory relief sought herein pursuant to 28 U.S.C. Section 2201. The Defendant Directors' 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.

71. 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.

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Irreparable Injury

72. The Defendant Directors' adoption of the CSX Transaction (with its discriminatory Charter Amendment, poison pill and state antitakeover statute treatment and draconian lock-up provisions) as well as their earlier adoption of the Continuing Director Requirement threatens to deny Conrail's stockholders 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

73. 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.

74. No demand has been made on Conrail's Board of

Directors to prosecute the claims set forth herein

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since, for the reasons set forth below, any such demand would have been a vain and useless act:

a. The Defendant Directors 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 shareholder 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

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their fiduciary duty of loyalty and rendering the business judgment rule inapplicable.

d. The defendant directors' adoption of the break-up 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 bylaws, 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

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ultimate in entrenchment devices, the Defendant Directors would take action that would eliminate it.

g. Additionally, the Defendant Directors 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 Defendant Directors 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 Defendant Directors would certainly not commence legal proceedings to invalidate the Continuing Director Requirement.

75. Plaintiffs are currently beneficial owners of Conrail common stock. Plaintiffs' challenge to the CSX Transaction (including the illegal Charter Amendment, discriminatory treatment, and lock-ups) and to the Continuing Director Requirement presents a strong prima facie case, insofar as the Defendant Directors have deliberately and intentionally, without justification, acted to foreclose free choice by Conrail's shareholders.

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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 depriving plaintiff NS of a unique acquisition opportunity.

76. This action is not a collusive one to confer jurisdiction on a court of the United States which it would not otherwise have.

COUNT ONE  
(Breach of Fiduciary Duty with  
Respect to the Charter Amendment)

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

paragraph.

78. The Conrail directors were and are obligated by their fiduciary duties of due care and loyalty, to act in the best interests of the corporation.

79. In conjunction with the proposed merger, the Conrail board of directors has approved, and recommended that the shareholders approve, an amendment to Conrail's charter. The amendment is required to allow a third party to acquire more than 20% of Conrail's stock.

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80. The Conrail directors have publicly stated their intention to file the amendment only if the requisite number of shares are tendered to CSX.

81. By adopting the illegal Charter Amendment and then discriminately applying it to benefit themselves, the Conrail directors have breached their fiduciary duties of care and loyalty.

82. Plaintiffs have no adequate remedy at law.

COUNT TWO  
(Breach of Fiduciary Duty  
With Respect to the Poison Pill)

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

84. 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.

85. The Conrail Board has announced its intention

to merge with CSX and the Conrail Board has also sought to exempt CSX from the provisions in the poison pill.

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86. Additionally, the Conrail Board has committed itself to not pursue any competing offer for the Company.

87. 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.

88. Plaintiffs have no adequate remedy at law.

COUNT THREE  
(Breach of Fiduciary Duty  
with Respect to the Pennsylvania  
Business Combinations Statute)

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

90. By approving the CSX Offer prior to its consummation, the Defendant Directors 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.

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91. 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 Defendant Directors have breached their fiduciary duties of care and loyalty.

92. Plaintiffs have no adequate remedy at law.

COUNT FOUR  
(Breach of Fiduciary Duty with  
Respect to the Lockup Provisions)

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

94. In conjunction with the merger agreement, the Conrail Board has agreed to termination fees of \$300 million and to the lock-up Stock Option Agreement.

95. 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.

96. 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.

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97. Plaintiffs have no adequate remedy at law.

COUNT FIVE  
Declaratory Relief Against  
Conrail and Defendant Directors  
(The Continuing Director Requirement  
Is Void Under Pennsylvania Law)

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



paragraph.

99. 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 Section 1721.

100. Under Pennsylvania law, agreements restricting the managerial discretion of directors are permissible only in statutory close corporations.

101. 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.

102. Adoption of the Continuing Director Requirement constitutes an unlawful attempt by the Defendant Directors to limit the discretion of a future

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Board of Directors with respect to the management of Conrail. In particular, under the Continuing Director Requirement, a duly elected Board of Directors which 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.

103. Plaintiffs seek a declaration that the Continuing Director Requirement is contrary to Pennsylvania statute and therefore null and void.

104. Plaintiffs have no adequate remedy at law.



COUNT SIX  
Declaratory Relief Against  
Conrail and Defendant Directors  
(The Continuing Director Requirement  
Is Void Under Conrail's Articles  
of Incorporation and By-Laws)

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

106. 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.

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107. 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.

108. 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.

109. 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

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Rights Agreement. The Continuing Director Requirement purports to prevent the stockholders from doing so, and is therefore void and unenforceable.

110. Plaintiffs have no adequate remedy at law.

COUNT SEVEN

Declaratory Relief Against  
Conrail and Defendant Directors  
(Adoption of the Continuing Director Requirement  
Constituted a Breach of the Duty of Loyalty)

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

112. Adoption of the Continuing Director Requirement constituted a breach of the duty of loyalty on the part of the Defendant Directors. 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 Defendant Directors 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 Defendant Directors adopted the Continuing Director Requirement without first conducting a reasonable investigation.

113. 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 Defendant Directors intended their actions to cause Conrail's stockholders to hold such belief.

114. Plaintiffs seek a declaration that the Defendant Directors' adoption of the Continuing Director Requirement was in violation of their fiduciary duty and, thus, null, void and unenforceable.

115. Plaintiffs have no adequate remedy at law.

COUNT EIGHT  
(Declaratory and Injunctive Relief  
Against Conrail and the Defendant  
Directors for Violation of Section 14(a)  
of the Exchange Act and Rule 14a-9  
Promulgated Thereunder)

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

117. 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.

Section 78n(a).

118. 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. Section 240.14a-9.

119. Conrail's Preliminary Proxy Statement contains the misrepresentations detailed in paragraph 48 above. It also omits to disclose the material facts detailed in paragraph 51 above.

120. 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.

121. The defendants' false and misleading statements and omissions described above are essential

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links in defendants' effort to deprive Conrail's shareholders of their ability to exercise choice concerning their investment in Conrail and their voting franchise.

122. Plaintiffs have no adequate remedy at law.

COUNT NINE  
(Against Defendant CSX For Violation  
of Section 14(d) of the Exchange Act and  
Rules Promulgated Thereunder)

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



paragraph.

124. 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 781 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

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title, and such additional information as the Commission may by rules and regulations prosecute . . . ." 15 U.S.C. Section 78n(d).

125. On October 16, 1996, defendant CSX filed with the SEC its Schedule 14D-1 pursuant to Section 14(d).

126. CSX's Schedule 14D-1 contains each of the false and misleading material misrepresentations of fact detailed in paragraph 49 above. Furthermore, CSX's Schedule 14D-1 omits disclosure of the material facts detailed in paragraph 51 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.

127. 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 tender offer.

128. Plaintiffs have no adequate remedy at law.

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COUNT TEN  
(Against Defendant Conrail For Violation  
of Section 14(d) of the Exchange Act And  
Rules Promulgated Thereunder)

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

130. 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 [S.E.C.] 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 [S.E.C.] eight copies of a Tender Offer Solicitation/Recommendation Statement on Schedule 14D-9."

131. 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.

132. Conrail's Schedule 14D-9 contains each of the false and misleading material misrepresentations detailed in paragraph 50 above. Further, Conrail's Schedule 14D-9 omits disclosure of the material facts detailed in paragraph 51 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.

133. 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.

134. Plaintiffs have no adequate remedy at law.

#### COUNT ELEVEN

(Against Conrail and CSX for Violation  
of Section 14(e) of the Exchange Act  
and Rules Promulgated Thereunder)

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

136. 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 violate Section 14(e).

137. 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.

138. 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.

139. The CSX Schedule 14D-1 contains the false and misleading material representations detailed in paragraph 49 above. The CSX Schedule 14D-1 omits

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disclosure of the material facts detailed in paragraph 51 above.

140. The Conrail Schedule 14D-9 contains the false and misleading material misrepresentations detailed in paragraph 50 above. The Conrail Schedule 14D-9 omits disclosure of the material facts detailed in paragraph 51 above.

141. The Conrail Proxy Statement contains the false and misleading material misrepresentations detailed in paragraph 48 above. The Conrail Proxy Statement omits disclosure of the material facts detailed in paragraph 51 above.



142. 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.

143. 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.

144. Absent declaratory and injunctive relief requiring adequate corrective disclosure, plaintiffs, as well as all of Conrail's shareholders, will be

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irreparably harmed. Conrail shareholders will be coerced by defendants' fraudulent and manipulative conduct to sell Conrail to the low bidder. Plaintiffs NS and NAC will be deprived of the unique opportunity to acquire and combine businesses with Conrail.

145. Plaintiffs have no adequate remedy at law.

COUNT TWELVE  
(Against Defendants Conrail and CSX For  
Civil Conspiracy To Violate Section 14  
of the Exchange Act and Rules  
Promulgated Thereunder)

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

147. Defendants Conrail and CSX conspired and agreed to conduct the campaign of misinformation described in paragraphs 48 through 51 above for the purpose of coercing, misleading and manipulating Conrail shareholders

to swiftly transfer control over Conrail to CSX. As set forth in Counts Eight through Eleven 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.

148. Plaintiffs have no adequate remedy at law.

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COUNT THIRTEEN  
(Against Conrail for  
Estoppel/Detrimental Reliance)

149. Plaintiff's repeat and reallege each of the foregoing allegations as if fully set forth in this paragraph.

150. 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 17 through 24, 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.

151. 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.

152. Mr. LeVan and Conrail knew or should have known that their actions, silence, statements and

representations to NS would induce NS to believe that

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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.

153. 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.

154. 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.

155. 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 board of directors and Conrail shareholders. Similarly, any provision in the Merger Agreement between CSX and Conrail 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.

156. By virtue of NS's justifiable reliance on Conrail's and Mr. LeVan's actions, silence and

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statements, it has suffered and will continue to suffer irreparable harm.

157. Plaintiffs have no adequate remedy at law.

COUNT FOURTEEN  
(Unlawful and Ultra Vires Amendment  
of Conrail's Articles of Incorporation)

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

159. The Conrail Board of Directors are attempting to freeze out any competing tender offers and lock-up the CSX deal, to the detriment of shareholders, by improperly maneuvering to "opt-out" of the "antitakeover" provisions of The Pennsylvania Business Corporation Law in a discriminatory fashion. This procedure distorts and subverts the provisions of the Pennsylvania statute.

160. At the Special Meeting of Conrail shareholders, such shareholders will be asked to approve the following amendment to Conrail's articles of incorporation, which has already been approved by the Conrail Board of Directors: "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."

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161. The defendant directors are also asking for authorization to exercise discretion in deciding whether or not to file the amendment. According to the proposed proxy materials, the defendant directors only intend to file the amendment if CSX is in a position to purchase more than 20% of Conrail's shares. Consequently, in effect, this amendment becomes a "deal specific" opt-out.



162. The PBCL does not allow for such a discriminatory application of an opt-out provision. Section 2541(a) of the PBCL provides that Subchapter 25E will not apply to corporations that have amended their articles of incorporation to state that the Subchapter does not apply. Section 1914 of the PBCL provides that an articles amendment "shall be adopted" if it received the affirmative vote of a majority of shareholders entitled to vote on the amendment. While section 1914 also provides that the amendment need not be deemed to be adopted unless it has been approved by the directors, that approval has already been given.

163. Conrail's Board is trying to distort and subvert the provisions of the Pennsylvania statute by keeping a shareholder approved opt-out from taking effect unless the CSX deal is moving forward. The PBCL is quite

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clear -- it allows corporations to exercise general, not selective, opt-outs. Therefore, any action taken at the November 14, 1996 shareholder meeting would be a nullity.

164. If the November 14, 1996 shareholder meeting is allowed to take place and the amendment is passed, NS will suffer irreparable harm.

165. Plaintiffs have no adequate remedy at law.

COUNT FIFTEEN  
Declaratory Relief Against  
Conrail and Defendant Directors  
(Removal of the Entire Conrail Board, Or Any One  
or More of Conrail's Directors, Without Cause)

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

167. 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.

168. There is presently a controversy among Conrail, the Defendant Directors 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.

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169. Plaintiffs seek a declaration that Article 11 of Conrail's Articles 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.

170. 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 rights 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;

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(e) the "Continuing Director" Requirement of Conrail's poison pill rights 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 or any one or more of its directors, can be removed without cause at Conrail's next annual meeting of stockholders; and

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

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;

(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;

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(c) taking any action to redeem rights issued pursuant to Conrail's poison pill rights 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 rights 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; and

(g) holding the Conrail Special Meeting until all necessary corrective disclosures have been made and adequately disseminated to Conrail's stockholders.

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.

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

Respectfully submitted,

By: /s/ Mary A. McLaughlin  
Mary A. McLaughlin, Esquire  
Attorney I.D. No. 24923  
George G. Gordon, Esquire  
Attorney I.D. No. 63072  
Dechert, Price & Rhoads  
4000 Bell Atlantic Tower  
1717 Arch Street



Philadelphia, PA 19103  
(215) 994-4000  
Attorneys for Plaintiffs

Of Counsel:

Steven J. Rothschild  
SKADDEN, ARPS, SLATE, MEAGHER & FLOM  
One Rodney Square  
P.O. Box 636  
Wilmington, DE 19899  
(302) 651-3000

DATED: October 23, 1996

VERIFICATION

Pursuant to Federal Rule of Civil Procedure 23.1  
and 28 U.S.C. Section 1746, I, Henry C. Wolf, hereby verify  
under penalty of perjury that the allegations and averments  
in the foregoing Complaint for Declaratory and Injunctive  
Relief are true and correct.

/s/ Henry C. Wolfe  
Henry C. Wolf  
Executive Vice President  
Norfolk Southern Corporation

Executed on October 22, 1996.

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

SCHEDULE 14D-1

TENDER OFFER STATEMENT

PURSUANT TO  
SECTION 14(D) (1) OF THE SECURITIES EXCHANGE ACT OF 1934  
AND  
SCHEDULE 13D

(AMENDMENT NO. 3)

CONRAIL INC.  
(Name of Subject Company)

CSX CORPORATION  
GREEN ACQUISITION CORP.  
(Bidders)

COMMON STOCK, PAR VALUE \$1.00 PER SHARE  
(Title of Class of Securities)

208368 10 0  
(CUSIP Number of Class of Securities)

SERIES A ESOP CONVERTIBLE JUNIOR  
PREFERRED STOCK, WITHOUT PAR VALUE  
(Title of Class of Securities)

NOT AVAILABLE  
(CUSIP Number of Class of Securities)

MARK G. ARON  
CSX CORPORATION  
ONE JAMES CENTER  
901 EAST CARY STREET  
RICHMOND, VIRGINIA 23219-4031  
TELEPHONE: (804) 782-1400

(Names, Addresses and Telephone Numbers of Persons Authorized  
to Receive Notices and Communications on Behalf of Bidder)

With a copy to:

PAMELA S. SEYMON  
WACHTELL, LIPTON, ROSEN & KATZ  
51 WEST 52ND STREET  
NEW YORK, NEW YORK 10019  
TELEPHONE: (212) 403-1000

This Statement amends and supplements the Tender Offer Statement on Schedule 14D-1 filed with the Securities and Exchange Commission (the "Commission") on October 16, 1996, as previously amended and supplemented (the "Schedule 14D-1"), by Green Acquisition Corp. ("Purchaser"), a Pennsylvania corporation and a wholly owned subsidiary of CSX Corporation, a Virginia corporation ("Parent"), to purchase an aggregate of 17,860,124 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 (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, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 16, 1996 (the "Offer to Purchase"), and in the related Letter of Transmittal (which, together with any amendments or supplements thereto, constitute the "Offer") at a purchase price of \$92.50 per Share, net to the tendering shareholder in cash. Capitalized terms used and not defined herein shall have the meanings assigned such terms in the Offer to Purchase and the Schedule 14D-1.

ITEM 10. ADDITIONAL INFORMATION.

(b)-(c) Section 16 of the Offer to Purchase is hereby amended and supplemented by changing the words "will request" to "have requested" in, and adding ", and such Office has done so" at the end of, the fifth sentence of the first paragraph under the subsection entitled "Antitrust." In addition, Section 16 is hereby amended and supplemented by adding the following sentence after the above-modified sentence:

On this basis, Purchaser expects that the condition set forth in subsection (1)(ii) of Section 15 will be satisfied.

(e) (i) Section 16 of the Offer to Purchase is hereby further amended and supplemented by adding the following paragraph at the end of the subsection entitled "Norfolk Southern Litigation":

On October 30, 1996, NSC filed a First Amended Complaint for Declaratory and Injunctive Relief in the United States District Court for the Eastern District of Pennsylvania. The Amended Complaint, among other things, adds allegations related to certain provisions in the Merger Agreement and the Rights Agreement.

A copy of the above-described Amended Complaint is attached hereto as Exhibit (c)(6), and the foregoing summary description is qualified in its entirety by reference to such exhibit.

(ii) Section 16 of the Offer to Purchase is hereby further amended and supplemented by adding the following paragraph after the subsection entitled "Norfolk Southern Litigation":

Shareholder Litigation. On October 30, 1996, three shareholders of the Company filed a complaint, individually and derivatively on behalf of the Company, against the Company, Parent and certain other defendants in the United States District Court for the Eastern District of Pennsylvania. Plaintiffs request declaratory and injunctive relief from, among other things, defendants' alleged violations of federal securities laws, holding the Pennsylvania Special Meeting, consummation of the Offer, alleged illegal and ultra vires acts by the Company and its directors, including seeking approval of the Articles Amendment, and alleged breach of fiduciary duties by directors of the Company.

(f) On October 30, 1996, Parent issued a press release in response to a letter sent by NSC to shippers. A copy of the press release is attached hereto as Exhibit (a)(11), and the foregoing description of such document is qualified in its entirety by reference to such exhibit.

ITEM 11. MATERIAL TO BE FILED AS EXHIBITS.

- (a)(1) -- Offer to Purchase, dated October 16, 1996.\*
- (a)(2) -- Letter of Transmittal.\*
- (a)(3) -- Notice of Guaranteed Delivery.\*
- (a)(4) -- Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.\*
- (a)(5) -- Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.\*
- (a)(6) -- Guidelines for Certification of Taxpayer Identification Number on Substitute Form W-9.\*

\* Previously filed.



- (a) (7) -- Text of Press Release issued by Parent on October 15, 1996.\*
- (a) (8) -- Form of Summary Advertisement, dated October 16, 1996.\*
- (a) (9) -- Text of Press Release issued by Parent on October 22, 1996.\*
- (a) (10) -- Text of Press Release issued by Parent on October 23, 1996.\*
- (a) (11) -- Text of Press Release issued by Parent on October 30, 1996.
- (b) (1) -- Commitment Letter, dated October 21, 1996.\*
- (c) (1) -- Agreement and Plan of Merger, dated as of October 14, 1996, by and among Parent, Purchaser and the Company.\*
- (c) (2) -- Company Stock Option Agreement, dated as of October 14, 1996, between Parent and the Company.\*
- (c) (3) -- Parent Stock Option Agreement, dated as of October 14, 1996, between Parent and the Company.\*
- (c) (4) -- Form of Voting Trust Agreement.\*
- (c) (5) -- Complaint in Norfolk Southern Corporation, et al. v. Conrail Inc., et al., No. 96-CV-7167, filed on October 23, 1996.\*
- (c) (6) -- First Amended Complaint in Norfolk Southern Corporation, et al. v. Conrail Inc., et al., No. 96-CV-7167, filed on October 30, 1996.

SIGNATURE

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

CSX CORPORATION

By: /s/ Mark G. Aron

Name: Mark G. Aron

Title: Executive Vice President-  
Law and Public Affairs

Dated: October 31, 1996

SIGNATURE

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

GREEN ACQUISITION CORP.

By: /s/ Mark G. Aron  
Name: Mark G. Aron  
Title: General Counsel  
and Secretary

Dated: October 31, 1996

# EXHIBIT INDEX

Exhibit No.	Description
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(a) (5)	-- Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nom- inees.*
(a) (6)	-- Guidelines for Certification of Taxpayer Identi- fication Number on Substitute Form W-9.*
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(a) (11)	-- Text of Press Release issued by Parent on Octo- ber 30, 1996.
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\* Previously filed.



- (c) (4) -- Form of Voting Trust Agreement.\*
- (c) (5) -- Complaint in Norfolk Southern Corporation, et al. v. Conrail Inc., et al., No. 96-CV-7167, filed on October 23, 1996.\*
- (c) (6) -- First Amended Complaint in Norfolk Southern Corporation, et al. v. Conrail Inc., et al., No. 96-CV-7167, filed on October 30, 1996.

[LOGO]

[CSX Corporation letterhead]

CSX Terms NSC Shipper Letter an 'Act of Desperation'

\*RICHMOND, Va., Oct. 30 /PRNewswire/ -- CSX Corporation (NYSE: CSX) today issued the following statement in response to Norfolk Southern's recently released letter to shippers:

\*Norfolk Southern's letter to shippers is a thinly disguised attempt to re-write more than 20 years of regulatory history in the United States. This act of desperation must reflect their own awareness that Norfolk Southern has been and continues to pursue a loser's strategy, solely intent on gaining or forcing competitive concessions from CSX/CRR. Moreover, this letter seems to be in disregard of the Surface Transportation Board's established process, with which we are fully prepared to comply.

\*Shippers as well as employees and shareholders well know the fact that only after it became overwhelmingly apparent that Norfolk Southern's only interest was in consuming Conrail in its entirety, did Conrail and CSX commence discussions.

\*The result of that effort was our proposed merger of equals, following which we immediately reached out to Norfolk Southern, seeking their involvement as the other major rail carrier in the region. They ignored those overtures, only to now set forth their position in a letter to shippers.

\*The business combination of Conrail Inc. (CRR) and CSX Corporation makes excellent strategic sense and good, sound public policy, serving the vital best interests of employees, customers, shareholders and the communities served by these two excellent organizations.

\*As each day passes, we are strengthened in this view and we look forward to working closely with our colleagues at Conrail in bringing this transaction to fruition in an effective and constructive manner. We remain willing to meet with Norfolk Southern and explore our mutual interests with them, as we have indicated in the past."

CSX Corporation, headquartered in Richmond, Va., is an international transportation company offering a variety of rail, container-shipping, intermodal, trucking, barge and contract logistics services.

CSX Corporation's Internet address is <http://www.csx.com>

SOURCE CSX Corporation

-0-

10/30/96

/CONTACT: Thomas E. Hoppin of CSX, 804-782-1450/  
(CSX)

-2-

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

-----X	:	
NORFOLK SOUTHERN CORPORATION, a	:	
Virginia corporation,	:	
Three Commercial Place	:	
Norfolk, VA 23510-2191,	:	
	:	
Atlantic Acquisition Corporation	:	
Three Commercial Place	:	
Norfolk, VA 23510-2191,	:	
	:	
and	:	
	:	
Kathryn B. McQuade	:	
5114 Hunting Hills Drive	:	
Roanoke, VA 24014,	:	
	:	
Plaintiffs,	:	
	:	
-against-	:	
	:	C.A. No. 96-CV-7167
Conrail Inc., a Pennsylvania	:	
corporation,	:	
Two Commerce Square	:	
2001 Market Street	:	
Philadelphia, PA 19101,	:	
	:	
David M. LeVan	:	
245 Pine Street	:	
Philadelphia, PA 19103-7044,	:	
	:	
H. Furlong Baldwin	:	
4000 N. Charles Street	:	
Baltimore, MD 21218-1756,	:	
	:	
Daniel B. Burke	:	
Capital Cities/ABC Inc.	:	
77 W. 66th Street	:	
New York, NY 10023-6201,	:	
	:	
(Caption continued on next page)		



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

Roger S. Hillas	:
Two Commerce Square	:
2001 Market Street	:
Philadelphia, PA 19101,	:
	:
Claude S. Brinegar	:
1574 Michael Lane	:
Pacific Palisades, CA 90272-2026,	:
	:C.A. No. 96-CV-7167
Kathleen Foley Feldstein	:
147 Clifton Street	:
Belmont, MA 02178-2603,	:
	:
David B. Lewis	:
1755 Burns Street	:
Detroit, MI 48214-2848,	:
	:
John C. Marous	:
109 White Gate Road	:
Pittsburgh, PA 15238,	:
	:
David H. Swanson	:
Countrymark Inc.	:
950 N. Meridian Street	:
Indianapolis, IN 46204-3909,	:
	:
E. Bradley Jones	:
2775 Lander Road	:
Pepper Pike, OH 44124-4808,	:
	:
Raymond T. Schuler	:
Two Commerce Square	:
2001 Market Street	:
Philadelphia, PA 19101,	:
	:
and	:
	:
CSX Corporation	:
One James Center	:
901 East Cary Street	:
Richmond, VA 23219,	:
	:
Defendants.	:
-----x	:

FIRST AMENDED COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, by their undersigned attorneys, as and for their First 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 for eighty-some dollars in cash and stock 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 \$100 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 \$100 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 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 a coercive front-end loaded cash tender offer, 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. As of the close of business on October 29, 1996, the blended value of the CSX Transaction was slightly more than \$85 per Conrail share. Integral to this deal are executive succession and compensation guarantees for Conrail man-

agement 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.

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. Indeed, it appears that defendants are



taking Pennsylvania's statutory regime as carte blanche to insulate Conrail, through the first half of the first decade of the next millennium, from any acquisition by any party (including CSX) other than the CSX Transaction with its current pricing and other terms, regardless of how favorable any such other proposed acquisition might be to Conrail's shareholders, customers, and other constituencies. 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 will lose their power to make the poison pill inapplicable to any acquisition transaction other than the CSX Transaction on November 7, unless CSX agrees to let them postpone that date. Thus, the Poison Pill Lock-In threatens to lock-up Conrail, even from friendly transactions, until the year 2005, when the poison pill rights expire. That is, unless the November 7 date is postponed, Conrail will be unable to be acquired other than through the CSX Transaction, under its current terms, for a period of almost nine years. Put simply, the CSX Merger Agreement purports to require Conrail to swallow its own poison pill. The Poison Pill Lock-In is an unprecedented, draconian and utterly preclusive lock-up device, is ultra vires under Pennsylvania law, and constitutes a total abdication

and breach of the Conrail directors' fiduciary duties of loyalty and care. To make matters worse, in violation of the federal securities laws, the defendants in their tender offer filings affirmatively misrepresented key terms of the Conrail Poison Pill Plan bearing directly upon the Poison Pill Lock-In.

**The 180-Day Lock-Out.** The CSX Merger Agreement audaciously and unashamedly purports 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. Put simply, Conrail's directors have agreed to take a six-month leave of absence during what may be the most critical six months in Conrail's history. The 180-Day 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 \$100 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.

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. Sections 1331 and 1367.

8. Venue is proper in this District pursuant to 28 U.S.C. Section 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 bil-



lion. 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, internodal, 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, Conrail common stock not tendered and accepted in the NS Offer would be 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 represent 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 is 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. Two circumstances relating to the CSX Transaction create the current crisis. First, as noted above, and as explained more fully below, on November 7, 1996, a "Distribution Date" will occur under Conrail's Poison Pill Plan, after which time Conrail's Board will lose the ability to remove the poison pill rights as an obstacle to any transaction other than the CSX Transaction. This event, if it is allowed to occur, will irreparably harm Conrail, its shareholders, and other constituencies by making Conrail incapable of being acquired until the year 2005, other than through the CSX Transaction as it is currently proposed.



19. Even if the 'Distribution Date' problem with Conrail's Poison Pill Plan were remedied, the fate of Conrail could be effectively determined on November 14, 1996, just 23 business days after announcement of the CSX Transaction. That is when Conrail shareholders will be called upon to vote on a proposed amendment to Conrail's Articles of Incorporation designed to facilitate the swift transfer of control in favor of CSX, and only CSX. If they approve the Charter Amendment, and then, in the misinformed belief that the NS Proposal does not present a viable and superior alternative, tender 40% of Conrail's stock to CSX, Conrail's shareholders will have been coerced by defendants' fraudulent and manipulative tactics to sell Conrail to the low bidder.

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

20. 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.

21. 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.

22. 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

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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.

23. 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.

24. 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

25. 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.

26. At its September 24, 1999 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.

27. 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

28. 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

29. 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 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.

30. 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."

31. 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

32. 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

33. 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

34. 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 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."

35. 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.

#### The CSX Transaction

36. 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

37. Perhaps the most onerous of these provisions, in terms of the drastic consequences it threatens

to Conrail, its stockholders and its other legitimate constituencies, is the poison pill 'lock-in' provision (the 'Poison Pill Lock-In'). 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.

38. 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 threatens grave, imminent and irreparable harm to Conrail and all of its constituencies.

39. The problem is that on November 7, 1996, a "Distribution Date", as that term is defined in the Conrail Poison Pill Plan, will occur. Once that happens,



the 'Rights' issued under the Plan will no longer be redeemable by the Conrail Board, and the Plan will no longer be capable of amendment to facilitate any takeover or merger proposal. Put simply, once the Distribution Date occurs, Conrail's directors will 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 will 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 will be able to acquire Conrail in a transaction other than the CSX Transaction. In other words, if Conrail is not acquired by CSX in the CSX Transaction for the level of cash and stock currently offered by CSX, then it appears that Conrail will not be capable of being acquired until at least 2005. In essence, Conrail is about to swallow its own poison pill.

40. 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.

41. 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 is 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.

42. 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 "flipping 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.

43. 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.

44. 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 will occur on November 7, 1996 -- ten business days after the date when NS commenced the Offer -- and Conrail's directors have entered into an agreement which purports to tie their hands so that they cannot do anything to prevent it.

45. 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.

46. 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 has contractually purported to bind itself not to do so.

47. If the Distribution Date is permitted to occur, Conrail, its shareholders, and its other constituents face 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 will 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 combi-

nation 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.

48. The irreparable harm that will befall Conrail and all of its constituencies if the Distribution Date is permitted to occur is manifest.

#### The 180-Day Lock-Out

49. 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 180 days 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 CSX Offer and Conrail shareholder approval of the CSX Merger, or after 180 days from the date of the CSX Merger Agreement, 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. Thus, 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.

50. 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 "180-Day 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 for a period of 180 days from the date of the CSX Merger Agreement. 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 180-day period.

51. 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.

52. As with the Poison Pill Lock-In, this "180-Day 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 180-day Lock-Out, the Conrail directors have determined to take a six-month leave of absence despite their apparent recognition that their fiduciary duties could require them to act during this critical time.

53. The effect of this provision is to lock out competing superior proposals to acquire Conrail for at least six months, thus giving the CSX Transaction an unfair time value advantage over other offers and adding to the coercive effects of the CSX Transaction.

54. Because it purports to restrict or limit the exercise of the fiduciary duties of the Conrail directors, the 180-Day Lock-Out provision of the CSX Merger Agreement is ultra vires, void and unenforceable. Further, by agreeing to the 180-Day Lock-Out as part of the CSX Merger Agreement, the Conrail directors breached their fiduciary duties of loyalty and care.

## Rapid Transfer of Control

55. The CSX Transaction is structured to include (i) a 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.

56. 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."

57. 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

58. Conrail's Preliminary Proxy Materials for the November 14, 1996 Special Meeting set forth the resolution to be voted upon by Conrail's shareholders as follows:

An amendment (the "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 fol-

lows: 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; and further, that the Board of Directors of Conrail, in its discretion, shall be authorized to direct certain executive officers of Conrail to file or not to file the Articles of Amendment to Conrail's Articles of Incorporation reflecting such Amendment or to terminate the Articles of Amendment prior to their effective date, if the Board determines such action to be in the best interests of Conrail.

59. Further, the preliminary proxy materials state that

Pursuant to the Merger Agreement and in order to facilitate the transactions contemplated thereby, if the [Charter Amendment] is approved, Conrail would be required to file the Amendment with the Pennsylvania Department of State so as to permit the acquisition by CSX of in excess of 20% of the shares, such filing to be made and effective immediately prior to such acquisition. If CSX is not in a position to make such acquisition (because, for example, shares have not been tendered to CSX, Conrail is not required to make such filing, (although approval of the [Charter Amendment] will authorize Conrail to do so) and Conrail does not currently intend to make such filing unless it is required under the Merger Agreement to permit CSX to acquire in excess of 20% of the Shares.

60. Thus, if Conrail shareholders fail to tender sufficient shares to CSX to permit CSX to acquire in excess of 20% of the shares, for example, because they wish to instead accept the superior NS Proposal, the Defendant Directors are actually asking Conrail share-



holders holders to grant them the authority to discriminatorily withhold the filing of the Charter Amendment, and thereby attempt to prevent consummation of the NS Proposal.

#### The \$300 Million Break-up Fee

61. 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.

62. This breakup fee is disproportionately 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

63. 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.

64. 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.

65. 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 \$64.82 per share.

66. 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 offer of \$100 per share, the dilution attributable to the Stock Option would be \$119,666,077.50. At a hypothetical offering price of \$101 per share, the dilution would total \$135,621,554.50. This lock-up structure serves no legitimate corporate purpose, as it imposes increasingly severe dilution penalties the higher the competing bid!

67. At the current \$100 per share level of NS's bid, the sum of the \$300 million break-up fee and

Stock Option dilution of \$119,666,077.50 constitutes nearly 5.2% of the CSX Transaction's \$8.1 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

68. Finally, the Conrail board has breached its fiduciary duties by electively (i) rendering Conrail's Poison Pill Plan inapplicable to the 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.

69. 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.

70. 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

71. 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.

72. 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.

73. 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.

#### Defendants' Campaign Of Misinformation

74. 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.

75. 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.

76. 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 termi-

dates on the Distribution Date, not the date when someone becomes an Acquiring Person. These misrepresentations operate to conceal the fact that the Conrail Board will lose its power to control the drastic effects of the poison pill ten days following commencement of a competing tender offer.

(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.

77. 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.

78. 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," which



will occur 10 business days from the date when a competing tender offer for Conrail is commenced.

(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 follow-

ing 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 below in paragraphs 80 through 88, 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.

79. 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

80. As noted above, Conrail's directors have long known that it was an attractive business combination candidate to other railroad companies, including NS.

81. Neither Conrail's 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 assignments 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").

82. 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 dilutive effects of the rights ineffective by redeeming or amending them.

83. 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.

84. 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.

85. 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 Section 1721. Thus, the Director Defendants were without power to adopt such a provision unilaterally by amending the Rights Agreement.

86. 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 cause or effect.

87. 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.

88. Moreover, while the Director Defendants disclosed the adoption of the Continuing Director Re-

quirement, 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 special meeting, the CSX Offer, 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 said other constituencies. Accordingly, such action should be declared void and of no force or effect. Furthermore, adequate corrective disclosure should be required.

Conrail's Charter Permits The Removal  
and Replacement of its Entire Board of  
Directors At its Next Annual Meeting

89. As noted above, plaintiff NS intends to facilitate the NS Proposal 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 (accord-

ing to Conrail's April 3, 1996 Proxy Statement, as filed with the Securities and Exchange Commission).

90. 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.

91. 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.

92. 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.

93. 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

94. The Court may grant the declaratory relief sought herein pursuant to 28 U.S.C. Section 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.

95. 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

96. 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 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

97. 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.

98. 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 render 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.

99. Plaintiffs are currently beneficial owners of Conrail common stock. Plaintiffs' challenge to the CSX Transaction (including 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.

100. 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)

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

102. The Conrail directors were and are obligated by their fiduciary duties of due care and loyalty, to act in the best interests of the corporation.

103. In conjunction with the proposed merger, the Conrail board of directors has approved, and recommended that the shareholders approve, an amendment to Conrail's Charter. The amendment is required to allow a third party to acquire more than 20% of Conrail's stock.

104. The Conrail directors have publicly stated their intention to file the amendment only if the requisite number of shares are tendered to CSX.

105. By adopting the illegal Charter Amendment and then discriminately applying it to benefit themselves, the Conrail directors have breached their fiduciary duties of care and loyalty.

106. Plaintiffs have no adequate remedy at law.

COUNT TWO  
(Breach of Fiduciary Duty  
With Respect to the Poison Pill)

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

108. The Conrail board of directors adopted its Poison Pill Plan with the ostensible purpose of protect-

ing its shareholders against the consummation of unfair acquisition proposals that may fail to maximize shareholder value.

109. 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.

110. Additionally, the Conrail Board has committed itself to not pursue any competing offer for the Company.

111. 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.

112. Plaintiffs have no adequate remedy at law.

COUNT THREE  
(Breach of Fiduciary Duty  
with Respect to the Pennsylvania  
Business Combinations Statute)

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

114. 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.

115. 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.

116. 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)

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

118. 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.

119. 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.

120. 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.

121. Plaintiffs, as well as all of Conrail's shareholders and other legitimate constituencies, face imminent irreparable harm unless the poison pill lock-in provisions are declared ultra vires, void and unenforceable, and Conrail's directors are enjoined to take such action as is necessary to postpone the "Distribution Date" under the Conrail Poison Pill Plan and retain their power to redeem and/or amend the poison pill rights.

122. 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)

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

124. 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, and, unless they are enjoined to take such action as is necessary to postpone the occurrence of a "Distribution Date" under the Conrail Poison Pill Plan, will by their inaction lock Conrail into a situation in which it cannot be acquired, regardless of how beneficial the proposed transaction is, until the year 2005, other than through the CSX Transaction at its current price.

125. Thus, by entering into the CSX Transaction and by failing to postpone the "Distribution Date", the Director Defendants have intentionally, in violation of their duty of loyalty, completely abdicated their fiduciary duties and responsibilities. Alternatively, the Director Defendants, by entering into the Poison Pill Lock-In provision of the CSX Merger Agreement without

adequate investigation and comprehension of the consequences of their action, and by failing to take action to rescind the Poison Pill Lock-In provision and postpone the "Distribution Date", have acted and are acting recklessly and with gross negligence.

126. Absent prompt injunctive relief, plaintiffs, as well as Conrail and all of its legitimate constituencies, face imminent irreparable harm.

127. Plaintiffs have no adequate remedy at law.

COUNT SIX  
(Declaratory Judgment Against All  
Defendants That the 180-Day Lock-Out  
is Void Under Pennsylvania Law)

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

129. By purporting to bind Conrail and its director 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 180-Day Lock-Out provision of the CSX Merger Agreement purports to restrict the managerial discretion of Conrail's directors.



130. By purporting to prohibit Conrail's directors from terminating the CSX Merger Agreement when their fiduciary duties would require them to do so, the 180-Day Lock-Out provision of the CSX Merger Agreement purports to restrict the managerial discretion of Conrail's directors.

131. 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.

132. No statute countenances Conrail's and the Director Defendants' adoption of the 180-Day 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.

133. Unless the 180-Day 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.

134. Plaintiffs have no adequate remedy at law.

COUNT SEVEN  
(Against the Defendant Directors  
for Breach of Fiduciary Duty with

Respect to the 180-Day Lock-Out)

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

136. By entering into the 180-Day 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.

137. Thus, by entering into the 180-Day Lock-Out provision, the Conrail directors have abdicated their fiduciary duties, in violation of their duties of loyalty and care.

138. Plaintiffs have no adequate remedy at law.

COUNT EIGHT  
(Breach of Fiduciary Duty with  
Respect to the Lock-Up Provisions)

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

140. 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.

141. These provisions confer no benefit upon Conrail's shareholders and in fact operate and are in-

tended to operate to impede or foreclose further bidding for Conrail.

142. 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.

143. 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)

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

145. 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 Section 1721.

146. Under Pennsylvania law, agreements restricting the managerial discretion of directors are permissible only in statutory close corporations.

147. 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.

148. 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.

149. Plaintiffs seek a declaration that the Continuing Director Requirement is contrary to Pennsylvania statute and, therefore, null and void.

150. 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)

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



152. 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.

153. 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.

154. 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.

155. 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.

156. 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)

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

158. 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.

159. 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.

160. 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.

161. Plaintiffs have no adequate remedy at law.

COUNT TWELVE  
(Against Conrail And The Director  
Defendants For Actionable Coercion)

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

163. 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.

164. Conrail and its directors are seeking the approval by Conrail's shareholders of the Charter Amendment and are recommending such approval.

165. Conrail and its directors are seeking the tender by Conrail's shareholders of their shares into the CSX Offer and are recommending such tender.

166. In seeking such action and making such recommendations, Conrail and its directors have sought to create the impression among the Conrail shareholders that



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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 180-Day Lock-Out, and the continuing director provisions of the Conrail Poison Pill Plan.

167. 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.

168. 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.

169. 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.

170. Plaintiffs have no adequate remedy at law.

COUNT THIRTEEN  
(Against CSX For Aiding And Abetting)

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

172. 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 Nine and Count Twelve of this complaint.

173. CSX's knowing and active participation in such conduct has harmed plaintiffs and threatens irreparable harm to plaintiffs if not enjoined.

174. 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)

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

176. 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. Section 78n(a).

177. 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. Section 240.14a-9.

178. Conrail's Preliminary Proxy Statement contains the misrepresentations detailed in paragraph 75



above. It also omits to disclose the material facts detailed in paragraph 78 above.

179. 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.

180. 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.

181. 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)

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

183. 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 781 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 prosecute....\* 15 U.S.C. Section 78n(d).

184. On October 16, 1996, defendant CSX filed with the SEC its Schedule 14D-1 pursuant to Section 14(d).

185. CSX's Schedule 14D-1 contains each of the false and misleading material misrepresentations of fact detailed in paragraph 76 above. Furthermore, CSX's Schedule 14D-1 omits disclosure of the material facts detailed in paragraph 78 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.

186. 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.

187. 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)

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

189. 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."

190. 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.

191. Conrail's Schedule 14D-9 contains each of the false and misleading material misrepresentations detailed in paragraph 77 above. Further, Conrail's Schedule 14D-9 omits disclosure of the material facts detailed in paragraph 78 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.

192. 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.

193. 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)



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

195. 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).

196. 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.

197. 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.

198. The CSX Schedule 14D-1 contains the false and misleading material misrepresentations detailed in paragraph 76 above. The CSX Schedule 14D-1 omits disclosure of the material facts detailed in paragraph 78 above.

199. The Conrail Schedule 14D-9 contains the false and misleading material misrepresentations detailed in paragraph 77 above. The Conrail Schedule 14D-9 omits disclosure of the material facts detailed in paragraph 78 above.

200. The Conrail Proxy Statement contains the false and misleading material misrepresentations detailed in paragraph 75 above. The Conrail Proxy Statement omits disclosure of the material facts detailed in paragraph 78 above.

201. 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.

202. 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.

203. 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.

204. 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)

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

206. Defendants Conrail and CSX conspired and agreed to conduct the campaign of misinformation described in paragraphs 48 through 51 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 hereunder.

207. Plaintiffs have no adequate remedy at law.

COUNT NINETEEN  
(Against Conrail for  
Estoppel/Detrimental Reliance)

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

209. 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 17 through 24, 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.

210. 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.

211. 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.

212. 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.

213. 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.

214. 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.

215. 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.

216. Plaintiffs have no adequate remedy at law.

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

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

218. The Conrail Board of Directors is attempting to freeze out any competing tender offers and lock up the CSX deal, to the detriment of shareholders, by improperly maneuvering to "opt-out" of the "anti-takeover" provisions of the Pennsylvania Business Corporation Law in a discriminatory fashion. This procedure distorts and subverts the provisions of the Pennsylvania statute.

219. At the special meeting of Conrail shareholders, such shareholders will be asked to approve the following amendment to Conrail's Articles of Incorporation, which has already been approved by the Conrail

Board of Directors: "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."

220. The Director Defendants are also asking for authorization to exercise discretion in deciding whether or not to file the Charter Amendment. According to the proposed proxy materials, the defendant directors only intend to file the Charter Amendment if CSX is in a position to purchase more than 20% of Conrail's shares. Consequently, in effect, the Charter Amendment becomes a "deal specific" opt-out.

221. The PBCL does not allow for such a discriminatory application of an opt-out provision. Section 2541(a) of the PBCL provides that Subchapter 25E will not apply to corporations that have amended their articles of incorporation to state that the Subchapter does not apply. Section 1914 of the PBCL provides that an articles amendment "shall be adopted" if it received the affirmative vote of a majority of shareholders entitled to vote on the amendment. While section 1914 also provides that the amendment need not be deemed to be adopted unless it has been approved by the directors, that approval has already been given.

222. Conrail's Board is trying to distort and subvert the provisions of the Pennsylvania statute by keeping a shareholder-approved opt-out from taking effect unless the CSX deal is moving forward. The PBCL is quite clear -- it allows corporations to exercise general, not selective, opt-outs. Therefore, any action taken at the November 14, 1996 shareholder meeting would be a nullity.

223. If the November 14, 1996 shareholder meeting is allowed to take place and the amendment is passed, NS will suffer irreparable harm.

224. Plaintiffs have no adequate remedy at law.

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)

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

226. 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.

227. 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.

228. 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.

229. 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 By-laws; 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 180-Day Lock-Out provision in the CSX Merger Agreement is ultra vires under Pennsylvania law and, therefore, void; and

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

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;

(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; and

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

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.

Respectfully Submitted:

/s/ Mary A. McLaughlin

Mary A. McLaughlin  
I.D. No. 24923  
George G. Gordon  
I.D. No. 63072  
Dechert, Price & Rhoads  
4000 Bell Atlantic Tower  
1717 Arch Street  
Philadelphia, PA 19103  
(215) 994-4000  
Attorneys for Plaintiffs

Of Counsel:

Steven J. Rothschild  
SKADDEN, ARPS, SLATE, MEAGHER & FLOM  
One Rodney Square  
P.O. Box 636  
Wilmington, DE 19899  
(302) 651-3000

DATED: October 30, 1996

VERIFICATION

Pursuant to Federal Rule of Civil Procedure 23.1 and 28 U.S.C. Section 1746, I, Henry C. Wolf, hereby verify under penalty of perjury that the allegations and averments in the foregoing First Amended Complaint for Declaratory and Injunctive Relief are true and correct.

/s/ Henry C. Wolf

---

Henry C. Wolf  
Executive Vice President  
Norfolk Southern Corporation

Executed on October 29, 1996.

CERTIFICATE OF SERVICE

I hereby certify that I caused this day the foregoing  
First Amended Complaint For Declaratory And Injunctive Relief  
to be served on the following attorneys in the manner specified  
below:

Theodore N. Mirvis, Esq.  
Wachtell, Lipton, Rosen & Katz  
51 West 52nd Street  
New York, New York 10019-6150  
By Fax and Fedex

David H. Pittinsky, Esq.  
Ballard Spahr Andrews & Ingersoll  
1735 Market Street  
51st Floor  
Philadelphia, PA 19103-7599  
By Hand Delivery

Thomas L. VanKirk, Esq.  
Stanley Yorsz, Esq.  
Buchanan Ingersoll  
Professional Corporation  
One Oxford Centre  
301 Grant Street, 20th Floor  
Pittsburgh, PA 15219  
By Fax and Fedex

John Beerbower, Esq.  
Gerald Ford, Esq.  
Cravath, Swaine & Moore  
Worldwide Plaza  
825 Eighth Avenue  
New York, New York 10019-7475  
By Fax and Fedex

/s/ George G. Gordon

---

George G. Gordon, Esq.

Dated: October 30, 1996

<DESCRIPTION>AMENDMENT NO. 4 TO SCHEDULE 14D-1  
<TEXT>

<PAGE> 1

-----  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
-----

SCHEDULE 14D-1

TENDER OFFER STATEMENT  
(AMENDMENT NO. 4)

PURSUANT TO  
SECTION 14(D) (1) OF THE SECURITIES EXCHANGE ACT OF 1934  
AND

SCHEDULE 13D  
-----

CONRAIL INC.  
(NAME OF SUBJECT COMPANY)  
CSX CORPORATION  
GREEN ACQUISITION CORP.  
(BIDDERS)

COMMON STOCK, PAR VALUE \$1.00 PER SHARE  
(TITLE OF CLASS OF SECURITIES)  
208368 10 0  
(CUSIP NUMBER OF CLASS OF SECURITIES)

SERIES A ESOP CONVERTIBLE JUNIOR  
PREFERRED STOCK, WITHOUT PAR VALUE  
(TITLE OF CLASS OF SECURITIES)

NOT AVAILABLE  
(CUSIP NUMBER OF CLASS OF SECURITIES)

MARK G. ARON  
CSX CORPORATION  
ONE JAMES CENTER  
901 EAST CARY STREET  
RICHMOND, VIRGINIA 23219-4031  
(NAME, ADDRESS AND TELEPHONE NUMBER OF PERSON  
AUTHORIZED TO RECEIVE NOTICES AND COMMUNICATIONS ON BEHALF OF BIDDER)  
WITH A COPY TO:

PAMELA S. SEYMON  
WACHTELL, LIPTON, ROSEN & KATZ  
51 WEST 52ND STREET  
NEW YORK, NEW YORK 10019  
TELEPHONE: (212) 403-1000  
-----

CALCULATION OF FILING FEE  
-----

<TABLE>  
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TRANSACTION VALUATION\*

AMOUNT OF FILING FEE\*\*  
-----

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\$1,964,613,640  
</TABLE>

\$392,923

- 
- \* For purposes of calculating the filing fee only. This calculation assumes the purchase of an aggregate of 17,860,124 Shares of Common Stock, par value \$1.00 per share, or Series A ESOP Convertible Junior Preferred Stock, without par value, of Conrail Inc. at \$110.00 net per share in cash.
- \*\* 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 Green Acquisition Corp. for such number of Shares.

[X] 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.

<TABLE>

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Amount Previously Paid:  
Form or Registration No.:  
Filing Party:

<C>

\$330,413  
Schedule 14A  
CSX Corporation and  
Green Acquisition Corp.  
October 16, 1996

Date Filed:

</TABLE>

<PAGE> 2

This Statement amends and supplements the Tender Offer Statement on Schedule 14D-1 filed with the Securities and Exchange Commission (the "Commission") on October 16, 1996, as previously amended and supplemented (the "Schedule 14D-1"), by Green Acquisition Corp. ("Purchaser"), a Pennsylvania corporation and a wholly owned subsidiary of CSX Corporation, a Virginia corporation ("Parent"), to purchase an aggregate of 17,860,124 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 (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, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 16, 1996 (the "Offer to Purchase"), as amended and supplemented by the Supplement thereto, dated November 6, 1996 (the "Supplement"), and in the related Letters of Transmittal (which, together with any amendments or supplements thereto, constitute the "Offer") at a purchase price of \$110 per Share, net to the tendering shareholder in cash. Capitalized terms used and not defined herein shall have the meanings assigned such terms in the Offer to Purchase, the Supplement and the Schedule 14D-1.

#### ITEM 1. SECURITY AND SUBJECT COMPANY.

Item 1(b) is hereby amended and supplemented by reference to the Introduction and Sections 1 and 3 of the Supplement, which Introduction and Section are incorporated herein by reference.

Item 1(c) is hereby amended and supplemented by reference to Section 2 of the Supplement, which Section is incorporated herein by reference.

#### ITEM 3. PAST CONTACTS, TRANSACTIONS OR NEGOTIATIONS WITH THE SUBJECT COMPANY.

Item 3(b) is hereby amended and supplemented by reference to Section 5 of

the Supplement, which Section is incorporated herein by reference.

ITEM 4. SOURCE AND AMOUNT OF FUNDS OR OTHER CONSIDERATION.

Item 4(a)-(b) is hereby amended and supplemented by reference to Section 4 of the Supplement, which Section 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 reference to Section 7 of the Supplement, which Section is incorporated by reference.

ITEM 10. ADDITIONAL INFORMATION.

Item 10(b)-(c), (e) is hereby amended and supplemented by reference to Section 8 of the Supplement, which Section is incorporated by reference.

2

<PAGE> 3

ITEM 11. MATERIAL TO BE FILED AS EXHIBITS.

<TABLE>

<S>	<C>
(a) (1)	Offer to Purchase, dated October 16, 1996.*
(a) (2)	Letter of Transmittal.*
(a) (3)	Notice of Guaranteed Delivery.*
(a) (4)	Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other No
(a) (5)	Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Com Nominees.*
(a) (6)	Guidelines for Certification of Taxpayer Identification Number on Substitu
(a) (7)	Text of Press Release issued by Parent on October 15, 1996.*
(a) (8)	Form of Summary Advertisement, dated October 16, 1996.*
(a) (9)	Text of Press Release issued by Parent on October 22, 1996.*
(a) (10)	Text of Press Release issued by Parent on October 23, 1996.*
(a) (11)	Text of Press Release issued by Parent on October 30, 1996.*
(a) (12)	Text of Press Release issued by Parent on November 3, 1996.*
(a) (13)	Supplement to Offer to Purchase, dated November 6, 1996.
(a) (14)	Revised Letter of Transmittal.
(a) (15)	Revised Notice of Guaranteed Delivery.
(a) (16)	Revised Letter to Brokers, Dealers, Commercial Banks, Trust Companies and
(a) (17)	Revised Letter to Clients for use by Brokers, Dealers, Commercial Banks, T Other Nominees.
(a) (18)	Text of Press Release issued by Parent and the Company on November 6, 1996
(b) (1)	Commitment Letter, dated October 21, 1996.*
(c) (1)	Agreement and Plan of Merger, dated as of October 14, 1996, by and among P and the Company.*
(c) (2)	Company Stock Option Agreement, dated as of October 14, 1996, between Pare Company.*
(c) (3)	Parent Stock Option Agreement, dated as of October 14, 1996, between Paren Company.*
(c) (4)	Form of Voting Trust Agreement.*
(c) (5)	Complaint in Norfolk Southern Corporation, et al. v. Conrail Inc., et al., filed on October 23, 1996.*
(c) (6)	First Amended Complaint in Norfolk Southern Corporation, et al. v. Conrail 96-CV-7167, filed on October 30, 1996.*
(c) (7)	First Amendment to Agreement and Plan of Merger, dated as of November 5, 1 Parent, Purchaser and the Company.

</TABLE>

\* Previously filed.

3

&lt;PAGE&gt; 4

## 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.

CSX CORPORATION

By: /s/ MARK G. ARON

-----  
 Name: Mark G. Aron  
 Title: Executive Vice President -- Law  
 and Public Affairs

Dated: November 6, 1996

&lt;PAGE&gt; 5

## 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.

GREEN ACQUISITION CORP.

By: /s/ MARK G. ARON

-----  
 Name: Mark G. Aron  
 Title: General Counsel and Secretary

Dated: November 6, 1996

&lt;PAGE&gt; 6

## EXHIBIT INDEX

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 EXHIBIT

NO.

## DESCRIPTION OF EXHIBITS

<S>	<C>
(a) (1)	Offer to Purchase, dated October 16, 1996.*
(a) (2)	Letter of Transmittal.*
(a) (3)	Notice of Guaranteed Delivery.*
(a) (4)	Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*
(a) (5)	Letter to Clients for use by Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.*
(a) (6)	Guidelines for Certification of Taxpayer Identification Number on Substitu Form W-9.*
(a) (7)	Text of Press Release issued by Parent on October 15, 1996.*
(a) (8)	Form of Summary Advertisement, dated October 16, 1996.*
(a) (9)	Text of Press Release issued by Parent on October 22, 1996*
(a) (10)	Text of Press Release issued by Parent on October 23, 1996.*
(a) (11)	Text of Press Release issued by Parent on October 30, 1996.*
(a) (12)	Text of Press Release issued by Parent on November 3, 1996.
(a) (13)	Supplement to Offer to Purchase, dated November 6, 1996.

- (a) (14) Revised Letter of Transmittal.
- (a) (15) Revised Notice of Guaranteed Delivery.
- (a) (16) Revised Letter to Brokers, Dealers, Commercial Banks, Trust Companies and Other Nominees.
- (a) (17) Revised Letter to Clients for use by Brokers, Dealers, Commercial Banks, T Companies and Other Nominees.
- (a) (18) Text of Press Release issued by Parent and the Company on November 6, 1996
- (b) (1) Commitment Letter, dated October 21, 1996.\*
- (c) (1) Agreement and Plan of Merger, dated as of October 14, 1996, by and among Parent, Purchaser and the Company.\*
- (c) (2) Company Stock Option Agreement, dated as of October 14, 1996, between Pare and the Company.\*
- (c) (3) Parent Stock Option Agreement, dated as of October 14, 1996, between Paren and the Company.\*
- (c) (4) Form of Voting Trust Agreement.\*
- (c) (5) Complaint in Norfolk Southern Corporation, et al. v. Conrail Inc., et al., 96-CV-7167, filed on October 23, 1996.\*
- (c) (6) First Amended Complaint in Norfolk Southern Corporation, et al. v. Conrail Inc., et al., No. 96-CV-7167, filed on October 30, 1996.\*
- (c) (7) First Amendment to Agreement and Plan of Merger, dated as of November 5, 1 by and among Parent, Purchaser and the Company.

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\* Previously filed.

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<TYPE>EX-99.A12

<SEQUENCE>2

<DESCRIPTION>TEXT OF PRESS RELEASE ISSUED BY PARENT, 11/3/96

<TEXT>

<PAGE> 1

CSX CORPORATION

CONTACT: Thomas E. Hoppin  
(804) 782-1450

FOR IMMEDIATE RELEASE:

RICHMOND -- Nov. 3, 1996 -- CSX Corporation (CSX) (NYSE:CSX) today released the following statement:

"CSX CORPORATION TODAY ANNOUNCED THAT, AT THE INITIATION OF NORFOLK SOUTHERN CORP. (NORFOLK SOUTHERN), IT IS HAVING CONVERSATIONS WITH NORFOLK SOUTHERN ABOUT A POSSIBLE SALE BY THE POST-MERGER CSX/CONRAIL OF CERTAIN MATERIAL ASSETS. CSX HAS ADVISED CONRAIL INC. OF SUCH CONVERSATIONS. NO AGREEMENTS HAVE BEEN REACHED AND THERE CAN BE NO ASSURANCE THAT ANY AGREEMENTS WILL BE REACHED. UNDER THE TERMS OF THE CSX/CONRAIL MERGER AGREEMENT, MUTUAL AGREEMENT BETWEEN CSX AND CONRAIL WOULD BE REQUIRED FOR AN AGREEMENT OF THE TYPE DISCUSSED."

CSX Corporation, headquartered in Richmond, VA, is an international transportation company offering a variety of rail, container-shipping, intermodal, trucking, barge, and contract logistics services.

The address of CSX's home page on the Internet is: <http://www.CSX.com>.

</TEXT>

</DOCUMENT>

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<TYPE>EX-99.A13



<SEQUENCE>3

<DESCRIPTION>SUPPLEMENT TO OFFER TO PURCHASE, DATED 11/6/96  
<TEXT>

<PAGE> 1

SUPPLEMENT TO THE OFFER TO PURCHASE DATED OCTOBER 16, 1996

GREEN ACQUISITION CORP.  
a wholly owned subsidiary of  
CSX CORPORATION  
HAS INCREASED THE PRICE OF ITS OFFER TO PURCHASE FOR CASH

AN AGGREGATE OF 17,860,124 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

\$110 NET PER SHARE

THE OFFER HAS BEEN EXTENDED. THE OFFER, PRORATION PERIOD AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON WEDNESDAY, NOVEMBER 20, 1996, UNLESS THE OFFER IS FURTHER EXTENDED.

THE OFFER IS CONDITIONED UPON, AMONG OTHER THINGS, (1) THE RECEIPT BY GREEN ACQUISITION CORP. ("PURCHASER"), PRIOR TO THE EXPIRATION OF THE OFFER, OF AN INFORMAL WRITTEN OPINION IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO PURCHASER FROM THE STAFF OF THE SURFACE TRANSPORTATION BOARD (THE "STB"), WITHOUT THE IMPOSITION OF ANY CONDITIONS UNACCEPTABLE TO PURCHASER, THAT THE USE OF A VOTING TRUST (THE "VOTING TRUST") IN SUBSTANTIALLY THE FORM CONTEMPLATED BY THE MERGER AGREEMENT (AS DEFINED HEREIN) IS CONSISTENT WITH THE POLICIES OF THE STB AGAINST UNAUTHORIZED ACQUISITIONS OF CONTROL OF A REGULATED CARRIER (THE "VOTING TRUST CONDITION"), (2) THE RECEIPT BY PURCHASER, PRIOR TO THE EXPIRATION OF THE OFFER, OF AN INFORMAL STATEMENT FROM THE PREMERGER NOTIFICATION OFFICE OF THE FEDERAL TRADE COMMISSION ("FTC") THAT THE TRANSACTIONS CONTEMPLATED BY THE OFFER, THE MERGER AGREEMENT AND THE COMPANY STOCK OPTION AGREEMENT (AS DEFINED IN THE OFFER TO PURCHASE) ARE NOT SUBJECT TO, OR ARE EXEMPT FROM, THE HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT OF 1976, AS AMENDED (THE "HSR ACT"), OR IN THE ABSENCE OF THE RECEIPT OF SUCH INFORMAL STATEMENT, ANY APPLICABLE WAITING PERIOD UNDER THE HSR ACT SHALL HAVE EXPIRED OR BEEN TERMINATED PRIOR TO THE EXPIRATION OF THE OFFER (THE "HSR CONDITION"), (3) PARENT AND PURCHASER OBTAINING, PRIOR TO THE EXPIRATION OF THE OFFER, SUFFICIENT FINANCING, ON TERMS REASONABLY ACCEPTABLE TO PARENT, TO ENABLE CONSUMMATION OF THE OFFER AND MERGER (THE "FINANCING CONDITION") AND (4) THERE BEING AT LEAST 17,860,124 SHARES (AS DEFINED HEREIN) VALIDLY TENDERED AND NOT PROPERLY WITHDRAWN PRIOR TO THE EXPIRATION OF THE OFFER. SEE SECTION 15 OF THE OFFER TO PURCHASE, AND SECTIONS 4 AND 8 OF THIS SUPPLEMENT.

-----  
THE BOARD OF DIRECTORS OF CONRAIL INC. (THE "COMPANY") HAS UNANIMOUSLY APPROVED THE OFFER AND THE MERGER, DETERMINED THAT THE MERGER AGREEMENT AND THE TRANSACTIONS CONTEMPLATED THEREBY (INCLUDING THE OFFER AND THE MERGER) ARE IN THE BEST INTERESTS OF THE COMPANY, AND RECOMMENDS THAT SHAREHOLDERS OF THE COMPANY WHO DESIRE TO RECEIVE CASH FOR THEIR SHARES ACCEPT THE OFFER AND TENDER THEIR SHARES PURSUANT TO THE OFFER.

-----  
IMPORTANT

Any shareholder desiring to tender all or any portion of such shareholder's

shares of common stock, par value \$1.00 per share ("Common Shares"), or shares of Series A ESOP Convertible Junior Preferred Stock, without par value ("ESOP Preferred Shares," and together with the Common Shares, the "Shares") should either (i) complete and sign the (blue) Letter of Transmittal (or a facsimile thereof) circulated with the Offer to Purchase (as defined herein) or this Supplement in accordance with the instructions in the Letter of Transmittal, have such shareholder's signature thereon guaranteed if required by Instruction 1 to the Letter of Transmittal, mail or deliver such Letter of Transmittal (or such facsimile thereof) and any other required documents to the Depositary (as defined in the Offer to Purchase) and either deliver the certificates for such Shares to the Depositary along with such Letter of Transmittal (or a facsimile thereof) or deliver such Shares pursuant to the procedure for book-entry transfer set forth in Section 3 of the Offer to Purchase 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 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.

Any shareholder who desires to tender Shares and whose certificates for such Shares 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 by following the procedures for guaranteed delivery set forth in Section 3 of the Offer to Purchase.

Questions and requests for assistance or for additional copies of this Supplement, the Offer to Purchase, the Letter of Transmittal or other tender offer materials may be directed to the Information Agent or the Dealer Manager (as such terms are defined in the Offer to Purchase) at their respective addresses and telephone numbers set forth on the back cover of this Supplement.

The Dealer Manager for the Offer is:  
WASSERSTEIN PERELLA & CO., INC.

November 6, 1996

<PAGE> 2

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 16, 1996 (the "Offer to Purchase"), of Green Acquisition Corp. ("Purchaser"), a Pennsylvania corporation and a wholly owned subsidiary of CSX Corporation, a Virginia corporation ("Parent"). Pursuant to this Supplement, Purchaser is now offering to purchase an aggregate of 17,860,124 Shares of Conrail Inc., a Pennsylvania corporation (the "Company"), 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, as amended and supplemented by this Supplement, and in the Letters of Transmittal circulated with the Offer to Purchase and this Supplement (which together constitute the "Offer").

Except as otherwise set forth in this Supplement, the terms and conditions previously set forth in the Offer to Purchase remain applicable in all respects to the Offer, and this Supplement should be read in conjunction with the Offer to Purchase. Unless the context requires otherwise, terms not defined herein have the meanings ascribed to them in the Offer to Purchase.

THE BOARD OF DIRECTORS OF THE COMPANY HAS UNANIMOUSLY APPROVED THE OFFER AND THE MERGER, DETERMINED THAT THE MERGER AGREEMENT AND THE TRANSACTIONS CONTEMPLATED THEREBY (INCLUDING THE OFFER AND THE MERGER) ARE IN THE BEST INTERESTS OF THE COMPANY AND RECOMMENDS THAT SHAREHOLDERS OF THE COMPANY WHO

DESIRE TO RECEIVE CASH FOR THEIR SHARES ACCEPT THE OFFER AND TENDER THEIR SHARES PURSUANT TO THE OFFER.

The Offer is being made pursuant to an Agreement and Plan of Merger, dated as of October 14, 1996 (the "Original Merger Agreement"), as amended by the first amendment thereto, dated as of November 5, 1996 (the "First Amendment" and, the Original Merger Agreement, as amended, the "Merger Agreement"), by and among the Company, Parent and Purchaser. The Merger Agreement provides that, following the completion of the Offer and the satisfaction or waiver of certain conditions, the Company will be merged with and into Purchaser (the "Merger"), with Purchaser as the surviving corporation (the "Surviving Corporation"), in accordance with the Pennsylvania Business Corporation Law of 1988, as amended (the "Pennsylvania Law"). As more fully described in Section 13 of the Offer to Purchase and Section 7 of this Supplement, in the Merger, each outstanding Share (other than Shares held in the treasury of the Company or owned by Parent, Purchaser or any other wholly owned subsidiary of Parent or the Company) will be converted, at the election of the holder of Shares and subject to certain limitations, into the right to receive (i) \$110 in cash, without interest, (ii) 1.85619 shares of common stock, par value \$1.00 per share, of Parent (the "Parent Common Stock") or (iii) a combination of such cash and shares of Parent Common Stock. However, the Merger Agreement contains provisions which will ensure that, regardless of the number of Shares for which holders have elected to receive cash or Parent Common Stock, as the case may be, the aggregate number of Shares to be converted into Parent Common Stock pursuant to the Merger shall be equal as nearly as practicable to 60% of all Shares outstanding immediately prior to the Merger on a fully diluted basis (except for Shares issuable or outstanding pursuant to the Company Stock Option), and the aggregate number of Shares to be converted into the right to receive cash pursuant to the Merger, together with the Shares theretofore purchased by Purchaser (other than upon exercise of the Company Stock Option), shall be equal as nearly as practicable to 40% of all such Shares outstanding immediately prior to the Merger. Accordingly, in the case of any particular shareholder, depending on the aggregate number of Shares for which the holders have elected to receive cash or Parent Common Stock, as the case may be, such shareholder may not receive in respect of his or her Shares the amount of cash, Parent Common Stock or combination thereof that such shareholder requested in his or her election. See Section 13 of the Offer to Purchase. The time at which the Merger is consummated in accordance with the Merger Agreement is hereinafter referred to as the "Effective Time." The Offer and the Merger are sometimes collectively referred to herein as the "Transactions."

2

<PAGE> 3

As set forth in greater detail in the Offer to Purchase (see the Introduction and Section 16 of the Offer to Purchase), unless the Company Articles are amended to include an "opt out" provision from the Pennsylvania Control Transaction Law, Purchaser effectively is precluded from purchasing more than the Minimum Number of Shares pursuant to the Offer. The Company has filed preliminary proxy materials with the SEC for the Pennsylvania Special Meeting that was originally scheduled to be held on November 14, 1996. Such meeting date has been canceled by the Company. As of the date of this Supplement, the Company Board has set the record date for the Pennsylvania Special Meeting at December 5, 1996, and the Pennsylvania Special Meeting currently is expected to be held in mid-December.

If the Articles Amendment is approved by the requisite vote of the Company's shareholders at the Pennsylvania Special Meeting prior to the expiration of the Offer, Purchaser may (but is not obligated to) increase the Minimum Number of Shares to an amount equal to 40% of outstanding Shares on a fully diluted basis (excluding Common Shares issuable upon exercise of the Company Stock Option) and, if Purchaser in its discretion determines to so increase the Minimum Number of Shares and if required under the rules of the



SEC, Purchaser shall extend the Offer. See the Introduction and Section 1 of the Offer to Purchase. Alternatively, if the Pennsylvania Shareholder Approval is obtained (whether or not such approval is obtained prior to the expiration of the Offer), Purchaser may, in its discretion and depending upon the circumstances (but subject to the terms and conditions of the Offer and the Merger Agreement), accept for payment Shares in the Offer and thereafter purchase additional Shares in a later tender offer (the "Second Offer"), pursuant to the Company Stock Option Agreement or otherwise. Such additional Share purchases may be on terms different from the terms of the Offer, provided that in the Merger Agreement Parent and Purchaser have agreed that additional purchases pursuant to the Second Offer shall be at a price not less than \$110 and shall be on terms no less favorable to the Company's shareholders than the Offer. In addition, under the terms of the Merger Agreement, at any time following seven business days after consummation of the Offer, if Parent and its subsidiaries do not already own 40% or more of the outstanding Shares (as determined above), the Company may require Parent to commence the Second Offer; provided that Parent shall not be required to consummate any such Second Offer until after the Pennsylvania Shareholder Approval is obtained. The Company has agreed that it shall not request Parent to commence the Second Offer at any time that the Offer is outstanding and the Expiration Date is within 10 business days thereof. See Sections 1 and 13 of the Offer to Purchase and Section 7 of this Supplement.

THE OFFER DOES NOT CONSTITUTE AN OFFER TO SELL OR THE SOLICITATION OF AN OFFER TO BUY PARENT COMMON STOCK. SUCH AN OFFER MAY BE MADE ONLY PURSUANT TO A PROSPECTUS.

Procedures for tendering Shares are set forth in Section 3 of the Offer to Purchase. Tendering shareholders may use either the original (blue) Letter of Transmittal and the original (gray) Notice of Guaranteed Delivery previously circulated with the Offer to Purchase or the revised (blue) Letter of Transmittal and revised (gray) Notice of Guaranteed Delivery circulated with this Supplement. While the original Letter of Transmittal circulated with the Offer to Purchase refers to the Offer to Purchase, and the Letter of Transmittal circulated with this Supplement refers to the Offer to Purchase and this Supplement, shareholders using such documents to tender Shares will nevertheless receive \$110 per Share for each Share validly tendered and not withdrawn and accepted for payment pursuant to the Offer, subject to the conditions of the Offer. Shareholders who have previously validly tendered and not withdrawn Shares pursuant to the Offer are not required to take any further action in order to receive, subject to the conditions of the Offer, the increased tender price of \$110 per Share, if the Shares are accepted for payment and paid for by Purchaser pursuant to the Offer, except as may be required by the guaranteed delivery procedure if such procedure was utilized. See Section 3 of the Offer to Purchase and Section 1 of this Supplement.

THE OFFER TO PURCHASE, THIS SUPPLEMENT AND THE LETTER OF TRANSMITTAL CONTAIN IMPORTANT INFORMATION WHICH SHOULD BE READ BEFORE ANY DECISION IS MADE WITH RESPECT TO THE OFFER.

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1. AMENDED TERMS OF THE OFFER; EXPIRATION DATE. The discussion set forth in Section 1 of the Offer to Purchase and the amendments thereto are hereby amended and supplemented as follows:

The Offer is being made for an aggregate of 17,860,124 Shares. The price per Share to be paid pursuant to the Offer has been increased from \$92.50 per Share to \$110 per Share, net to the seller in cash. All shareholders whose Shares are validly tendered and not withdrawn and accepted for payment pursuant to the Offer (including Shares tendered prior to the date of this Supplement) will receive the increased price. The term "Expiration Date" means 12:00



Midnight, New York City time, on Wednesday, November 20, 1996 unless and until Purchaser, in its sole discretion (but subject to the terms of the Merger Agreement), 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. The Merger Agreement provides that, in the event all conditions to Purchaser's obligation to purchase Shares under the Offer at any scheduled expiration thereof are satisfied other than the Minimum Condition, Purchaser shall, from time to time, extend the Offer until the earlier of (i) 270 days following the date of the Original Merger Agreement or (ii) such time as the Minimum Condition is satisfied or waived in accordance with the Merger Agreement. The Merger Agreement provides that, without the consent of the Company, Purchaser will not waive the Minimum Condition.

This Supplement, the revised (blue) Letter of Transmittal and other relevant materials will be mailed to record holders of Shares whose names appear on the Company's shareholder list and will be furnished, for subsequent transmittal to beneficial owners of Shares, to brokers, dealers, commercial banks, trust companies and similar persons whose names, or the names of whose nominees, appear on the shareholder list or, if applicable, who are listed as participants in a clearing agency's security position listing.

2. PRICE RANGE OF SHARES; DIVIDENDS. The discussion set forth in Section 6 of the Offer to Purchase and the amendments thereto are hereby amended and supplemented as follows:

According to published financial sources, the Company has paid no cash dividends on the Common Shares since the date of the Offer to Purchase.

On November 5, 1996, the last full trading day prior to the announcement of the increase in the price per Share to be paid pursuant to the Offer, the closing price per Common Share as reported on the NYSE composite tape was \$92.25. SHAREHOLDERS ARE URGED TO OBTAIN A CURRENT MARKET QUOTATION FOR THE COMMON SHARES.

3. CERTAIN INFORMATION CONCERNING THE COMPANY. The discussion set forth in Section 8 of the Offer to Purchase and the amendments thereto are hereby amended and supplemented as follows:

Certain Projected Financial Information. The projected revenues for the Company for each of the years ended December 31, 1996 through December 31, 1999 were \$3,762 million, \$3,874 million, \$3,988 million and \$4,149 million, respectively.

The Rights. On July 19, 1989, the Board of Directors of Consolidated Rail Corporation ("CRC"), which is the Company's current operating subsidiary and which prior to the Company's adoption of the holding company structure on February 17, 1993 operated on a stand alone basis, declared a dividend distribution of one common stock purchase right (a "Right") for each common share of CRC and executed the Rights Agreement. Upon adoption by the Company of a holding company structure on February 17, 1993, CRC assigned all of CRC's title and interest under the Rights Agreement, as amended, to the Company (the "Assignment"). In 1995, one Right was distributed with respect to each outstanding ESOP Preferred Share. Under the Rights Agreement, as amended, each Right entitles the holder to purchase one Common Share at an exercise price of \$205.00, subject to adjustment. The description of the Rights Agreement set forth in Section 8 of the Offer to Purchase is deleted in its entirety.

On November 4, 1996, the Board of Directors of the Company adopted a resolution extending the Distribution Date (as defined in the Rights Agreement) so that it will occur only after the acquisition by an Acquiring Person (as defined in the Rights Agreement) of beneficial ownership of at least 10% of the outstanding Common Shares.

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The Rights are not exercisable until the Distribution Date. The Rights will expire at the close of business on September 20, 2005 (the "Final Expiration Date"), unless the Final Expiration Date is extended or unless earlier redeemed by the Company in accordance with the Rights Agreement.

In conjunction with the execution of the Merger Agreement, the Board of Directors of the Company amended the Rights Agreement to (i) render the Rights Agreement inapplicable to the Merger and the other transactions contemplated by the Merger Agreement and the Company Stock Option Agreement and (ii) ensure that (a) neither Parent nor any of its wholly owned subsidiaries is an Acquiring Person pursuant to the Rights Agreement and (b) a Shares Acquisition Date, Distribution Date or Trigger Event (in each case, as defined in the Rights Agreement) does not occur by reason of the approval, execution or delivery of the Merger Agreement and the Company Stock Option Agreement, the consummation of the Merger, or the other transactions contemplated by the Merger Agreement or the Company Stock Option Agreement and the Rights Agreement may not be further amended by the Company without the prior consent of Parent in its sole discretion. The Company has also agreed to take any further action necessary to render the Rights Agreement inapplicable to the Transactions.

The Rights Agreement and all amendments, supplements and resolutions relating thereto, and descriptions thereof, have been filed by the Company with the SEC. Copies of such documents may be obtained in the manner set forth in the Offer to Purchase.

Shareholders are required to tender one associated Right for each Share tendered in order to effect a valid tender of such Share. If the Distribution Date does not occur prior to the Expiration Date, a tender of Shares will automatically constitute a tender of the associated Rights. See Section 3 of the Offer to Purchase.

4. SOURCE AND AMOUNT OF FUNDS. The discussion set forth in Section 10 of the Offer to Purchase and the amendments thereto are hereby amended and supplemented as follows:

Purchaser estimates that the total amount of funds required to purchase Shares pursuant to the Offer, to pay the cash portion of the consideration in the Merger and to pay all related costs and expenses will be approximately \$4.1 billion. See "Fees and Expenses" in Section 17 of the Offer to Purchase.

Purchaser plans to obtain the necessary funds through capital contributions or advances made by Parent. Parent plans to obtain the funds for such capital contributions or advances from its available cash and working capital, and either through the issuance of long- or short-term debt securities (including, without limitation, commercial paper notes) or under the Facility to be provided pursuant to the Commitment Letter, as described below.

Parent's commercial paper program involves the private placement of unsecured, commercial paper notes with maturities of up to 270 days. The commercial paper generally has an effective interest rate approximating the then market rate of interest for commercial paper of similar rating, currently approximately 5.45%. Parent may refinance any commercial paper borrowings used to finance the purchase of Shares pursuant to the Offer through private placements of additional commercial paper, borrowings under the Facility or, depending on market or business conditions, through such other financing as Parent may deem appropriate.

The Commitment Letter. In connection with the Offer and the Merger, Parent has entered into a commitment letter, dated October 21, 1996 (the "Commitment

Letter"), with Bank of America National Trust and Savings Association, BA Securities, Inc., The Bank of Nova Scotia, The Chase Manhattan Bank, Chase Securities Inc., NationsBank, N.A. and NationsBanc Capital Markets, Inc., pursuant to which, upon the terms and subject to the conditions set forth therein and in the Term Sheet (as defined herein), Bank of America National Trust and Savings Association, The Bank of Nova Scotia, The Chase Manhattan Bank and NationsBank, N.A. (collectively, "Principal Agents") have agreed to provide a competitive advance and revolving credit facility in an aggregate principal amount of \$4,800,000,000 (the "Facility"), and each Principal Agent has committed to provide \$1,200,000,000 of this amount. Proceeds of the Facility will be used to finance purchase of Shares pursuant to one or more all cash tender offers, exercise of the Company Stock Option or otherwise and the Merger, to replace existing credit facilities used for commercial paper backup and, following the Merger, to provide working capital and for other general corporate purposes. The Commitment Letter includes an attachment (the "Term Sheet") which sets forth the terms contemplated to

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be included in the definitive documentation with respect to the Facility (the "Credit Agreement"). Under the Commitment Letter, each Principal Agent has reserved the right to syndicate a portion of its commitment to one or more financial institutions acceptable to Parent, and, in connection therewith, Chase Securities Inc., BA Securities, Inc., NationsBanc Capital Markets, Inc. and The Bank of Nova Scotia (collectively, the "Arrangers" and, together with the Principal Agents, the "Agents") have agreed to act as co-arrangers for the Facility and intend to commence syndication efforts immediately.

Under the Facility, two borrowing options will be available: (i) a competitive advance option (the "CAF"), which will be provided on an uncommitted competitive advance basis through a competitive bid auction mechanism, and (ii) a revolving credit option (the "Revolving Credit"), which will be provided on a committed basis. Under each option, amounts borrowed and repaid may be reborrowed subject to availability under the Facility. Up to the full amount of the remaining commitments may be borrowed under either of the two borrowing options, so long as the total borrowed amount outstanding under the Facility does not exceed the amount of the Facility at any time. Each borrowing will be conditioned upon the delivery of a borrowing notice, the accuracy of representations and warranties and the absence of defaults. Events of default will include a material breach of representations or warranties, failure to pay principal or interest, breach of covenants, cross acceleration, material judgments and bankruptcy, subject to customary notice and cure periods.

Under the Facility, interest rates per annum for the outstanding loans will be determined as follows: (i) interest rates for the CAF will be obtained from bids selected by Parent and (ii) interest rates for the Revolving Credit will be based upon either LIBOR or an alternate base rate ("ABR") that will be the higher of The Chase Manhattan Bank's prime rate and the federal funds effective rate plus 1/2 of 1%, as selected by Parent. No spread will be charged on ABR loans. The interest rate applicable to each LIBOR loan will be equal to LIBOR for the interest period applicable to such loan plus a margin, ranging from 14.0 to 35.0 basis points per annum, determined based upon Parent's credit ratings.

Under the Facility, interest periods for outstanding loans will be determined as follows: (i) interest periods for the CAF will be determined by market availability, with fixed-rate auction advances being for periods ranging from seven to 360 days; and (ii) under the Revolving Credit, the interest period on ABR loans will be three months, and the interest period on LIBOR loans will be either one, two, three or six months, at Parent's option. Interest will be payable at the end of the relevant interest period, but not less often than quarterly. Interest will be calculated on the basis of the actual number of days elapsed over a 365/366-day year for ABR loans based on The Chase Manhattan



Bank's prime rate and over a 360-day year for all other loans.

Under the Facility, prepayments of ABR loans will be permitted at any time without penalty. LIBOR Revolving Credit loans may be prepaid in whole or in part at any time, subject to compensation in respect of any redeployment costs if prepayment occurs other than at the end of an interest period. CAF loans will not be subject to prepayment.

Under the Facility, mandatory commitment reduction will occur in the event that any required governmental approval is denied or in the event that Parent elects to abandon the Offer and the Merger. Upon the occurrence of such event, the commitments would be reduced to the amount of loans outstanding at such time reduced by the amount of net proceeds from sales of the Shares, if any. Parent may opt to reduce the commitments under the Facility by giving notice thereof, provided that the aggregate Facility commitments at any time may in no event be less than the aggregate amount of the CAF advances and loans outstanding at such time.

In the Commitment Letter, Parent has made certain representations and warranties regarding information made available to the Agents. In addition, the Commitment Letter provides that the Credit Agreement will include certain representations and warranties regarding, among other things, organization and powers, authority and enforceability, no conflicts, financial information, absence of material adverse change, absence of material litigation, compliance with laws and regulations and agreements, inapplicability of certain laws, taxes, ERISA and absence of material misstatements. In addition, the Commitment Letter provides that the Credit Agreement will include certain covenants regarding, among other things, maintenance of corporate

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existence, maintenance of ownership of railroad subsidiaries, maintenance of insurance, payment of taxes, delivery of financial statements and reports, compliance with laws, use of proceeds, and certain limitations on debt, including limitations on indebtedness in excess of \$4,000,000,000 for the purchase of Shares, limitations on additional unsecured indebtedness at subsidiaries (subject to appropriate thresholds and other customary terms) and a limitation on total debt (other than indebtedness incurred to finance the exercise of the Company Stock Option) as a percentage of total capitalization to a maximum of 65% prior to the Merger and 55% at or after the Merger. The Commitment Letter provides that the Credit Agreement will also include certain covenants regarding limitations on mergers or sales of all or substantially all assets and limitations on liens and sale/leaseback transactions.

The Agents' commitments and agreements in the Commitment Letter are subject to (i) the reasonable satisfaction of the Agents with any material changes in the structure or terms of the Offer and the Merger prior to the execution of the Credit Agreement and all legal, tax and accounting matters relating thereto, (ii) the absence of any material adverse change since December 31, 1995 in or affecting the business, assets or condition (financial or otherwise) of Parent and its subsidiaries and the Company and its subsidiaries, taken as a whole, (iii) the absence of a material disruption of or material adverse change in financial, banking or capital market conditions that, in the Arrangers' reasonable judgment, would be likely to materially impair the syndication of the Facility, (iv) the negotiation, execution and delivery on or before November 30, 1996 of the definitive Credit Agreement in form satisfactory to the Agents and their counsel, (v) the Agents' satisfaction that, prior to and during the syndication of the Facility, there shall be no competing issues of debt securities or commercial bank facilities of Parent or the Company or any of their respective subsidiaries being offered, placed or arranged and (vi) certain other conditions set forth in the Term Sheet. In addition, the Commitment Letter provides that the Credit Agreement will include usual and customary cost and



yield provisions.

The Commitment Letter provides that the Credit Agreement also will include conditions to effectiveness including, but not limited to, the absence of pending litigation or administrative proceedings or other legal or regulatory developments that, in the reasonable judgment of at least three Agents, would be reasonably likely to prohibit the transactions contemplated by the Offer and the Merger or to result in a material adverse change in the business, assets or condition of Parent, the termination of existing credit facilities of Parent used for the purpose of commercial paper backup, the consummation of the Offer and other customary conditions to effectiveness for facilities and transactions of such type.

In connection with the Commitment Letter, Parent has agreed to pay the Agents certain fees, to reimburse the Agents for certain expenses and to provide certain indemnities, as is customary for commitments of the type described herein. The Commitment Letter provides that the Credit Agreement will include an agreement by Parent to pay a facility fee to each lender under the Facility based on the aggregate amount of such lender's commitment under the Facility, whether used or unused, at a rate, ranging from 6.0 to 15.0 basis points per annum, determined based upon Parent's credit ratings.

The foregoing is a summary of the Commitment Letter and is qualified in its entirety by reference to the Commitment Letter, a copy of which is filed as Exhibit (b)(1) to the Schedule 14D-1.

Assuming that the funds contemplated by the Commitment Letter and Facility described above are made available in accordance with the terms thereof, Purchaser expects that the Financing Condition will be satisfied.

It is anticipated that the indebtedness incurred by Parent in connection with the transactions contemplated by the Merger Agreement will be repaid from funds generated internally by Parent and its subsidiaries (including, after the Merger, if consummated, dividends paid by the Surviving Corporation and its subsidiaries), through additional borrowings, through application of proceeds of dispositions or through a combination of two or more such sources. No final decisions have been made concerning the method Parent will employ to repay such indebtedness. Such decisions, when made, will be based on Parent's review from time to time of the advisability of particular actions, as well as on prevailing interest rates and financial and other economic conditions.

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5. BACKGROUND OF THE OFFER SINCE OCTOBER 16, 1996; CONTACTS WITH THE COMPANY. The discussion set forth in Section 11 of the Offer to Purchase and the amendments thereto are hereby amended and supplemented as follows:

On October 16, 1996, Parent and Purchaser commenced the Offer.

On October 23, 1996, Norfolk Southern Corporation ("NSC") announced its intention to commence, and on October 24, 1996 NSC commenced, a tender offer for the Company (the "Hostile Offer"). The Hostile Offer is subject to numerous conditions, including the termination of the Merger Agreement and the redemption, invalidity or other inapplicability of the Rights. NSC also has commenced litigation relating to the transactions contemplated by the Merger Agreement and the Hostile Offer. See Section 16 of the Offer to Purchase and Section 8 of this Supplement.

On October 23, 1996, Parent issued the following press release in response to the announcement of the Hostile Offer:

NEWS

CSX Dismisses Norfolk Southern's Announcement as a 'Confusing Non-Bid'

RICHMOND, Va., Oct. 23 /PRNewswire/ -- In response to the Norfolk Southern (NYSE: NSC) (NSC) announcement of its hostile tender offer for Conrail, CSX (NYSE: CSX) issued the following statement:

"Norfolk Southern's hostile offer comes as no surprise. It simply does not provide the same long-term value as the strategic CSX-Conrail partnership, which offers Conrail shareholders tax-free equity and the substantial upside potential that only comes from the benefits derived from the merger of CSX and Conrail."

"Furthermore, Norfolk Southern's highly conditional non-bid would inevitably face serious delay and could not in any event be consummated without the approval of the Conrail board. Specifically, the provisions of the CSX-Conrail merger agreement effectively preclude the Conrail board of directors' approval of any competing offers prior to mid-April 1997. In contrast, the CSX cash tender offer would close in November 1996. The certain delays involved in the Norfolk Southern non-bid severely and negatively impact the present value of its proposal. Using a customary discount rate of 2 percent per month, the Norfolk Southern non-bid is worth less than \$90 per Conrail share, far less than Norfolk Southern would have Conrail shareholders believe."

"The fact is that the merger of CSX Conrail will result in service, efficiency and competitive benefits that cannot be achieved by any combination of the Norfolk Southern and Conrail systems."

"By every measure, the CSX-Conrail merger is superior in economic, operational and public policy terms to the Norfolk Southern non-bid."

Thereafter, during the weekend of November 2 through November 3, 1996, representatives of Parent and NSC met to discuss matters related to the possible sale of certain of the Company's assets.

On November 3, 1996, Parent issued the following press release:

FOR IMMEDIATE RELEASE:

RICHMOND -- Nov. 3, 1996 -- CSX Corporation (CSX) (NYSE: CSX) today released the following statement:

"CSX Corporation today announced that, at the initiation of Norfolk Southern Corp. (Norfolk Southern), it is having conversations with Norfolk Southern about a possible sale by the post-merger CSX/Conrail of certain material assets. CSX has advised Conrail Inc. of such

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conversations. No agreements have been reached and there can be no assurance that any agreements will be reached. Under the terms of the CSX/Conrail merger agreement, mutual agreement between CSX and Conrail would be required for an agreement of the type discussed."

Since November 4, 1996, there have been no further conversations between Parent and NSC in respect of the Company and its assets.

Following the announcement by NSC of the Hostile Offer and from time to time thereafter until the execution of the First Amendment, Parent and the Company held discussions and engaged in negotiations relative to the Original Merger Agreement and the First Amendment.

On November 5, 1996, Parent and the Company entered into the First

Amendment pursuant to which the Offer, as amended, is being made. Under the terms of the First Amendment (see Section 7 of this Supplement), neither Parent nor the Company is permitted to engage in conversations, discussions or negotiations or enter into any agreement with other railroad companies (including NSC) relating to trackage rights or other concessions without the participation and agreement of the other party.

On November 6, 1996, Parent and the Company issued the following joint press release announcing execution of the First Amendment:

CSX AND CONRAIL AMEND MERGER AGREEMENT

CSX RAISES CASH PORTION OF ITS AGREEMENT WITH CONRAIL TO \$110 PER CONRAIL SHARE

CONRAIL BOARD UNANIMOUSLY APPROVES CSX AMENDED OFFER

CONRAIL BOARD UNANIMOUSLY REJECTS NORFOLK SOUTHERN'S OFFER

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RICHMOND, VA AND PHILADELPHIA, PA, (NOVEMBER 6, 1996)--CSX Corporation [NYSE: CSX] and Conrail Inc. [NYSE: CRP] today announced that they have amended the terms of their merger agreement. Under the revised terms, CSX has raised the cash portion of its offer to \$110 per Conrail share.

Conrail also announced that its Board of Directors carefully considered the relative merits of a merger with Norfolk Southern rather than with CSX, and unanimously reaffirmed that a merger with CSX is in Conrail's best interest and is the superior strategic combination for Conrail. The Conrail Board determined that a transaction with Norfolk Southern is not in the best interest of Conrail and its constituencies.

David M. LeVan, chairman, president and chief executive officer of Conrail, said, "Our two companies have now agreed to significantly increase the value to be received by the Conrail shareholders, and Conrail's other constituencies will continue to get tremendous benefits resulting from the CSX merger.

"On October 14, 1996, the Conrail Board unanimously approved a merger of equals with CSX to create one of the world's leading transportation and logistics companies," Mr. LeVan continued. "That transaction provided value to our shareholders at the high-end of what has been paid in other railroad mergers, and it clearly was and is in the best interests of Conrail and its constituencies. Before approving that merger, we carefully considered the relative merits of a merger with Norfolk Southern rather than with CSX, and we unanimously determined that a merger with CSX was in Conrail's best interest and was the superior strategic combination for Conrail. In making that decision we were fully aware that Norfolk Southern had expressed an interest in acquiring Conrail. We have now reaffirmed that decision."

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John W. Snow, CSX chairman, president and chief executive officer, said, "Our decision to increase the cash portion of the offer not only reflects CSX's commitment to completing the transaction, but also accounts for the increased value we have determined will be realized through the merger. Further analysis by our management team, working with its counterpart at Conrail, has identified at least \$730 million in synergies and cost savings, \$180 million more than originally anticipated.

"Following the combination of our two companies, we expect immediate net traffic benefits of about \$165 million and cost savings totaling approximately \$565 million," continued Mr. Snow. "Importantly, we will realize these benefits



rapidly by working closely together. This is especially significant since Conrail shareholders who receive CSX shares as consideration for their shares, will benefit from what we expect will be a substantial increase in the value of those shares.

"Furthermore, it is apparent that the merger between CSX and Conrail will produce significant public policy benefits. The service and pricing advantages we will offer shippers will reduce truck traffic along the now congested interstate corridors throughout the region. We also will be able to provide a safer, more reliable operating environment for passenger services. Only the CSX/Conrail combination offers so many significant benefits to customers and the greater public," Mr. Snow added.

"The hostile Norfolk Southern bid is burdened with a series of significant conditions. Given all the obstacles in the path of Norfolk Southern's bid, Conrail shareholders would have to wait a prolonged amount of time to receive payment for their shares. Meanwhile, the CSX/Conrail combination offers an immediate opportunity to move forward together creating real, substantive value for both Conrail and CSX shareholders.

"The merger of CSX and Conrail is driven by a compelling logic. Together, CSX and Conrail will create the leading global freight transportation and logistics management company and provide dramatically improved rail service to our customers east of the Mississippi. Shippers and receivers throughout the region will benefit from significantly enhanced competition, much better service and more competitive pricing. Our combined railroad will grow significantly and operate with maximum efficiency," Mr. Snow said.

"Clearly, the combination of CSX and Conrail provides the best overall package of benefits to our constituencies, including customers, the communities we serve, and the public-at-large. We welcome the strong support of the Conrail Board of Directors and look forward to a bright future as our new company moves full speed into the 21st Century," concluded Mr. Snow.

The significant amendments to the CSX/Conrail merger agreement include:

- The increase of the cash portion of the transaction to \$110 per Conrail share. The structure of the proposed merger will remain the same: 40 percent of the fully diluted shares of Conrail's common stock and ESOP preferred stock will be acquired at the new price and the remaining 60 percent will be exchanged for CSX stock at the originally agreed-upon exchange ratio of 1.85619 CSX shares for each Conrail share;
- An extension by three months of the period of time during which the Conrail Board of Directors cannot withdraw its support of the merger agreement or agree to any competing transaction. As now extended, such provisions will run until July 12, 1997; and
- Neither party will engage in discussions or enter into any agreement with other railroad companies (including Norfolk Southern) relating to trackage rights or other concessions without the participation and agreement of the other party.

Additionally, the Conrail Shareholders Meeting scheduled for November 14 has been canceled. The record date for a new shareholders meeting has been set at December 5, 1996, and the shareholder meeting is expected to be held in mid-December.

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CSX's tender offer of \$110 per Conrail share is for an aggregate of about 17.9 million shares of Conrail common stock and ESOP preferred stock, or



approximately 19.9 percent of the Conrail outstanding voting stock. The offer is subject to certain customary conditions.

Under the terms of the CSX offer, as amended, the tender offer's expiration date and withdrawal and proration rights are extended until Midnight EST, November 20, 1996. As of the close of business on November 5, 1996, 56,634 Conrail shares had been tendered pursuant to the CSX offer.

CSX Corporation, headquartered in Richmond, VA, is an international transportation company offering a variety of rail, container-shipping, intermodal, trucking, barge and contract logistics management services.

Conrail, with corporate headquarters in Philadelphia, PA, operates an 11,000-mile rail freight network in 12 northeastern and midwestern states, the District of Columbia, and the Province of Quebec.

Attached is a fact sheet on the CSX/Conrail merger of equals, and additional information regarding this announcement can be found on the companies' Web sites on the Internet. CSX's home page can be reached at <http://www.CSX.com>. Conrail's home page can be reached at <http://www.CONRAIL.com>.

#### FAST FACTS REGARDING THE CSX - CONRAIL MERGER

- The proposed CSX/CRR merger of equals will create a powerful strategic alliance, the leading transportation company in the world with more than \$14 billion in revenue and operations serving more than 80 countries around the globe.
- In addition to the railroad, the new company will include the nation's largest container-shipping (Sea-Land Services) and barging (American Commercial Barge Line) companies, its only full-service, coast-to-coast intermodal company (CSX Intermodal) and one of the foremost contract logistics management companies (Customized Transportation Services) in the world.
- For employees and the communities within which they work and live, the CSX/CRR merger of equals offers the combination of companies with complementary business mixes, common corporation strategies and compatible corporate cultures.
- CSX/CRR has agreed to locating the corporate headquarters of the new company in Philadelphia; to leaving the operating headquarters of the CSXT and Conrail rail companies in Jacksonville and Philadelphia for the foreseeable future; to a board comprised of an equal number of directors from each company; and to a defined succession plan that insures the management and employees, shareholders, customers and communities served by both companies will have powerful roles and strong voices in the future of the company.
- For shareholders, the CSX/CRR merger of equals offers ownership of an international transportation company with the scale and efficiency at home and abroad to compete effectively and generate attractive returns well into the 21st Century.
- For customers, the CSX/CRR combination provides a 29,000 route mile rail system that would span 22 states and offer vastly improved service to virtually all major markets east of the Mississippi. Such a system will provide the highest quality service to customers as a result of faster, more reliable service, shorter routes, an improved cost structure, better equipment supply and utilization and more single-line service.
- The proposed CSX/CRR merger of equals allows realization of public policy

benefits that cannot be accomplished through any other combination.

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- More passenger trains will use the combined CSX/CRR rail system than any other in the United States. These include not only Amtrak's but also those operated by commuter services in Boston, New York, Philadelphia, Baltimore and Washington. Freight and passenger trains currently share the same tracks in these areas. Improved coordination, scheduling and operation of freight and passenger services will reduce delays and improve safety and service for passengers. Similar options may exist in other parts of the combined system in the future as hard-pressed urban planners increasingly turn to rail transportation to relieve highway congestion, save scarce public resources and improve air quality.
- The proposed CSX/CRR merger of equals offers improved rail competition to Northeast and Midwest markets and an opportunity to improve the social and economic benefits of the entire transportation infrastructure of the region through increased, more effective competition with the trucking industry and through additional intermodal cooperation.

6. PURPOSE OF THE OFFER AND THE MERGER; PLANS FOR THE COMPANY. Based upon discussions with the Company, Parent believes that total quantifiable benefits from the Merger will be approximately \$730 million annually, based on the realization of cost savings (totaling approximately \$565 million) from operating efficiencies, facility consolidations, overhead rationalization and other activities, and new traffic volumes (totaling approximately \$165 million) earned by enhanced service. Parent intends that the combined company will make investments to support revenue growth, and will create a streamlined organization that incorporates the best of Parent's and the Company's organizations, while combining facilities and realizing economies of scale. Parent expects that there will be some job losses as a result of consolidations and the elimination of redundancies, but that these will be offset substantially over time by new employment opportunities resulting from growth of the business. Parent has not yet developed specific plans to implement the foregoing. THE FOREGOING ESTIMATES OF COST SAVINGS AND SYNERGIES ARE INHERENTLY SUBJECT TO SIGNIFICANT UNCERTAINTIES AND CONTINGENCIES, MANY OF WHICH ARE BEYOND THE CONTROL OF PARENT. THERE CAN BE NO ASSURANCE THAT THEY WILL BE ACHIEVED AND ACTUAL SAVINGS AND SYNERGIES MAY VARY MATERIALLY FROM THOSE ESTIMATED. THE INCLUSION OF SUCH ESTIMATES HEREIN SHOULD NOT BE REGARDED AS AN INDICATION THAT PARENT, PURCHASER OR ANY OTHER PARTY CONSIDERS SUCH ESTIMATES AN ACCURATE PREDICTION OF FUTURE EVENTS.

7. MERGER AGREEMENT; OTHER AGREEMENTS. The discussion set forth in Section 13 of the Offer to Purchase and the amendments thereto are hereby amended and supplemented as follows:

The First Amendment. The First Amendment effects certain changes to the Original Merger Agreement. Other than as amended by the First Amendment, the provisions of the Original Merger Agreement remain in full force and effect.

The Offer. The First Amendment provides that Purchaser will amend the Offer to increase the price to be paid to \$110 per Share, net to the seller in cash. The obligations of Parent, Purchaser and the Company set forth in the Original Merger Agreement with respect to the Offer apply with respect to the Offer as so amended.

The First Amendment provides that, at any time prior to eleven business days before the then-scheduled Expiration Date if the Pennsylvania Control Transaction Law is inapplicable to the Company by such time, Parent will, at the written request of the Company, amend the Offer to increase the number of Shares sought to 40% of the outstanding Common Shares on a

fully diluted basis as of the date of the Original Merger Agreement (excluding Shares that would be outstanding upon exercise of the Company Stock Option). In addition, at any time following seven business days after consummation of the Offer, if Parent and its subsidiaries do not already own at such time 40% or more of the Shares outstanding as of the date of the Original Merger Agreement (excluding Shares that would be outstanding upon exercise of the Company Stock Option), Parent may, and at the written request of the Company is required to, commence the Second Offer to purchase up to that number of Shares which, when added to the aggregate number of Shares then beneficially owned by Parent (other than pursuant to the Company Option Agreement) equals 40% of such outstanding Shares, at a price of not less than \$110 and on other

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terms no less favorable to shareholders of the Company than the Offer, provided that Parent will not be required to consummate the Second Offer until after the Pennsylvania Control Transaction Law is inapplicable to the Company. The Company has agreed that it will not make any such written request at any time that the Offer is outstanding and the Expiration Date is within 10 business days thereof.

The Merger. The First Amendment provides that the Per Share Cash Consideration to be paid in the Merger, if any, will be \$110.

Shareholders' Meetings. The First Amendment provides that the Company will not convene, adjourn or postpone the Pennsylvania Special Meeting without Parent's prior consent, and such consent will not be unreasonably withheld. In the event that the matters to be considered at the Company Merger Meeting or the Parent Shareholders Meeting are not approved at a meeting called for such purpose, from time to time the Company or Parent, as applicable, may, and will at the request of Parent or the Company, as applicable, duly call one or more meeting(s) of shareholders for such purposes. Subject to the foregoing, the First Amendment further provides that the Company shall convene any such shareholder meetings as soon as practicable after receipt of any request to do so by Parent (and, in the case of the Pennsylvania Special Meeting, as soon as practicable after December 5, 1996).

The First Amendment also provides that, following the Pennsylvania Shareholder Approval, the Company will take all necessary or advisable action to cause the Articles Amendment to become effective.

Third Party Discussions. The First Amendment provides that during the term of the Merger Agreement, neither the Company nor Parent, will, nor will it permit any of its subsidiaries to, nor shall it authorize or permit any of its officers, directors or employees or any investment banker, financial advisor, attorney, accountant or other representative retained by it or any of its 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 NSC) with respect to the acquisition by any such other company (including NSC) of any securities or assets of the Company and its subsidiaries or Parent and its subsidiaries, or any trackage rights or other concessions relating to the assets or operations of the Company and its subsidiaries or Parent and its subsidiaries, other than with respect to sales, leases, licenses, mortgages or other disposals of assets or properties that are permitted as described in (d) under "Interim Operations of the Company and Parent" in Section 13 of the Offer to Purchase). Notwithstanding the foregoing, however, Parent and the Company will be permitted to engage in conversations, discussions and negotiations with other companies engaged in the operation of railroads



(including NSC) to the extent reasonably necessary or reasonably advisable in connection with obtaining regulatory approval of the transactions contemplated by the Merger Agreement in accordance with the terms set forth in the Merger Agreement, and in each case so long as (i) a representative of each party is present at any such conversation, discussion or negotiation, (ii) the general subject matter of any such conversation, discussion or negotiation has been agreed to in advance by the Company and Parent and (iii) the Company, Parent and such other company have previously agreed to appropriate confidentiality arrangements, on terms reasonably acceptable to the Company and Parent (which terms shall in any event permit disclosure to the extent required by law), relating to the existence and subject matter of any such conversation, discussion or negotiation. Provisions of the First Amendment described in this paragraph will terminate and be of no further force and effect immediately upon any exercise by Parent or the Company of its rights under the proviso to the first sentence described under "No Solicitation" in Section 13 of the Offer to Purchase, provided that such party exercising such rights has given the other party prior notice with respect thereto.

No Solicitation. The First Amendment provides that the 180 days described under "No Solicitation" in Section 13 of the Offer to Purchase has been changed to 270 days.

Termination. The First Amendment provides that the right to terminate the Merger Agreement in connection with a shareholders meeting described in (b) (i) and (b) (ii) under "Termination" in Section 13 of the Offer to Purchase will be exercisable only to the extent that such shareholders meeting is held

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after the earlier of (i) 270 days after the date of the Original Merger Agreement or (ii) the purchase of an aggregate of 40% of the fully diluted shares under the Offer or, if applicable, the Second Offer.

The foregoing is a summary of certain provisions of the First Amendment. This summary is qualified in its entirety by reference to the First Amendment, which is incorporated herein by reference. Terms not otherwise defined herein or in the following summary shall have the meanings set forth in the First Amendment.

8. CERTAIN LEGAL MATTERS; REGULATORY APPROVALS. The discussion set forth in Section 16 of the Offer to Purchase and the amendments thereto are hereby amended and supplemented as follows:

Antitrust. Parent and Purchaser have requested the Premerger Notification Office of the FTC to confirm that the Offer, the Merger and the Company Stock Option Agreement are not subject to, or are exempt from, the HSR Act, and such Office has done so. On this basis, Purchaser expects that the HSR Condition will be satisfied.

STB Matters; The Voting Trust. Parent has requested the staff of the STB to issue an informal, nonbinding opinion that the use of the Voting Trust is consistent with the policies of the STB against unauthorized acquisitions of control of a regulated carrier, and the Staff of the STB has done so. On this basis, Purchaser expects that the Voting Trust Condition will be satisfied.

It is possible that the Department of Justice or railroad competitors of Parent and the Company, or others, may argue that Purchaser should not be permitted to use the voting trust mechanism to acquire Shares prior to final STB approval of the acquisition of control of the Company. Purchaser believes it is unlikely that such arguments would prevail, but there can be no assurance in



this regard, nor can there be any assurance that if such arguments are made, it will not cause the STB staff to rescind their opinion regarding the Voting Trust Agreement.

The Voting Trust Agreement provides that Purchaser or its successor in interest will be entitled to receive any cash dividends paid by the Company.

**STB Matters; Acquisition of Control.** On October 18, 1996, Parent and the Company filed with the STB a Notice of Intent to File Railroad Control Application, a Petition for Protective Order and a Petition to Establish Procedural Schedule. On or before March 1, 1997 (but not before January 18, 1997), Parent, the Company and various of their affiliates plan to file an application (the "STB Application") seeking approval of the STB for the acquisition of control over the Company and its affiliates by Parent and its affiliates, the Merger, and related transactions.

Parent, the Company and various of their affiliates have asked the STB to adopt a more expedited schedule contemplating a final order by the STB within 255 days of the filing of an application with the STB seeking approval of the Merger.

**Norfolk Southern Litigation.** On October 23, 1996, NSC filed a Complaint for Declaratory and Injunctive Relief in the United States District Court for the Eastern District of Pennsylvania, naming the Company, Parent and directors of the Company as defendants, alleging, among other things, violations of fiduciary duty, of the Company's Articles of Incorporation and By-Laws, of the Pennsylvania Law and of disclosure provisions of the federal securities laws, relating to tender offers and proxy solicitations, and requesting preliminary and permanent injunctive and declaratory relief including, without limitation, an injunction from commencing or continuing a tender offer (such as the Offer) for Company securities, seeking approval of the Articles Amendment or taking steps to make the Articles Amendment effective, taking any action to redeem the Rights or render the Rights inapplicable to any offer with respect to the Company by Parent without, at the same time, rendering the Rights inapplicable with respect to NSC's proposed tender offer with respect to the Company, taking any action to enforce certain provisions of the Merger Agreement, failing to take action to exempt NSC's proposal to acquire the Company from certain provisions of the Pennsylvania Law and holding the Pennsylvania Special Meeting. On October 30, 1996, NSC amended its complaint to, among other things, challenge certain additional features in the Merger Agreement and the Rights Agreement. As amended, the NSC complaint alleges, among other things, that entering into the Company Stock Option Agreement and the termination fee provisions of the Merger Agreement are violations of the fiduciary duties of the defendants, that the provisions of the Rights Agreement (which are alleged to

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result in the Company being prohibited from engaging in any merger or sale transaction with any entity other than Parent until 2005 in the event that a Distribution Date, as defined in the Rights Agreement, occurs) violate defendants' fiduciary duties; that the structure of the Offer is coercive and unfair to stockholders of the Company; that a provision in the Merger Agreement barring the Company from changing its recommendation of the transaction or agreeing to a competing transaction for a 180-day period from the execution of the Merger Agreement is ultra vires and a breach of the defendants' duties; and that certain features of the Rights Agreement which vest exclusive authority to redeem or amend the Rights in Continuing Directors (as defined in the Rights Agreement) are unlawful. On October 24, 1996, a hearing was scheduled for November 12, 1996 on the preliminary injunction being sought by NSC to enjoin, among other things, the Pennsylvania Special Meeting (and the effectiveness of the Articles Amendment) and to enjoin consummation of the Offer.

Among other things, the NSC complaint, as amended, alleges, with respect to alleged deficiencies in the disclosures made by Parent and the Company, that (capitalized terms used and not defined in the following quoted paragraphs shall have the meanings assigned such terms in the above-described complaint):

"75. 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.

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

(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.

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77. 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.

78. 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 . . . :

(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 break-up 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.

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(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 defendant directors' 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 . . . 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."



The foregoing is a summary of NSC's complaint, as amended, and is qualified in its entirety by reference to the NSC complaint, as amended, a copy of which is filed as Exhibit (c) (6) to the Schedule 14D-1.

Parent and Purchaser have filed motions to dismiss the claims alleged in the NSC complaint.

Shareholder Litigation. On October 30, 1996, three shareholders of the Company filed a complaint, individually and derivatively on behalf of the Company, against the Company, Parent and certain other defendants in the United States District Court for the Eastern District of Pennsylvania. Plaintiffs request declaratory and injunctive relief from, among other things, defendants' alleged violations of federal securities laws, holding the Pennsylvania Special Meeting, consummation of the Offer, alleged illegal and ultra vires acts by the Company and its directors, including seeking approval of the Articles Amendment, and alleged breach of fiduciary duties by directors of the Company.

9. MISCELLANEOUS. Parent and Purchaser have filed with the SEC amendments to the Schedule 14D-1 pursuant to Rule 14d-3 of the General Rules and Regulations under the Securities Exchange Act, furnishing certain additional information with respect to the Offer, and may file further amendments thereto. The Schedule 14D-1, and any amendments thereto, including exhibits, 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 will not be available at the regional offices of the SEC).

Except as modified by this Supplement, the terms set forth in the Offer to Purchase, the amendments thereto and the related Letters of Transmittal remain applicable in all respects to the Offer and this Supplement should be read in conjunction with the Offer to Purchase, the amendments thereto and the related Letters of Transmittal.

#### GREEN ACQUISITION CORP.

November 6, 1996

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Facsimile copies of the Letter of Transmittal, properly completed and duly signed, will be accepted. The Letter of Transmittal, certificates for the Shares and any other required documents should be sent by each shareholder of the Company or such shareholder's broker, dealer, commercial bank, trust company or other nominee to the Depositary at one of its addresses set forth below:

The Depositary for the Offer is:  
IBJ SCHRODER BANK & TRUST COMPANY

<TABLE>

<S>

By Mail:  
P.O. Box 84  
Bowling Green Station  
New York, New York 10274-0084  
Attn: Reorganization  
Operations Department

</TABLE>

<C>

By Facsimile Transmission:  
(212) 858-2611  
Attn: Reorganization  
Operations Department

<C>

By Hand or Overnight D  
One State Street  
New York, New York  
Attn: Securities  
Processing Window  
Subcellar One

Confirm Facsimile by Telephone:  
(212) 858-2103  
-----

Any questions or requests for assistance or additional copies of the Offer

to Purchase, the Letter of Transmittal and the Notice of Guaranteed Delivery may be directed to the Information Agent or the Dealer Manager at their respective telephone numbers and locations listed below. You may also contact your broker, dealer, commercial bank or trust company or other nominee for assistance concerning the Offer.

The Information Agent for the Offer is:

MACKENZIE PARTNERS, INC.

156 Fifth Avenue  
New York, New York 10010  
(212) 929-5500 (call collect)  
or  
CALL TOLL FREE (800) 322-2885

The Dealer Manager for the Offer is:

WASSERSTEIN PERELLA & CO., INC.  
31 West 52nd Street  
New York, New York 10019  
Call Collect:  
(212) 969-2700

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<DESCRIPTION>REVISED LETTER OF TRANSMITTAL

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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 16, 1996  
AND THE SUPPLEMENT THERETO  
DATED NOVEMBER 6, 1996  
BY

GREEN ACQUISITION CORP.  
a wholly owned subsidiary of  
CSX CORPORATION

THE OFFER HAS BEEN EXTENDED. THE OFFER, PRORATION PERIOD AND WITHDRAWAL RIGHTS WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON WEDNESDAY, NOVEMBER 20, 1996, UNLESS THE OFFER IS FURTHER EXTENDED.

The Depositary for the Offer is:  
IBJ SCHRODER BANK & TRUST COMPANY

<TABLE>

<S>

By Mail:  
P.O. Box 84  
Bowling Green Station  
New York, New York 10274-0084  
Attn: Reorganization Operations

<C>

By Hand or Overnight Delivery:  
One State Street  
New York, New York 10004  
Attn: Securities Processing  
Window,

Department

Subcellar One

</TABLE>

By Facsimile Transmission:

(212) 858-2611

Attn: Reorganization Operations Department

Confirm Facsimile by telephone:

(212) 858-2103

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 Letter of Transmittal is to be completed by shareholders of Conrail Inc. either if 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"), are to be forwarded herewith or if delivery of Shares is to be made by book-entry transfer to the Depository'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 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 Depository.

While the previously circulated (blue) Letter of Transmittal refers to the Offer to Purchase, dated October 16, 1996, and the Supplement thereto, dated November 6, 1996, shareholders making use thereof to tender their Shares will nevertheless receive \$110 per Share for each Share validly tendered and not withdrawn and accepted for payment pursuant to the Offer, subject to the conditions of the Offer. Shareholders who have previously validly tendered and have not withdrawn their Shares pursuant to the Offer are not required to take any further action to receive the increased tender price of \$110 per Share.

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This revised (blue) Letter of Transmittal or the previously circulated (blue) Letter of Transmittal is to be completed by shareholders either if certificates evidencing Shares (as defined below) are to be forwarded herewith or if delivery of Shares is to be made by book-entry transfer to the Depository'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 Section 3 of the Offer to Purchase (as defined below). DELIVERY OF DOCUMENTS TO A BOOK-ENTRY TRANSFER FACILITY DOES NOT CONSTITUTE DELIVERY TO THE DEPOSITORY.

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 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 (as defined in the Supplement), a tender of Shares will constitute a tender of the associated Rights. If a Distribution Date has occurred, 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, a tender of Shares without Rights constitutes an agreement by the tendering shareholder to deliver certificates representing a number of Rights equal to the number of Shares tendered pursuant to the Offer to the Depositary within three New York Stock Exchange, Inc. trading days after the date such certificates are distributed. Purchaser (as defined in the Offer to Purchase) reserves the right to require that it receive such certificates prior to accepting Shares for payment. Payment for Shares tendered and purchased pursuant to the Offer will be made only after timely receipt by the Depositary of, among other things, such 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.

Shareholders whose Share Certificates are not immediately available or who cannot deliver their Share Certificates and all other documents required hereby to the Depositary prior to the Expiration Date (as defined in "Terms of the Offer; Proration; Expiration Date" of the Offer to Purchase) or who cannot complete the procedure for delivery by book-entry transfer on a timely basis and who wish to tender their Shares must do so pursuant to the guaranteed delivery procedure described in "Procedures for Tendering Shares" of the Offer to Purchase. See Instruction 2.

- [ ] CHECK HERE IF 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 Depositary Trust Company  
[ ] Philadelphia Depositary Trust Company

Account Number \_\_\_\_\_ Transaction Code Number \_\_\_\_\_

- [ ] CHECK HERE IF 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 Depositary Trust Company  
[ ] Philadelphia Depositary Trust Company

Account Number \_\_\_\_\_ Transaction Code Number \_\_\_\_\_

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DESCRIPTION OF SHARES TENDERED

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NAME(S) AND ADDRESS(ES) OF REGISTERED HOLDER(S)



(PLEASE FILL IN, IF BLANK)

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SHARE CERTIFICATE(S) TENDERED  
(ATTACH ADDITIONAL LIST IF NECESSARY)

&lt;CAPTION&gt;

CERTIFICATE NUMBER(S) *	TOTAL NUMBER OF SHARES REPRESENTED BY CERTIFICATE(S)	NUMBER OF SH TENDERED *
<S>	<C>	<C>

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 Depository are being tendered. See Instruction 4.

&lt;/TABLE&gt;

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

&lt;PAGE&gt; 4

Ladies and Gentlemen:

The undersigned hereby tenders to Green Acquisition Corp., a Pennsylvania corporation ("Purchaser") and a wholly owned subsidiary of CSX 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, between the Company and First Chicago Trust Company of New York, as Rights Agent (as amended, the "Rights Agreement"), pursuant to Purchaser's offer to purchase an aggregate of 17,860,124 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 16, 1996 (the "Offer to Purchase"), as amended and supplemented by the Supplement thereto, dated November 6, 1996 (the "Supplement"), receipt of which is hereby acknowledged, and in the related Letters of Transmittal (which, as amended from time to time, together constitute the "Offer"). All references herein to the Common Shares, ESOP Preferred Shares or Shares includes the associated Rights.

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 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 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 that are being tendered hereby (and any and all non-cash dividends, distributions, rights, other Shares or other securities issued or issuable in respect of such

Shares or declared, paid or distributed in respect of such Shares on or after October 14, 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 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") and all Distributions, or transfer ownership of such Shares 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 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 and all Distributions, all in accordance with the terms of the Offer.

If, on or after October 14, 1996, the Company should declare or pay any cash or stock dividend, other than regular quarterly cash dividends, or make any distribution with respect to the Shares that is payable or distributable to stockholders 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 14 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 promptly remitted 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 John W. Snow, Mark G. Aron and Alan A. Rudnick 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 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. This appointment will be effective if, when, and only to the extent that, Purchaser accepts such Shares for payment pursuant to the Offer. Upon such acceptance for payment, all prior proxies given by the undersigned with respect to such Shares, 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, 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, Distributions or other securities to be deemed validly tendered, immediately upon Purchaser's acceptance for payment of such Shares Purchaser must be able to exercise full voting rights with respect to such Shares.

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The undersigned hereby represents and warrants that the undersigned has full power and authority to tender, sell, assign and transfer the Shares tendered hereby and all Distributions, that the undersigned own(s) the Shares tendered hereby within the meaning of Rule 14e-4 promulgated under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), that such

tender of Shares complies with Rule 14e-4 under the Exchange Act, and that when such Shares 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 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 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 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 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, personal representatives, successors and assigns of the undersigned. Except as stated in the Offer to Purchase or the Supplement, this tender is irrevocable.

The undersigned understands that tenders of Shares pursuant to any one of the procedures described in "Procedures for Tendering Shares" of the Offer to Purchase 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 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 tendered hereby.

Unless otherwise indicated herein in the box entitled "Special Payment Instructions," please issue the check for the purchase price of all Shares purchased, and return all Share Certificates evidencing Shares not purchased or not tendered, 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 of all Shares purchased and all Share Certificates evidencing Shares not tendered or not purchased (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 of all Shares purchased and return all Share Certificates evidencing Shares not purchased or not tendered in the name(s) of, and mail such check and Share Certificates to, the person(s) so indicated. Unless otherwise indicated herein in the box entitled "Special Payment Instructions," please credit any Shares 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 from the name of the registered holder(s) thereof if Purchaser does not accept for payment any of the Shares tendered hereby.

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SPECIAL PAYMENT INSTRUCTIONS  
(SEE INSTRUCTIONS 1, 5, 6 AND 7 OF  
THIS LETTER OF TRANSMITTAL)

To be completed ONLY if certificates for Shares not tendered or not



purchased and/or the check for the purchase price of Shares purchased are to be issued in the name of someone other than the undersigned, or if Shares 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

-----  
(ZIP CODE)

-----  
(TAXPAYER IDENTIFICATION OR SOCIAL SECURITY NUMBER)

(ALSO COMPLETE SUBSTITUTE FORM W-9 BELOW)

[ ] Credit unpurchased Shares 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 not tendered or not purchased and/or the check for the purchase price of Shares 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

-----  
(ZIP CODE)

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SIGN HERE  
(COMPLETE SUBSTITUTE FORM W-9 ON REVERSE)

X

X

-----  
(SIGNATURE(S) OF HOLDER(S))



Date \_\_\_\_\_, 1996

(Must be signed by registered holder(s) exactly as name(s) appear(s) on common or 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 \_\_\_\_\_

Date \_\_\_\_\_, 1996  
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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 Agent's 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) of Shares 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 are tendered for the account of an Eligible Institution. See Instruction 5. If a Share 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 Share Certificate not accepted for payment or not tendered is to be returned, to a person other than the registered holder(s), then the Share 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 Share Certificate, with the signature(s) on such Share 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 Share Certificates are to be forwarded herewith or if Shares are to be delivered by book-entry transfer pursuant to the procedure set forth in "Procedures for Tendering Shares" of the Offer to Purchase. Share Certificates evidencing all tendered Shares, or confirmation of a book-entry transfer of such Shares, if such procedure is available, into the Depository'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 Depository at one of its addresses set forth on the reverse hereof prior to the Expiration Date (as defined in "Terms of the Offer; Proration; Expiration Date" of the Offer to Purchase). If Share Certificates are forwarded to the Depository in multiple deliveries, a properly completed and duly executed Letter of Transmittal must accompany each such delivery. Stockholders whose Share Certificates are not immediately available, who cannot deliver their Share Certificates and all other required documents to the Depository 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 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 herewith, must be received by the Depository prior to the Expiration Date; and (iii) in the case of a guarantee of Shares, the Share Certificates, in proper form for transfer, or a confirmation of a book-entry transfer of such Shares, if such procedure is available, into the Depository'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 Depository 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. The term "Agent's Message" means a message, transmitted by a Book-Entry Transfer Facility to, and received by the Depository 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, that such participant has received and agrees to be bound by the terms of this Letter of Transmittal and that the Purchaser may enforce such agreement against the participant.

THE METHOD OF DELIVERY OF THIS LETTER OF TRANSMITTAL, SHARE CERTIFICATES AND ALL OTHER REQUIRED DOCUMENTS, INCLUDING DELIVERY THROUGH ANY BOOK-ENTRY TRANSFER FACILITY, IS AT THE OPTION AND RISK OF THE TENDERING STOCKHOLDER, AND THE DELIVERY WILL BE DEEMED MADE ONLY WHEN ACTUALLY RECEIVED BY THE DEPOSITORY. 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 will be purchased. By execution of this Letter of Transmittal (or a facsimile hereof), all tendering stockholders waive any right to receive any notice of the acceptance of their Shares for payment.

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

4. Partial Tenders. (Not applicable to stockholders who tender by book-entry transfer.) If fewer than all the Shares evidenced by any Share Certificate delivered to the Depositary herewith are to be tendered hereby, fill in the number of Shares which are to be tendered in the box entitled "Number of Shares Tendered." In such cases, new Share Certificate(s) evidencing the remainder of the Shares that were evidenced by the Share 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 evidenced by Share Certificates delivered to the Depositary will be deemed to have been tendered unless otherwise indicated.

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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 tendered hereby, the signature(s) must correspond with the name(s) as written on the face of the Share Certificates evidencing such Shares without alteration, enlargement or any other change whatsoever.

If any Share 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 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 tendered hereby, no endorsements of Share Certificates or separate stock powers are required, unless payment is to be made to, or Share Certificates evidencing Shares 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 Share Certificate(s) evidencing the Shares 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 Share Certificate(s). Signatures on such Share 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 tendered hereby, the Share Certificate(s) evidencing the Shares 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 Share Certificate(s). Signatures on such Share Certificate(s) and stock powers must be guaranteed by an Eligible Institution.

If this Letter of Transmittal or any Share 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 to it or its order pursuant to the Offer. If, however, payment of the purchase price of any Shares purchased is to be made to, or Share Certificate(s) evidencing Shares 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 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 SHARE CERTIFICATE(S) EVIDENCING THE SHARES TENDERED HEREBY.

7. Special Payment and Delivery Instructions. If a check for the purchase price of any Shares tendered hereby is to be issued, or Share Certificate(s) evidencing Shares 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 Share 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 tendered hereby by book-entry transfer may request that Shares not purchased be credited to such account maintained at a Book-Entry Transfer Facility as such stockholder may designate in the box entitled "Special Payment Instructions" on the reverse hereof. If no such instructions are given, all such Shares 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 were delivered.

8. Requests for Assistance or Additional Copies. Requests for assistance may be directed to the Information Agent or Dealer Manager at their respective addresses or telephone numbers set forth below. Additional copies of the Offer to Purchase, this Letter of Transmittal, the 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 Manager or from brokers, dealers, commercial banks or trust companies.

9. Substitute Form W-9. Each tendering shareholder is required to provide the Depository 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 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 Depository is not provided with a TIN within 60 days, the Depository will withhold 31% on all payments of the purchase price to such stockholder until a TIN is provided to the Depository.

10. Lost, Destroyed or Stolen Certificates. If any certificate(s) representing Shares 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.

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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.

#### IMPORTANT TAX INFORMATION

Under the federal income tax law, a shareholder whose tendered Shares 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 and 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 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 tendered hereby. If the Shares 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 stockholder until a TIN is provided to the Depositary.

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PAYER'S NAME: IBJ SCHRODER BANK & TRUST COMPANY, AS DEPOSITARY

<TABLE>

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SUBSTITUTE  
FORM W-9  
DEPARTMENT OF  
THE TREASURY  
INTERNAL  
REVENUE SERVICE  
PAYER'S REQUEST  
FOR TAXPAYER  
IDENTIFICATION  
NUMBER (TIN)

PART I -- PLEASE PROVIDE YOUR TIN IN THE Social Securi  
BOX AT RIGHT AND CERTIFY BY SIGNING AND / /  
DATING BELOW.

Employer Iden  
(If awaiting

PART II -- For Payees Exempt From Backup Withholding, s  
as instructed therein. CERTIFICATION -- Under penalties  
(1) The number shown on this form is my correct Taxpay  
Identification Number has not been issued to me an  
an application to receive a Taxpayer Identificatio  
Revenue Service ("IRS") or Social Security Adminis  
deliver an application in the near future. I under  
Identification Number within sixty (60) days, 31%  
thereafter will be withheld until I provide a numb  
(2) I am not subject to backup withholding either beca  
that I am subject to backup withholding as a resul  
dividends, or the IRS has notified me that I am no

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 a  
being notified by the IRS that you were subject to back  
withholding you received another notification from the  
that you are no longer subject to backup withholding, d  
cross out item (2).

(Also see instructions in the enclosed Guidelines.)

DATE \_\_\_\_\_, 1  
SIGNATURE

</TABLE>

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, Letter of Transmittal and  
other tender offer materials may be directed to the  
Information Agent or the Dealer Manager as set forth below:

The Information Agent for the Offer is:

MACKENZIE PARTNERS, INC.

156 Fifth Avenue

New York, New York 10010  
(212) 929-5500 (call collect)  
or  
CALL TOLL FREE (800) 322-2885

The Dealer Manager for the Offer is:

WASSERSTEIN PERELLA & CO., INC.

31 West 52nd Street  
New York, New York 10019  
Call Collect:  
(212) 969-2700

</TEXT>  
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<DOCUMENT>  
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<SEQUENCE>5  
<DESCRIPTION>REVISED NOTICE OF GUARANTEED DELIVERY  
<TEXT>

<PAGE> 1

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

GREEN ACQUISITION CORP.  
a wholly owned subsidiary of  
CSX CORPORATION  
(Not to be Used for Signature Guarantees)

This 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, between the Company and First Chicago Trust Company of New York, as Rights Agent (as amended, the "Rights Agreement"), are not immediately available, (ii) time will not permit all required documents to reach IBJ Schroder Bank and Trust Company, as Depositary (the "Depositary"), prior to the Expiration Date (as defined in "Terms of the Offer; Proration; Expiration Date" of the Offer to Purchase (as defined below)) 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.

The Depositary for the Offer is:

IBJ SCHRODER BANK & TRUST COMPANY

<TABLE>  
<CAPTION>

	By Mail:	By Facsimile Transmission:	By H Overnight
<S>		<C>	<C>
	Bowling Green Station	(212) 858-2611	One Sta
	P.O. Box 84	Attn: Reorganization	New York, N
	New York, New York 10274-0084	Operations Department	Attn: Securit
	Attn: Reorganization		Win
	Operations Department		Subcel
		Confirm Facsimile by Telephone:	
		(212) 858-2103	

</TABLE>

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.

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Ladies and Gentlemen:

The undersigned hereby tenders to Green Acquisition Corp., a Pennsylvania corporation and a wholly owned subsidiary of CSX Corporation, a Virginia corporation, upon the terms and subject to the conditions set forth in the Offer to Purchase, dated October 16, 1996 (the "Offer to Purchase"), as amended and supplemented by the Supplement thereto, dated November 6, 1996 (the "Supplement"), and the related Letters 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 specified below pursuant to the guaranteed delivery procedures described in "Procedures for Tendering Shares" of the Offer to Purchase.

<TABLE>

<S>

Number of Shares:

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Certificate Nos. (if available):  
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<C>

Name(s) of Record Holder(s):  
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PLEASE PRINT

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

☐ The Depositary Trust Company

☐ Philadelphia Depositary Trust Company

Account Number:

Dated: , 1996

</TABLE>

Address(es):  
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ZIP CODE  
Area Code and Tel. No.:  
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GUARANTEE  
(NOT TO BE USED FOR SIGNATURE GUARANTEES)

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 (a) represents that the tender of Shares effected hereby complies with Rule 14e-4 of the Securities Exchange Act of 1934, as amended, and (b) guarantees delivery to the Depository, at one of its addresses set forth above, of certificates evidencing the Shares tendered hereby in proper form for transfer, or confirmation of book-entry transfer of such Shares into the Depository'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 Letter of Transmittal (or 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 Letter of Transmittal, (a) in the case of Shares, within three New York Stock Exchange, Inc. trading days after the date of execution of this Notice of Guaranteed Delivery, or (b) in the case of Rights, a period ending the latter of (i) three New York Stock Exchange, Inc. trading days after the date of execution of this Notice of Guaranteed Delivery or (ii) three business days after the date Right Certificates are distributed to stockholders.

The Eligible Institution that completes this form must communicate the guarantee to the Depository and must deliver the Letter of Transmittal and certificates for Shares to the Depository within the time period shown herein. Failure to do so could result in financial loss to such Eligible Institution.

&lt;TABLE&gt;

&lt;S&gt;

&lt;C&gt;

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NAME OF FIRM  
----------  
AUTHORIZED SIGNAT  
----------  
ADDRESS  
----------  
TITLE  
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Name:

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ZIP CODE  
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PLEASE PRINT

Area Code and Tel. No.:

&lt;/TABLE&gt;

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

&lt;/TEXT&gt;

&lt;/DOCUMENT&gt;

&lt;DOCUMENT&gt;

&lt;TYPE&gt;EX-99.A16

&lt;SEQUENCE&gt;6

&lt;DESCRIPTION&gt;REVISED LETTER TO BROKERS, DEALERS

&lt;TEXT&gt;

&lt;PAGE&gt; 1

Wasserstein logo

Wasserstein, Perella & Co., Inc.  
31 West 52nd Street  
New York, New York 10019  
Tel: (212) 969-2700

GREEN ACQUISITION CORP.  
a wholly owned subsidiary of  
CSX CORPORATION  
HAS INCREASED THE PRICE OF ITS  
OFFER TO PURCHASE FOR CASH

AN AGGREGATE OF 17,860,124 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

\$110 NET PER SHARE

THE OFFER HAS BEEN EXTENDED. THE OFFER, PRORATION PERIOD AND WITHDRAWAL RIGHTS  
WILL EXPIRE AT 12:00 MIDNIGHT, NEW YORK CITY TIME, ON WEDNESDAY, NOVEMBER 20,  
1996, UNLESS THE OFFER IS FURTHER EXTENDED.

November 6, 1996

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

We have been appointed by Green Acquisition Corp., a Pennsylvania corporation ("Purchaser") and a wholly owned subsidiary of CSX Corporation, a Virginia corporation ("Parent"), to act as Dealer Manager in connection with the Purchaser's offer to purchase an aggregate of 17,860,124 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 \$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 16, 1996 (the "Offer to Purchase"), as amended and supplemented by the Supplement thereto, dated November 6, 1996 (the "Supplement"), and the related Letters of Transmittal (which, as amended from time to time, together constitute the "Offer") enclosed herewith. All references herein to the Common Shares, ESOP Preferred Shares or Shares shall include the associated Rights.

THE OFFER IS CONDITIONED UPON, AMONG OTHER THINGS, (1) THE RECEIPT BY PURCHASER, PRIOR TO THE EXPIRATION OF THE OFFER, OF AN INFORMAL WRITTEN OPINION IN FORM AND SUBSTANCE REASONABLY SATISFACTORY TO PURCHASER FROM THE STAFF OF THE SURFACE TRANSPORTATION BOARD (THE "STB"), WITHOUT THE IMPOSITION OF ANY CONDITIONS UNACCEPTABLE TO PURCHASER, THAT THE USE OF A VOTING TRUST (THE "VOTING TRUST") IN SUBSTANTIALLY THE FORM CONTEMPLATED BY THE MERGER AGREEMENT IS CONSISTENT WITH THE POLICIES OF THE STB AGAINST UNAUTHORIZED ACQUISITIONS OF CONTROL OF A REGULATED CARRIER (SUCH CONDITION, THE "VOTING TRUST CONDITION"), (2) THE RECEIPT BY PURCHASER, PRIOR TO THE EXPIRATION OF THE OFFER, OF AN INFORMAL STATEMENT FROM THE PREMERGER NOTIFICATION OFFICE OF THE FEDERAL TRADE COMMISSION THAT THE TRANSACTIONS CONTEMPLATED BY THE OFFER, THE MERGER AGREEMENT AND THE COMPANY STOCK OPTION AGREEMENT (AS DEFINED IN THE OFFER TO PURCHASE) ARE NOT SUBJECT TO, OR ARE EXEMPT FROM, THE HART-SCOTT-RODINO ANTITRUST IMPROVEMENTS ACT OF 1976, AS AMENDED (THE "HSR ACT"), OR IN THE ABSENCE OF THE RECEIPT OF SUCH INFORMAL STATEMENT, ANY APPLICABLE WAITING PERIOD UNDER THE HSR ACT SHALL HAVE EXPIRED OR BEEN TERMINATED, (3) PARENT AND PURCHASER OBTAINING, PRIOR TO THE EXPIRATION OF THE OFFER, SUFFICIENT FINANCING, ON TERMS REASONABLY ACCEPTABLE TO PARENT, TO ENABLE CONSUMMATION OF THE OFFER AND THE MERGER AND (4) THERE BEING AT LEAST 17,860,124 SHARES VALIDLY TENDERED AND NOT WITHDRAWN PRIOR TO THE EXPIRATION OF THE OFFER.

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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