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GOLLATZ, GRIFFIN & EWING, P.C.
ATTORNEYS AT LAW

213 WEST MINER STREET
POST OFFICE BOX 796
WEST CHESTER, PA 19381-0796

PHILADELPHIA OFFICE:
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(215) 565-4400

Telephone (610) 692-9116
Telecopier (610) 692-9177
E-MAIL: GGE@GGE.ATTMAIL.COM

DELAWARE COUNTY OFFICE:
205 NORTH MONROE STREET
POST OFFICE BOX 1430
MEDIA, PA 19063
(610) 565-6040

ERIC M. HOCKY

July 11, 1997



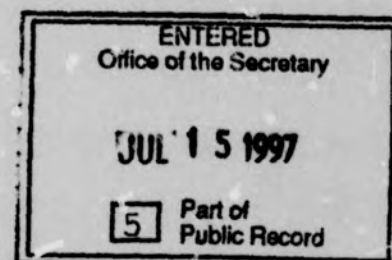
FedEx

Office of the Secretary
Case Control Unit
ATTN: STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

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

Dear Sir or Madam:

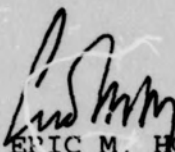
Enclosed for filing in the above referenced proceeding are an original and 25 copies of Notice of Intent to Participate of the Bethlehem Steel Corporation and its subsidiary railroads (BSCX-1), along with a diskette containing the document in a format (WordPerfect 6.1) that can be converted into WordPerfect 7.0.



Office of the Secretary
Case Control Unit
July 11, 1997
Page 2

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

Respectfully,



ERIC M. HOCKY

Enclosures

cc: Dennis G. Lyons, Esq.
Richard A. Allen, Esq.
Paul A. Cunningham, Esq.
Administrative Law Judge Jacob Leventhal

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BSCX-1

BEFORE THE
SURFACE TRANSPORTATION BOARD
STB FINANCE DOCKET NO. 33388

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



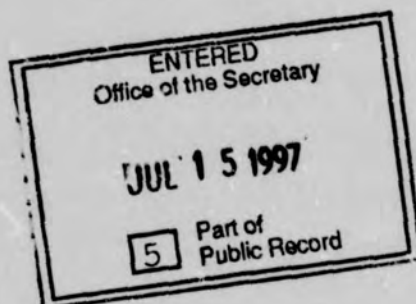
NOTICE OF INTENT TO PARTICIPATE

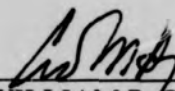
Please take notice that Bethlehem Steel Corporation and its subsidiary railroads listed on Schedule A ("BSCX") intend to actively participate in this proceeding. The following should be added to the service list in this proceeding:

Delmar A. Davis
Director, Corporate Transportation
Bethlehem Steel Corporation
Room 460 Martin Tower
1170 Eighth Avenue
Bethlehem, PA 18016-7699

James C. Matthews
Vice President, Operations
Subsidiary Railroads
Room 610 Martin Tower
1170 Eighth Avenue
Bethlehem, PA 18016-7699

The undersigned counsel is already on the service list in this proceeding. Please note the additional representation.




WILLIAM P. QUINN
ERIC M. HOCKY
GOLLATZ, GRIFFIN & EWING, P.C.
213 West Miner Street
P.O. Box 796
West Chester, PA 19381-0796
(610) 692-9116

Dated: July 11, 1997

Attorneys for Bethlehem Steel Corporation
and its subsidiary railroads

Schedule A

Philadelphia, Bethlehem and New England Railroad Company
Steelton & Highspire Railroad Company
South Buffalo Railway Company
Patapsco & Back Rivers Railroad Company
Cambria & Indiana Railroad Company
Conemaugh & Black Lick Railroad Company

CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing Notice of Intent to Participate of Bethlehem Steel Corporation and its subsidiary railroads was served by first class mail on the following persons specified in Decision No. 2, and on the parties shown on the attached list:

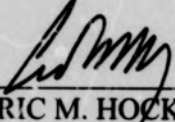
Administrative Law Judge Jacob Leventhal
Federal Energy Regulatory Commission
888 First Street, NE, Suite 11F
Washington, DC 20426

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

Richard A. Allen, Esq.
Zuckert, Scoutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, DC 20006-3939

Paul A. Cunningham, Esq.
Harkins Cunningham
1300 Nineteenth Street, NW, Suite 600
Washington, DC 20036

Dated: July 11, 1997



ERIC M. HOCKY

JANICE G. BARBER
MICHAEL E. ROPER
THE BURLINGTON NORTHERN SANTA FE CORPORATION
3017 LOU MENK DRIVE
FORT WORTH, TX 76131-2830

WILLIAM A. BON
GENERAL COUNSEL
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
26555 EVERGREEN ROAD, SUITE 200
SOUTHFIELD, MI 48076

SEAN D. BRADY
MANAGER, STRATEGIC PLANNING-GENERATION
NEW YORK STATE ELECTRIC & GAS CORPORATION
CORPORATE DRIVE, KIRKWOOD INDUSTRIAL PARK
P.O. BOX 5224
BINGHAMTON, NY 13902-5224

THERESA M. BRENNAN
PENNSYLVANIA POWER & LIGHT CO.
TWO NORTH NINTH STREET
ALLENTOWN, PA 18101-1179

A. SCOTT CAUGER
SENIOR COUNSEL
NIAGARA MOHAWK POWER CORPORATION
300 ERIE BOULEVARD WEST
SYRACUSE, NY 13202

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1100 NEW YORK AVENUE, NW, SUITE 750
WASHINGTON, DC 20005-3934

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LAROE, WINN, MOERMAN & DONOVAN
3506 IDAHO AVENUE, NW
WASHINGTON, DC 20016

GARY EDWARDS
SUPERINTENDENT RAILROAD OPERATIONS
SOMERSET RAILROAD CORPORATION
7725 LAKE ROAD
BARKER, NY 14012

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BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES
400 NORTH CAPITOL ST., NW, SUITE 852
WASHINGTON, DC 20001-1511

DAVID L. HALL
COMMONWEALTH CONSULTING ASSOCIATES
720 NORTH POST OAK ROAD, SUITE 400
HOUSTON, TX 77024

WILLIAM P. HERNAN, JR.
GENERAL CHAIRMAN
UNITED RAILWAY SUPERVISORS ASSOCIATION
P.O. BOX 180
HILLIARD, OH 43026-0180

DOREEN C. JOHNSON
CHIEF, ANTITRUST SECTION
OHIO ATTORNEY GENERAL'S OFFICE
30 E. BROAD STREET, 16TH FLOOR
COLUMBUS, OH 43215

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2000 PENNSYLVANIA AVENUE, N.W.
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RICHARD S. EDELMAN
L. PAT WYNNIS
HIGHSAW, MAHONEY & CLARKE, P.C.
1050 17TH STREET, NW, SUITE 210
WASHINGTON, DC 20036

RON MARQUART, PRESIDENT
LOCAL UNION 1810 UMWA
VALLEY VIEW SUB-DIVISION
R.D. 32
RAYLAND, OH 43943

MICHAEL MATTIA
DIRECTOR, RISK MANAGEMENT
INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INC.
1325 G STREET, N.W.
WASHINGTON, DC 20005

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LINDA K. BREGGIN
BRENDA DURHAM
LE BOEUF, LAMB, GREENE & MACRAE, L.L.P.
1875 CONNECTICUT AVENUE, NW, SUITE 1200
WASHINGTON, DC 20009-5728

JEFFREY R. MORELAND
RICHARD E. WEICHER
SIDNEY L. STRICKLAND, JR.
THE BURLINGTON NORTHERN SANTA FE CORPORATION
1700 EAST GOLF ROAD
SCHAUMBURG, IL 60173

L. JOHN OSBORN
DOUGLAS E. ROSENTHAL
AMBER C. HASKETT
SONNENSCHN NATH & ROSENTHAL
1301 K STREET, NW, SUITE 600, EAST TOWER
WASHINGTON, DC 20005

ARVID E. ROACH, II
COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE, N.W.
P.O. BOX 7566
WASHINGTON, DC 20044-7566

RANDOLPH L. SEGER
ROBERT B. SCOTT
MCHALE COOK & WELCH, P.C.
320 N. MERIDIAN STREET, SUITE 1100
INDIANAPOLIS, IN 46204

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DONELAN, CLEARY, WOOD & MASER, P.C., SUITE 750
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GEORGE W. MAYO, JR.
ERIC VON SALZEN
THOMAS B. LEARY
HOGAN & HARTSON L.L.P.
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004-1109

EDWARD C. MCCARTHY
ASSISTANT GENERAL COUNSEL
INLAND STEEL INDUSTRIES, INC.
30 WEST MONROE STREET
CHICAGO, IL 60603

ROBERT E. MURRAY
PRESIDENT AND CHIEF EXECUTIVE OFFICER
THE OHIO VALLEY COAL COMPANY
29525 CHAGRIN BOULEVARD, SUITE 111
PEPPER PIKE, OH 44122

*JEAN PIERRE OUELLET
CHIEF LEGAL OFFICER AND CORPORATE SECRETARY
CANADIAN NATIONAL RAILWAY COMPANY
935 DE LA GAUCHETIERE STREET WEST, 16TH FLOOR
MONTREAL, QUEBEC
H3B 2M9
CANADA

JACK H. ROSKOZ
EXECUTIVE VICE PRESIDENT
NEW YORK STATE ELECTRIC & GAS CORPORATION
CORPORATE DRIVE, KIRKWOOD INDUSTRIAL PARK
P.O. BOX 5224
BINGHAMTON, NY 13902-5224

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LAW DEPARTMENT
CITY OF HAMMOND
5925 CALUMET AVENUE
HAMMOND, IN 46320

KENNETH E. SIEGEL
ATA LITIGATION CENTER
2200 MILL ROAD
ALEXANDRIA, VA 22314-4677

ROBERT G. SZABO
VAN NESS FELDMAN, P.C.
1050 THOMAS JEFFERSON STREET, NW, SEVENTH FL.
WASHINGTON, DC 20007

HUGH H. WELSH
DEPUTY GENERAL COUNSEL
THE PORT AUTHORITY OF NEW YORK
AND NEW JERSEY
ONE WORLD TRADE CENTER, 67E
NEW YORK, NY 10048

EDWARD WYTKIND, EXECUTIVE DIRECTOR
LARRY WILLIS
TRANSPORTATION TRADES DEPARTMENT, AFL-CIO
400 NORTH CAPITOL STREET, NW
SUITE 861
WASHINGTON, DC 20001

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JOHN M. CUTLER, JR.
MCCARTHY, SWEENEY & HARKAWAY, P.C.
1750 PENNSYLVANIA AVENUE, NW
WASHINGTON, DC 20006

*MARCELLA M. SZEL
VICE PRESIDENT-LEGAL SERVICES
CANADIAN PACIFIC RAILWAY COMPANY
GULF CANADA SQUARE, SUITE 500
401 NINTH AVENUE, S.W.
CALGARY, ALBERTA S2P 4Z4
CANADA

FREDERIC L. WOOD
NICHOLAS J. DIMICHAEL
DONELAN, CLEARY, WOOD & MASER, P.C.
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WASHINGTON, DC 20005-3934

R. L. YOUNG
MANAGING DIRECTOR-TRANSPORTATION
AMERICAN ELECTRIC POWER
P.O. BOX 700
LANCASTER, OH 43130-0700

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LAW OFFICES
McFARLAND & HERMAN
20 NORTH WACKER DRIVE-SUITE 1330
CHICAGO ILLINOIS 60606-2902
TELEPHONE (312) 236-0204
FAX (312) 201-9695
mchermn@aol.com



THOMAS F. McFARLAND, JR.
tmcfarld@aol.co.n

July 9, 1997

Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit, Suite 713
1925 K Street, N.W.
Washington, DC 20423-0001

Re: STB Finance Docket No. 33388, *CSX Corp. and CSX Transportation, inc., Norfolk Southern Corp. and Norfolk Southern Railway Co. - Control and Operating Leases/Agreements - Conrail Inc. and Consolidated Rail Corp.*

Dear Mr. Williams:

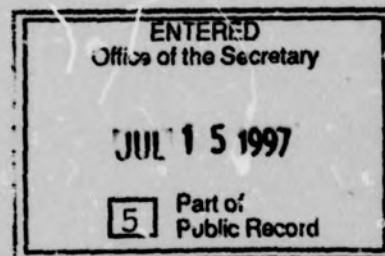
Enclosed please find an original and 25 copies of KGC-1, a Notice of Intent to Participate in the above proceeding, in behalf of Kokomo Grain Co., Inc.

Very truly yours,

Thomas F. McFarland Jr.

Thomas F. McFarland, Jr.
Attorney for Kokomo Grain Co., Inc.

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

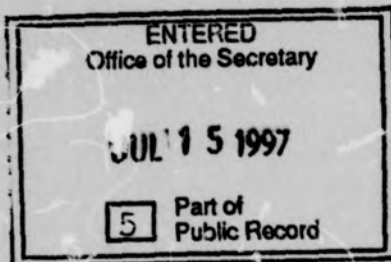


CSX CORPORATION AND CSX TRANSPORTION, INC., NORFOLK SOUTHERN
CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

-- CONTROL AND OPERATING LEASES/AGREEMENTS --
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

NOTICE OF INTENT TO PARTICIPATE

Kokomo Grain Co., Inc. hereby gives notice of its intent to participate as a Party of Record (FOR) in this proceeding. It adopts the acronym "KGC" for its filings. An original and 25 copies of this Notice are being sent to the Office of the Secretary, together with a 3.5 inch diskette containing this notice, formatted to WordPerfect 7.0.



Respectfully submitted,

Thomas F. McFarland Jr.

THOMAS F. McFARLAND, JR.
McFARLAND & HERMAN
20 North Wacker Drive, Suite 1330
Chicago, IL 60606-2902
(312) 236-0204

Dated: July 9, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have this 9th day of July, 1997, served copies of the foregoing
Notice of Intent to Participate by first class mail upon the following:

Administrative Law Judge Jacob Leventhal
Federal Energy Regulatory Commission
888 First Street, N.E.
Suite 11F
Washington, DC 20426

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

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

Paul A. Cunningham, Esq.
Harkins Cunningham
Suite 600
1300 Nineteenth Street, N.W.
Washington, DC 20036

Thomas F. McFarland Jr.

Thomas F. McFarland, Jr.

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LAW OFFICES

McCARTHY, SWEENEY & HARKAWAY, P. C.

1750 PENNSYLVANIA AVE., N. W.

WASHINGTON, D. C. 20006

TELEPHONE (202) 393-5710

TELECOPIER (202) 393-5721

DOUGLAS M. CANTER
JOHN M. CUTLER, JR.
WILLIAM I. HARKAWAY
STEVEN J. KALISH
KATHLEEN L. MAZURE
HARVEY L. REITER
DANIEL J. SWEENEY

ANDREW P. GOLDSTEIN

July 9, 1997



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

Re: Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., et al. -- Control and Operating Leases/Agreements -- Conrail Inc. and Consolidated Rail Corporation

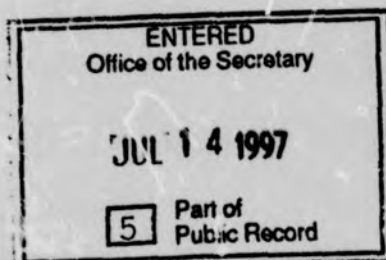
Dear Secretary Williams:

This letter, accompanied by 25 copies thereof, will serve as notice of the intent of Archer Daniels Midland Company to participate actively in the captioned proceeding as its interests may appear. Kindly add the name of the following individual to the service list as a party of record to receive copies of decisions, orders, and notices:

Scott A. Roney, Esq.
Archer Daniels Midland Company
P. O. Box 1470
4666 Faries Parkway
Decatur, IL 62525
(217) 424-5200

I hereby certify that a copy of this letter has been served, by first class mail, postage prepaid, on counsel for the applicants and on Administrative Law Judge Jacob Leventhal.

Sincerely,



Andrew P. Goldstein

Andrew P. Goldstein

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Wyandot Dolomite, Inc.

GENERAL OFFICE AND PLANT
P.O. Box 99, Carey, OH 43316-0099
Tel: 419/396-7641
Fax: 419/396-6094

SUBSIDIARY

HANCOCK ASPHALT & PAVING, INC.
FINDLAY & CAREY, OH

June 26, 1997



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

RE: Finance Docket No. 33388, CSX Corporation and CSX Transportation Company, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Merger of CSX and Conrail and N.S. and Conrail.

Dear Secretary Williams:

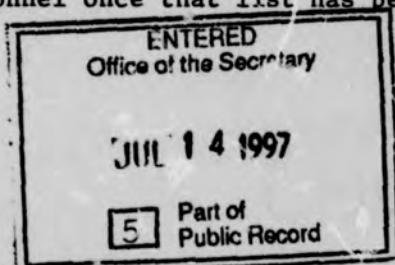
This document shall serve as the Notice of Intent to Participate in the above entitled proceeding filed on behalf of Wyandot Dolomite, Inc. Carey, Ohio.

Pursuant to 49 C.F.R. 1180.4 (c) (5) (v), the undersigned is requesting that the applications serve a copy of their primary application and other pleadings on the following, as the representative of Wyandot Dolomite, Inc. Carey, Ohio:

Timothy A. Wolfe, Exec. Vice President
Wyandot Dolomite, Inc.
P. O. Box 99, 1794 Co. Rd. #99
Carey, OH 43316
Phone: 419/396-7641
Fax: 419/396-6094

This letter is also to request the Board to place Wyandot Dolomite, Inc. on the list of all parties of record that will be prepared and issued under the provisions of 49 C.F.R. 1180.0 (a) (2), Wyandot Dolomite, Inc. selects the acronym "WDI" for identifying all documents and pleadings it submits in this proceeding.

Enclosed you will find an original notice and twenty five copies. I have attached a certificate of service as required. Copies of this notice will be sent to all other parties of record on the service list provided by Board personnel once that list has been received.



Very truly yours,

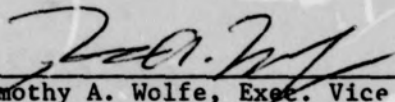
WYANDOT DOLOMITE, INC.

Timothy A. Wolfe
Timothy A. Wolfe
Exec. Vice President

CERTIFICATE OF SERVICE

I hereby certify that on the 26th of June, 1997, service of a true and complete copy of the above and foregoing pleading or paper was made upon each party or attorney of record listed below by depositing the same in the United States Mail in an envelope properly addressed to each of them and with sufficient first class postage affixed.

By:


Timothy A. Wolfe, Exec. Vice President
Wyandot Dolomite, Inc.

Honorable Judge Jacob Leventhal
Federal Energy Regulatory Commission
888 1st Street, N.E.
Suite 11F
Washington DC 20426

Paul A. Cunningham
Attorney for Conrail
Harkins & Cunningham
Suite 600
Washington, DC 20036

Richard A. Allen
Attorney for Norfolk/Southern
Zuckert, Scott & Rosenberger
338 17th Street, NW
Washington, DC 20006-3939

Dennis G. Lyons
Attorney for CSX
Arnold and Porter
555 12th Street, N.W.
Washington, DC 20004-1202

STB

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7-11-97

D

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180589

GALLAND, KHARASCH & GARFINKLE, P.C.
ATTORNEYS AT LAW

EDWARD D. GREENBERG
E-MAIL: egreenbe@gkmg.com

CANAL SQUARE
1054 THIRTY-FIRST STREET, N.W.
WASHINGTON, D.C. 20007-4492
TELEPHONE: (202) 342-5200
FACSIMILE: (202) 342-5219
(202) 337-8787

E-MAIL: gkmg@gkmg.com

ROBERT N. KHARASCH
OF COUNSEL

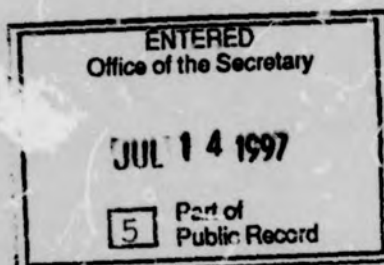
GEORGE F. GALLAND (1910-1985)

WRITER'S DIRECT DIAL NUMBER

July 11, 1997

VIA COURIER

Mr. Vernon A. Williams, Secretary
Office of the Secretary
Surface Transportation Board
1925 K Street, N.W., Room 711
Washington, DC 20423-0001



Re: CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company--Control and Operating Leases/Agreements--Conrail, Inc. and Consolidated Rail Corporation--Transfer of Railroad Line by Norfolk Southern Railway Company to CSX Transportation, Inc. (Finance Docket No. 33388)

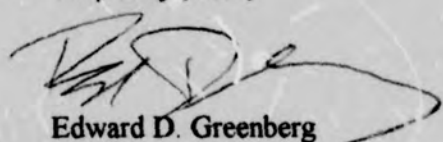
Dear Secretary Williams:

Enclosed please find an original and twenty-five (25) copies of the Notice of Appearance of Providence and Worcester Railroad Company in the above-referenced docket.

Also enclosed is an additional copy of the filing to be date-stamped when filed and returned to us.

Should you have any questions concerning this, please do not hesitate to contact us

Very truly yours,


Edward D. Greenberg

Enclosures

XINJIYUAN-GKMG LAW OFFICE
AFFILIATED FIRM
SUITE A-1603, VANTONE NEW WORLD PLAZA
NO. 2, FU CHENG MEN WAI AVENUE
BEIJING 100027 PEOPLE'S REPUBLIC OF CHINA
TEL: 011-86-10-6858-8501 FAX: 011-86-10-6858-8505
E-MAIL: xjylaw@pku.edu.cn

180589

**BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C.**

Finance Docket No. 33388

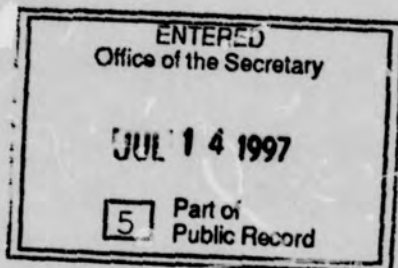
**CSX Corporation and CSX Transportation, Inc.,
Norfolk Southern Corporation and Norfolk Southern
Railway Company--Control and Operating Leases/
Agreements--Conrail, Inc. and Consolidated Rail
Corporation--Transfer of Railroad Line by Norfolk
Southern Railway Company to CSX Transportation, Inc.**

NOTICE OF APPEARANCE

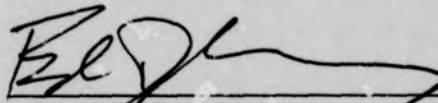
Please enter the appearance of the undersigned counsel on behalf of the Providence and Worcester Railroad Company, which intends to participate and become a party of record in these proceeding. Please add the names of Providence and Worcester Railroad Company counsel in both Providence and Washington as separate entries to the service list, and make service of all future pleadings and other correspondence on both Providence and Worcester counsel as indicated below:

Heidi Edens, Esq.
General Counsel
Providence and Worcester Railroad Company
75 Hammond Street
Worcester, MA 01610

Edward D. Greenberg, Esq.
Galland, Kharasch & Garfinkle, P.C.
Canal Square
1054 - 31st Street, N.W.
Washington, DC 10007



Respectfully submitted,


Edward D. Greenberg
Galland, Kharasch & Garfinkle, P.C.
1054 - 31st Street, N.W.
Washington, DC 20007
(202) 342-5200

Dated: July 11, 1997

CERTIFICATE OF SERVICE

I certify that on this 11th day of July, 1997 I caused a copy of the foregoing Notice of Appearance to be served by first-class mail, postage prepaid, on Applicants' representatives, all parties of record and on the Honorable Jacob Levanthal, Federal Energy Regulatory Commission, 888 First Street, N.E., Suite 11F, Washington, D.C. 20426.

A handwritten signature in dark ink, appearing to read 'Ed Greenberg', is written over a horizontal line.

Edward D. Greenberg

STB

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7-11-97

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Before The
SURFACE TRANSPORTATION BOARD
Washington, D.C.

Finance Docket No. 33388



CSX Corporation and CSX Transportation Inc.
Norfolk Southern Corporation and
Norfolk Southern Railway Company
Control and Operating Leases/Agreement
Conrail, Inc. and Consolidated Rail Corporation
to CSX Transportation Inc.

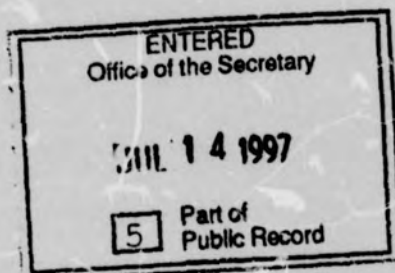
NOTICE OF INTENT TO PARTICIPATE

Please enter the appearance of the undersigned on behalf of The Indian Creek Railroad Company, Anderson, Indiana, acting on behalf of the rail carrier, which intends to participate and become a party of record in this proceeding. Pursuant to 49 C.F.R. § 1104.12, service of all documents filed in this proceeding should be made upon the undersigned.

Dated: June 24, 1997

Respectfully submitted

Mr. Thomas R. Rydman, President
INDIAN CREEK RAILROAD COMPANY
3905 W. 600 North
Anderson, IN 46011-9238



CERTIFICATE OF SERVICE

I hereby certify that on June 24, 1997, a copy of the foregoing Indian Creek Railroad Company's Notice Of Intent To Participate was served by first-class, U.S. mail, postage prepaid upon the following:

James C. Bishop, Jr.
William C. Wooldridge
James L. Howe, III
Robert J. Cooney
George A. Aspatore
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-9241

Richard A. Allen, Esquire
James A. Calderwood
Andrew R. Plump
John V. Edwards
Zuckert, Scoutt &
Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, D.C. 20006-3939

John M. Nammes
Scot B. Hutchins
Skadden, Arps, Slate
Meagher & Flom L.L.P.
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

Mark G. Aron
Peter J. Shudat
CSX Corporation
One James Center
902 East Cary Street
Richmond, VA 23129

P. Michael Giftos
Paul R. Hitchcock
CSX Transportation, Inc.
500 Water Street
Speed Code J-120
Jacksonville, FL 32202

Dennis G. Lyons, Esquire
Richard L. Rosen
Paul T. Denis
Arnold & Porter
555 12th Street, N.W.
Washington, D.C. 20004-1202

Samuel M. Sipe, Jr.
Timothy M. Walsh
Steptoe & Johnson L.L.P.
1330 Connecticut Avenue
Washington, D.C. 20036-1795

Timothy T. O'Toole
Constance L. Abrams
Consolidated Rail Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Paul A. Cunningham, Esquire
Harkins Cunningham
Suite 600
1300 Nineteenth Street, N.W.
Washington, D.C. 20036

Indian Creek RR Co.
Thomas R. [Signature]

Notary

[Signature: Phyllis C. Wise]

PHYLLIS C. WISE
NOTARY PUBLIC STATE OF INDIANA
MADISON COUNTY
MY COMMISSION EXPIRES 11-98

STB

FD

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6-30-97

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180421

SLOVER & LOFTUS

ATTORNEYS AT LAW

1924 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036

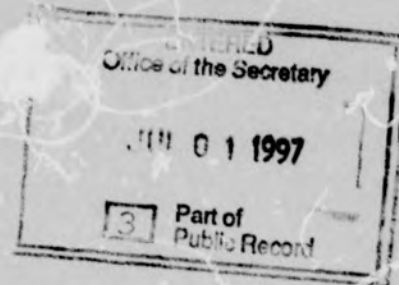
WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD C. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROVENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III



June 30, 1997

BY HAND DELIVERY

The Honorable Arnon A. Williams
Secretary
Surface Transportation Board
Case Control Unit
ATTN: STB Finance Docket 33388
1925 K Street, N.W.
Washington, D.C. 20423-0001



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

Dear Secretary Williams:

Enclosed for filing in the above-referenced proceeding are an original and 25 copies of the Notice of Intent to Participate of GPU Generation, Inc. (GPU-01).

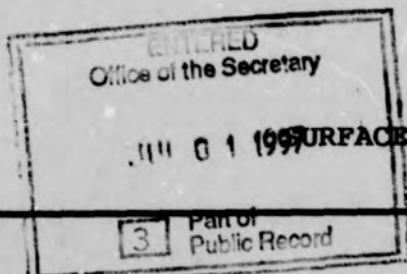
An additional copy of this pleading is also enclosed. Kindly indicate receipt and filing by time-stamping this extra copy and returning it with our messenger.

Thank you for your attention to this matter.

Sincerely,

Kelvin J. Dowd
An Attorney for
GPU Generation, Inc.

Enclosures



BEFORE THE
SURFACE TRANSPORTATION BOARD



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

Finance Docket No. 33388

NOTICE OF INTENT TO PARTICIPATE
OF
GPU GENERATION, INC.

GPU Generation, Inc., by its undersigned counsel,
hereby gives notice of its intent to participate in this proceed-
ing as a full party of record (POR), as its interests may appear.
GPU Generation, Inc. selects the acronym "GPU" for identification
of all documents and pleadings that it submits in this proceed-
ing.

Respectfully submitted,

GPU GENERATION, INC.
1001 Broad Street
Johnstown, PA 15907

By: Timothy M. Atherton
Senior Attorney
GPU Generation, Inc.
1001 Broad Street
Johnstown, PA 15907

OF COUNSEL:

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

C. Michael Loftus
Kelvin J. Dowd
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: June 30, 1997

Attorneys and Practitioners


CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Notice of Intent to Participate were served this 30th day of June, 1997, by first class mail, postage pre-paid, upon:

Dennis C. Lyons, Esq.
Arnold & Porter
555 12th Street, N.W.
Washington, D.C. 20004-1202

Richard A. Allen, Esq.
Zuckert, Scoutt & Rasenberger, L.L.P.
888 17th Street, N.W.
Washington, D.C. 20006-3939

Paul A. Cunningham, Esq.
Harkins Cunningham
Suite 600
1300 19th Street, N.W.
Washington, D.C. 20036



Kelvin J. Dowd

STB

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INDIANA HARBOR BELT RAILROAD COMPANY

175 West Jackson Boulevard, Suite 1450
Chicago, Illinois 60604

ROGER A. SERPE
GENERAL COUNSEL

June 27, 1997

TELEPHONE (312) 715-3868
FAX (312) 715-3869

VIA FEDERAL EXPRESS No. 4494366284

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

Re: STB Finance Docket No. 32388, CSX Corp. and CSX Transp., Inc., Norfolk Southern Corp. and Norfolk Southern Railway Co.—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corp.

Dear Secretary Williams:

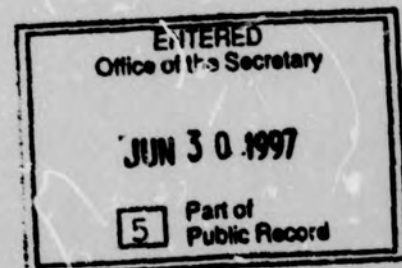
Enclosed herewith is an original and twenty-five (25) copies of Indiana Harbor Belt's Notice of Intent to Participate. Please acknowledge receipt of this letter by date-stamping the enclosed acknowledgement copy and returning it to me in the enclosed self-addressed, postage prepaid envelope.

Very truly yours,

Roger A. Serpe

ROGER A. SERPE
General Counsel

RAS/ddl
Enclosures



180407

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 33388

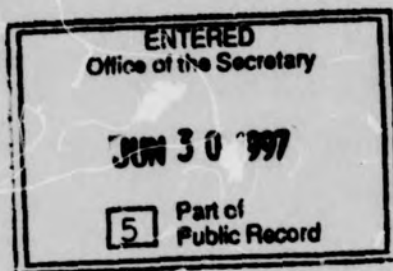
**CSX CORPORATION AND CSX TRANSPORTATION, INC.
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
CONTROL AND OPERATING LEASES/AGREEMENTS
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION**



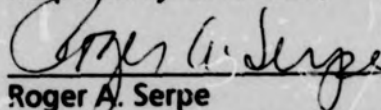
**INDIANA HARBOR BELT RAILROAD'S
NOTICE OF INTENT TO PARTICIPATE**

Indiana Harbor Belt Railroad Company (IHB) hereby gives notice that it intends to participate as a party of record (POR) in the above-captioned proceeding and that it will use the acronym "IHB." The representative of the party to be served is:

**Roger A. Serpe
General Counsel
Indiana Harbor Belt Railroad Company
175 West Jackson Boulevard
Suite 1460
Chicago, Illinois 60604-2704
(312) 715-3868**



Respectfully submitted,



**Roger A. Serpe
Indiana Harbor Belt Railroad Company
175 W. Jackson Boulevard
Suite 1460
Chicago, Illinois 60604-2704
(312) 715-3868**

Date: June 27, 1997

**Counsel for Indiana Harbor Belt
Railroad Company**

CERTIFICATE OF SERVICE

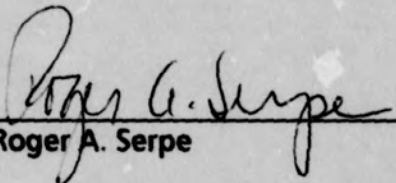
I hereby certify that on the 27th day of June, 1997, I served a copy of the foregoing Indiana Harbor Belt Railroad Company's Notice of Intent to Participate by first class mail, postage prepaid, upon:

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

Administrative Law Judge Jacob Leventhal
Federal Energy Regulatory Commission
888 First Street, N.E., Suite 11F
Washington, DC 20426

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

Paul A. Cunningham, Esq.
Harkins Cunningham
1300 19th Street, N.W., Suite 600
Washington, DC 20036


Roger A. Serpe

STB

FD

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6-26-97

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180352

LEBOEUF, LAMB, GREENE & MACRAE
L.L.P.

LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

NEW YORK
WASHINGTON
ALBANY
BOSTON
DENVER
HARRISBURG
HARTFORD
JACKSONVILLE

1875 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20009-5728

(202) 986-8000

TELEX: 440274 FACSIMILE: (202) 986-8102

WRITER'S DIRECT DIAL:

(202) 986-8050

E-Mail Address: mfmcbid@llgm.com

LOS ANGELES
NEWARK
PITTSBURGH
PORTLAND, OR
SALT LAKE CITY
SAN FRANCISCO
BRUSSELS
MOSCOW
ALMATY
LONDON
(A LONDON-BASED
MULTINATIONAL PARTNERSHIP)



June 26, 1997

VIA HAND DELIVERY

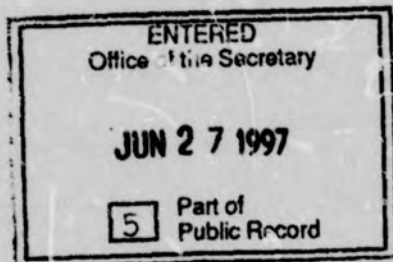
Mr. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W., Seventh Floor
Washington, DC 20423-0001

Re: CSX Corp./Norfolk Southern Corp. -- Control and Operating
Leases/Agreements -- Conrail: Finance Docket No. 33338

Dear Secretary Williams:

Enclosed are the original and 25 copies of a "Notice of Intent to Participate" on behalf of The Fertilizer Institute for filing in the above-referenced proceeding. Also enclosed is a 3.5" diskette containing the document in WordPerfect format.

Please date stamp and return the enclosed three additional copies via our messenger.



Very truly yours,

Michael F. McBride
Michael F. McBride
Linda K. Breggin
Brenda Durham

Attorneys for The Fertilizer Institute

Enclosure

cc (w/encl.): Paul A. Cunningham, Esq.
Dennis G. Lyons, Esq.
Richard A. Allen, Esq.

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388



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

NOTICE OF INTENT TO PARTICIPATE

The Fertilizer Institute hereby notifies the Board of its intent to participate in the above-referenced proceeding. Service may be made on the undersigned counsel. We also request that service be made on the following:

Mr. Donald J. Casey
Director, Regulatory Programs
The Fertilizer Institute
501 Second Street, N.E.
Washington, DC 20002

Respectfully submitted,

Michael F. McBride

Michael F. McBride
Linda K. Breggin
Brenda Durnam
LeBoeuf, Lamb, Greene & MacRae, L.L.P.
1875 Connecticut Avenue, N.W., Suite 1200
Washington, DC 20009-5728
(202) 986-8050 (Telephone)
(202) 986-8102 (Facsimile)

June 26, 1997

Attorneys for The Fertilizer Institute

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388



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

CERTIFICATE OF SERVICE

I hereby certify that I have served this 26th day of June, 1997, a copy of the foregoing "Notice of Intent to Participate" by first-class mail, postage prepaid, or by more expeditious means, upon each of the following parties of record:

Office of the Secretary
Case Control Unit
ATTN: STB Finance Dkt. 33388
Surface Transportation Board
Mercury Building
1925 K Street, N.W.
Washington, DC 20423-0001
VIA HAND DELIVERY

Mr. Vernon Williams, Secretary
Surface Transportation Board
Mercury Building
1925 K Street, N.W.
Washington, DC 20423-0001
VIA HAND DELIVERY

Dennis G. Lyons, Esq.
Arnold & Porter
555 Twelfth Street, N.W.
Washington, DC 20004-1202
VIA FACSIMILE

David M. Konschnik, Director
Office of Proceedings
Surface Transportation Board
Mercury Building
1925 K Street, N.W.
Washington, DC 20423
VIA HAND DELIVERY

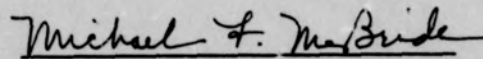
Honorable Jacob Leventhal
Administrative Law Judge
Federal Energy Regulatory Commission
Office of Hearings, Suite 11F
888 First Street, N.E.
Washington, DC 20426

Paul A. Cunningham, Esq.
Harkins Cunningham
1300 Nineteenth Street, N.W.
Suite 600
Washington, DC 20036
VIA FACSIMILE

John M. Nannes, Esq.
Scot B. Hutchins, Esq.
Skadden, Arps, Slate, Meager
& Flom, L.L.P.
1440 New York Avenue, N.W.
Washington, DC 20005-2111
VIA FACSIMILE

Samuel M. Sipe, Jr., Esq.
Timothy M. Walsh, Esq.
David H. Corburn, Esq.
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, DC 20036
VIA FACSIMILE

Richard A. Allen, Esq.
James A. Calderwood, Esq.
Andrew R. Plump, Esq.
John V. Edwards, Esq.
Zuckert, Scoutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, DC 20006-3939
VIA FACSIMILE


Michael F. McBride

STB

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6-26-97

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Robert J. (Jerry) Cooper
General Chairperson

1238 Cass Road
Maumee, Ohio 43537
(419) 893-2634



General Committee of
Adjustment GO - 348

united transportation union

June 21, 1997



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

Re: Entry of Appearance, Finance Docket No. 33388 CSX Corp., *et al.*, Norfolk Southern Corp., *et al.*, Control and Operating Leases/Agreements -- Conrail Inc., *et al.*, -- Transfer of Railroad Line By Norfolk Southern Railway Co. to CSX Transportation, Inc.

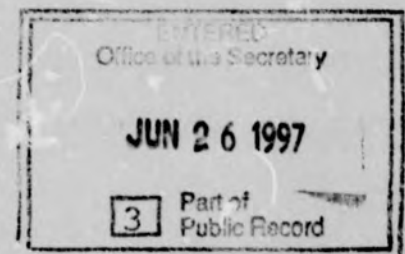
Dear Secretary Williams:

Please enter my appearance on behalf of the United Transportation Union General Committee of Adjustment 348 in the above-referenced proceeding and include me on the service list.

Thank you for your attention to this matter.

Sincerely,

Robert J. Cooper
General Chairperson



cc: C. L. Little, UTU International President
D. R. Elliott, III, Assistant General Counsel

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing Entry of Appearance were served by first-class, postage pre-paid mail, this 21 day of June 1997 upon the following:

James C. Bishop, Jr.
William C. Woolridge
J. Gary Lane
James L. Howe, III
Robert J. Cooney
George A. Aspatore
Norfolk Southern Corp.
Three Commercial Place
Norfolk, VA 23510-9241

Bruce B. Wilson
Constance L. Abrams
Consolidated Rail Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Larry Pruden, Esquire
Transportation-Communications
International Union
3 Research Place
Rockville, MD 20850

Larry Willis, Esquire
Transportation Trades Dept.
AFL-CIO
400 N. Capitol Street, N.W.
Washington, DC 20001

Richard Edelman
Highsaw, Mahoney & Clarke
1050 17th Street, N.W., Suite 210
Washington, DC 20036

The Honorable Jacob Leventhal
Federal Energy Regulatory
Commission
888 First Street, N.E., Suite II F
Washington, DC 20426

Richard A. Allen
James A. Calderwood
Andrew R. Plump
John V. Edwards
Zucken, Scoutt &
Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, DC 20006-3939

Page 2

Paul A. Cunningham
Harkins Cunningham
Suite 1600
1300 19th Street, N.W.
Washington, DC 20036

Mark G. Aron
Peter I. Shudtz
CSX Corporation
One James Center
901 East Cary Street
Richmond, VA 23219

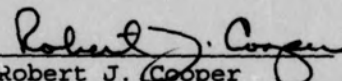
P. Michael Giftos
Paul R. Hitchcock
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

Dennis G. Lyons
Richard L. Rosen
Paul L. Denis
Arnold & Porter
555 12th Street, N.W.
Washington, DC 20004-1202

John M. Nannes
Scat B. Hutchins
Skadden, Arps, Slate,
Meagher & Flom, L.L.P.
1440 New York Avenue, N.W.
Washington, DC 20005

Samuel M. Sipe, Jr.
Timothy M. Walsh
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795

Timothy T. O'Toole
Constance L. Abrams
Consolidated Rail Corp.
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103


Robert J. Cooper
General Chairperson

STB

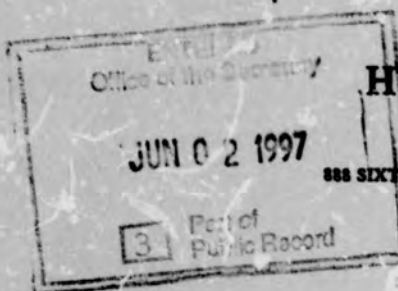
FD

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6-2-97

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179985



HOPKINS & SUTTER

(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

888 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20006 (202) 835-8000
FAX/FIMILE (202) 835-8136

CHICAGO OFFICE THREE FIRST NATIONAL PLAZA 60602
DALLAS OFFICE 3700 BANK ONE CENTER 1717 MAIN STREET 75201
DETROIT OFFICE 1555 BREWERY PARK BOULEVARD SUITE 101 48207



ALICIA M. SERFATY
(202) 835-8049

June 2, 1997

Vernon A. Williams, Secretary
Office of the Secretary
Case Control Branch
ATTN: STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

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

Dear Secretary Williams:

Enclosed are an original and twenty-five (25) copies of Philadelphia Belt Line Railroad Company's Notice of Intent to Participate for filing in the above-referenced proceeding. An additional copy is enclosed for file stamp and return with our messenger. Please note that a copy of this pleading is also enclosed on a 3.5-inch diskette in WordPerfect 5.1 format.

Sincerely,

Alicia M. Serfaty

AMS/llb
encl; a/s

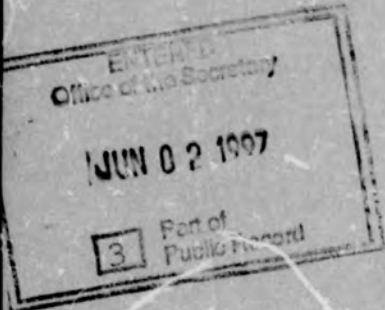
cc: The Honorable Jacob Leventhal
Applicants' Representatives

179985

Before The
SURFACE TRANSPORTATION BOARD
Washington, D.C.

Finance Docket No. 33388

CSX Corporation and CSX Transportation Inc.
Norfolk Southern Corporation and
Norfolk Southern Railway Company
-- Control and Operating Leases/Agreements --
Conrail Inc. and Consolidated Rail Corporation --



NOTICE OF INTENT TO PARTICIPATE

Please enter the appearance of the undersigned counsel on behalf of the Philadelphia Belt Line Railroad Company ("PBL"), which intends to participate and become a party of record in this proceeding. Pursuant to 49 C.F.R. § 1104.12, service of all documents filed in this proceeding should be made upon the undersigned.

Dated: June 2, 1997

Respectfully submitted,

Charles A. Spitulnik
Alicia M. Serfaty
HOPKINS & SUTTER
888 Sixteenth Street, NW
Washington, D.C. 20006
(202) 835-8000

Counsel for Philadelphia Belt Line
Railroad Company

CERTIFICATE OF SERVICE

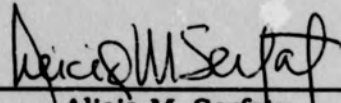
I hereby certify that on June 2, 1997, a copy of the foregoing Philadelphia Belt Line Railroad Company's Notice Of Intent To Participate was served by first-class, U.S. mail, postage prepaid upon the following:

The Honorable Jacob Leventhal
Administrative Law Judge
Federal Energy Regulatory Commission
888 First Street, N.E.
Suite 11F
Washington, D.C. 20426

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

Richard A. Allen, Esquire
Zuckert, Scoutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, D.C. 20006-3939

Paul A. Cunningham, Esquire
Harkins Cunningham
Suite 600
1300 Nineteenth Street, N.W.
Washington, D.C. 20036



Alicia M. Serfaty

STB

FD

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6-2-97

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NIAGARA MOHAWK POWER CORPORATION/300 ERIE BOULEVARD WEST, SYRACUSE, N.Y. 13202/TEL. (315) 428-5418 FAX (315) 428-6149

A. SCOTT CAUGER
Senior Counsel

May 30, 1997

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

D



17995

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

Dear Secretary Williams:

Please note the appearance of the undersigned, who is authorized to represent Niagara Mohawk Power Corporation in this proceeding. I would appreciate being added to the service list for receipt of all orders of the Board and the presiding Administrative Law Judge, effective May 30, 1997.

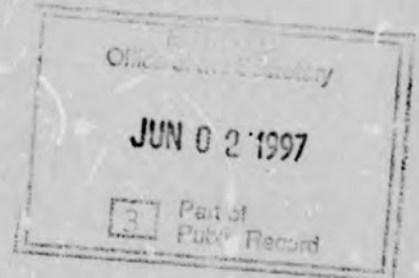
By copy of this letter, I am requesting of the applicants and all other known parties of record that they serve me with all pleadings and correspondence filed this date, and filed hereafter, in the above proceeding.

Sincerely,

A. Scott Cauger

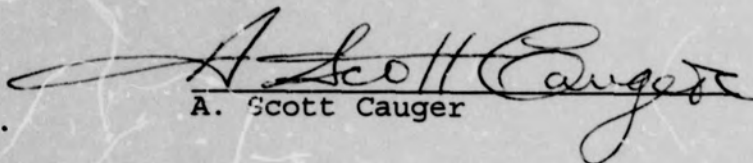
A. Scott Cauger
Senior Counsel
Niagara Mohawk Power Corporation

ASC:dl
Enclosure
cc: All Parties of Record
DOC. #9784



CERTIFICATE OF SERVICE

I, A. Scott Cauger, certify that on May 30, 1997, I have caused to be served by first class mail, postage prepaid, or by more expeditious means, a true and correct copy of the foregoing Entry of Appearance, on all parties known to me in STB Finance Docket No. 33388.


A. Scott Cauger

Dated: May 30, 1997

STB

FD

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6-2-97

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179986

HOPKINS & SUTTER

(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

888 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20006 (202) 835-8000
FACSIMILE (202) 835-8136

CHICAGO OFFICE THREE FIRST NATIONAL PLAZA 00602
DALLAS OFFICE 5700 BANK ONE CENTER 1717 MAIN STREET 75201
DETROIT OFFICE 1135 BREWERY PARK BOULEVARD SUITE 101 48207



ALICIA M. SERFATY
(202) 835-8049

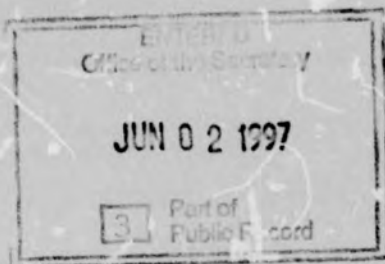
June 2, 1997

Vernon A. Williams, Secretary
Office of the Secretary
Case Control Branch
ATTN: STB Finance Docket No. 33388
Surface Transportation Board
1900 Street, N.W.
Washington, D.C. 20423-0001

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

Dear Secretary Williams:

Enclosed are an original and twenty-five (25) copies of New York City Economic Development Corporation's Notice of Intent to Participate for filing in the above-referenced proceeding. An additional copy is enclosed for file stamp and return with our messenger. Please note that a copy of this pleading is also enclosed on a 3.5-inch diskette in WordPerfect 5.1 format.



Sincerely,

Alicia M. Serfaty

AMS/lhb
encl; a/s

cc: The Honorable Jacob Leventhal
Applicants' Representatives

179586

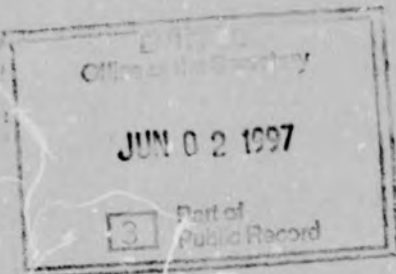
Before The
SURFACE TRANSPORTATION BOARD
Washington, D.C.

Finance Docket No. 33388

CSX Corporation and CSX Transportation Inc.
Norfolk Southern Corporation and
Norfolk Southern Railway Company
-- Control and Operating Leases/Agreements --
Conrail Inc. and Consolidated Rail Corporation

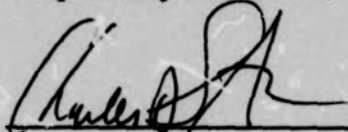


NOTICE OF INTENT TO PARTICIPATE


Please enter the appearance of the undersigned counsel on behalf of the New York City Economic Development Corporation ("NYCEDC"), acting on behalf of the City of New York, New York, which intends to participate and become a party of record in this proceeding. Pursuant to 49 C.F.R. § 1104.12, service of all documents filed in this proceeding should be made upon the undersigned.

Dated: June 2, 1997

Respectfully submitted,



Charles A. Spitulnik
Alicia M. Serfaty
HOPKINS & SUTTER
888 Sixteenth Street, NW
Washington, D.C. 20006
(202) 835-8000

Counsel for New York City
Economic Development Corporation,
acting on behalf of the City of New York,
New York

CERTIFICATE OF SERVICE

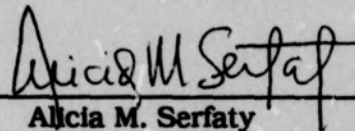
I hereby certify that on June 2, 1997, a copy of the foregoing New York City Economic Development Corporation's Notice Of Intent To Participate was served by first-class, U.S. mail, postage prepaid upon the following:

The Honorable Jacob Leventhal
Administrative Law Judge
Federal Energy Regulatory Commission
888 First Street, N.E.
Suite 11F
Washington, D.C. 20426

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

Richard A. Allen, Esquire
Zuckert, Scutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, D.C. 20006-3839

Paul A. Cunningham, Esquire
Harkins Cunningham
Suite 600
1300 Nineteenth Street, N.W.
Washington, D.C. 20036


Alicia M. Serfaty



NIAGARA MOHAWK POWER CORPORATION/300 ERIE BOULEVARD WEST, SYRACUSE, N.Y. 13202/TEL. (315) 428-5418 FAX (315) 428-6149

A. SCOTT CAUGER
Senior Counsel

May 30, 1997

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



RE: CSX Corporation and CSX Transportation, Inc.
Norfolk Southern Corporation and Norfolk
Southern Railway Company -- Control and
Operating Leases/Agreements -- Conrail, Inc.
and Consolidated Rail Corporation, Finance
Docket No. 33303

Dear Secretary Williams:

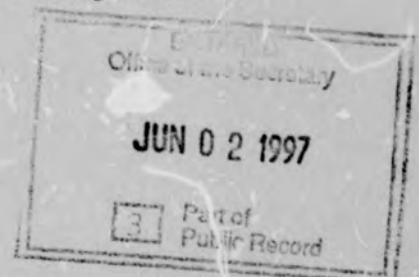
Please note the appearance of the undersigned, who is authorized to represent Niagara Mohawk Power Corporation in this proceeding. I would appreciate being added to the service list for receipt of all orders of the Board and the presiding Administrative Law Judge, effective May 30, 1997.

By copy of this letter, I am requesting of the applicants and all other known parties of record that they serve me with all pleadings and correspondence filed this date, and filed hereafter, in the above proceeding.

Sincerely,

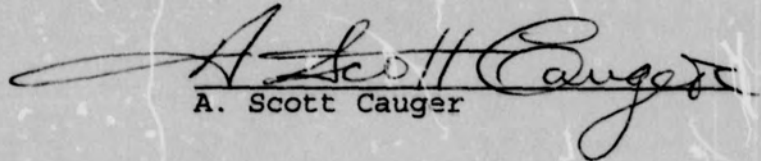
A. Scott Cauger
Senior Counsel
Niagara Mohawk Power Corporation

ASG:dl
Enclosure
cc: All Parties of Record
DOC. #9784



CERTIFICATE OF SERVICE

I, A. Scott Cauger, certify that on May 30, 1997, I have caused to be served by first class mail, postage prepaid, or by more expeditious means, a true and correct copy of the foregoing Entry of Appearance, on all parties known to me in STB Finance Docket No. 33388.


A. Scott Cauger

Dated: May 30, 1997

STB

FD

33388

5-30-97

D

179975

WACHTELL, LIPTON, ROSEN & KATZ

MARTIN LIPTON
HERBERT M. WACHTELL
THEODORE GEWERTZ
BERNARD W. NUSBAUM
RICHARD D. KATCHER
DOUGLAS S. LIEBHAFSKY
STEVEN M. BARNA
CHARLES T. MEDERRICK
CHAIM J. FORTGANG
PETER C. CANELLOS
MICHAEL W. SCHWARTZ
ALLAN A. MARTIN
BARRY A. BRYER
LAWRENCE S. PLOWITZ
ROBERT B. MAZUR
PAUL VIZCARRONDO, JR.
PETER C. HEIN
HAROLD S. NOVAKOFF
DAVID M. EINHORN
KENNETH B. FORREST
MEYER G. KOPLOW
THEODORE N. MIRVIS
EDWARD D. MERLIN
RICHARD D. FEINTUCH
DANIEL A. NEFF
ERIC M. ROTH
WARREN R. STERN
ANDREW R. BROWNSTEIN
MICHAEL H. BYOWITZ
PAUL K. ROWE
MICHAEL B. BENNER
MARC WOLINSKY
DAVID GRUENSTEIN

PATRICIA A. VLAHAKIS
STEPHEN G. GELMAN
SETH A. KAPLAN
BARBARA ROBBINS
STEVEN A. ROSENBAUM
PAMELA S. SEYMOR
STEPHANIE J. SELIGMAN
ERIC S. ROBINSON
ELLIOTT V. STEIN
JOHN F. SAVARESE
SCOTT K. CHARLES
ANDREW C. HOUSTON
PHILIP MINDLIN
DAVID S. NEILL
JODI J. SCHWARTZ
ADAM O. EMMERICH
CRAIG M. WASSERMAN
ADAM D. CHINN
GEORGE T. CONWAY
RALPH M. LEVINE
RICHARD G. MARSH
KAREN G. KRIEGER
DOUGLAS K. MEYER
DAVID M. SILVER
ROBIN PANOVNA
DAVID A. KATZ
JOHN C. COATES IV
MITCHELL S. PRESSER
ILENE KNABLE GOTTS
JEFFREY R. BOFFA
DAVID M. DUBOIS
JEFFREY M. WENTHER

51 WEST 52ND STREET
NEW YORK, N.Y. 10019-6150
TELEPHONE: (212) 403-1000
FACSIMILE: (212) 403-2000

227 WEST MONROE STREET
CHICAGO, ILLINOIS 60606
TELEPHONE: (312) 236-8000
FACSIMILE: (312) 236-8595

GEORGE A. KATZ (1935-1989)
JAMES H. FOGELSON (1967-1991)

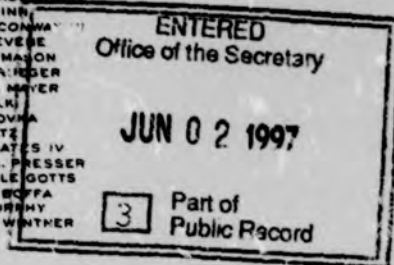
COUNSEL

LEONARD M. ROSEN

NORMAN REDLICH
JOHN M. RICHMAN
LAWRENCE P. KING
PETER D. McKENNA
AMY R. WOLF

MEIR FEDER
TREVOR S. HIRWITZ
TONI P. REAR
STEVEN M. A. A. MOWITZ
BRADLEY A. ROBINSON
STUART C. BERMAN
NANCY M. CLARK
YOCHVED COHEN
BEN M. GERMANA
DAVID R. LURIE
ANDREW J. NUSSBAUM
RACHELLE SILVERBERG
STEPHEN R. BLACKLOCKS
DAVID C. BRYAN
STEVEN A. COHEN
RONALD E. PHILLIPS
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GAVIN D. SOLOVAY
ADRIENNE ATKINSON
JUDITH G. FEDERLUSH
LAWRENCE GERCHWE
DAVID C. KARP
BARBARA S. KOHL
TIFENCE S. LEIGHTON
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KEVIN S. REED

EDWARD A. STELZER
KEITH H. WOFFORD
MARC D. ASHLEY
JOSHUA R. CAMMAKER
SETH GARDNER
MARK GORDON
BARRY A. KLEINER
JOSEPH A. LANASA III
JOSEPH D. LARSON
LAWRENCE W. MAKOW
THAO P. HANCK
MELANIE L. DIXHORN
EUGENE P. STEIN
GREGORY P. TAXIN
SHEENA WRIGHT
SCOTT L. BLACK
GREGORY R. BLATT
JAMES COLE, JR.
NANCY S. GREENBAUM
FRANK L. MILLER
MATTHEW I. MILLER
JULIUS R. SCHWARZ
ALEXANDER SHAKNER
SARA L. STRASSER
GARY M. SWIDLER
WAYNE W. YU



May 27, 1997

BY FEDERAL EXPRESS

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1201 Constitution Avenue, N.W.
Room 2215
Washington, D.C. 20423



Re: Amendment No. 28 to Schedule 14D-1 and Amendment No. 38 to Schedule 13D Filed Pursuant to 49 C.F.R. Section 1013.3(c); CSX/Norfolk Southern Acquisition of Control of Conrail; Finance Docket No. 33388

Dear Secretary Williams:

Pursuant to Section 1013.3(c) of Title 49, Code of Federal Regulations, we deliver to you herewith, on behalf of CSX Corporation and its wholly owned subsidiary, Green Acquisition Corp., for filing twenty-five (25) photocopies of Amendment No. 28 to CSX Corporation's and Norfolk Southern Corporation's Schedule 14D-1, Amendment No. 38 to CSX's Schedule 13D and Amendment No. 15 to Norfolk Southern Corporation's Schedule 13D, as filed via EDGAR with the Securities and Exchange Commission on May 27, 1997.

WACHTELL, LIPTON, ROSEN & KATZ

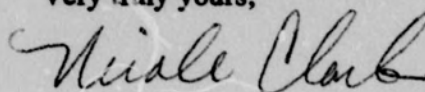
Surface Transportation Board

May 27, 1997

Page 2

The amendment filed herewith is a hard copy version of the computerized EDGAR filing with the Securities and Exchange Commission and, as filed with the Securities and Exchange Commission, contains the computerized equivalent of the necessary signatures.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Nicole Clark".

Nicole E. Clark

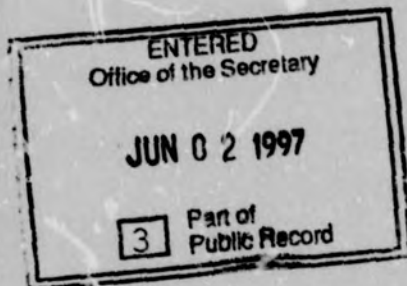
Enclosure

cc: Dennis G. Lyons

179975

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

Schedule 14D-1
Tender Offer Statement
(Amendment No. 28 - Final Amendment)
Pursuant to
Section 14(d)(1) of the Securities Exchange Act of 1934
and
Amendment No. 38
to
Schedule 13D+
and
Amendment No. 15
to
Schedule 13D++
and
Schedule 13D+++



Conrail Inc.
(Name of Subject Company)

CSX Corporation
Norfolk Southern 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

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

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

With a copy to:

Pamela S. Seymon
Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, New York 10019
Telephone: (212) 403-1000

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

+ of CSX Corporation and Green Acquisition Corp.
++ of Norfolk Southern Corporation
+++ of CRR Holdings LLC

SCHEDULE 14D-1

CUSIP No 208368 10 0

1	NAMES OF REPORTING PERSONS S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON NORFOLK SOUTHERN CORPORATION (E.I.N.: 52-1188014)
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/>
3	SEC USE ONLY
4	SOURCE OF FUNDS BK, WC, OO
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(e) or 2(f) <input type="checkbox"/>
6	CITIZENSHIP OR PLACE OF ORGANIZATION VIRGINIA
7	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 83,382,513 Common Shares
8	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (7) EXCLUDES CERTAIN SHARES <input type="checkbox"/>
9	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (7) 96%
10	REPORTING PERSON HC and CO

SCHEDULE 14D-1

CUSIP No. 208368 10 0

1	NAMES OF REPORTING PERSONS S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON ATLANTIC ACQUISITION CORPORATION (E.I.N. 34-1823555)
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2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP	(a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/>
3	SEC USE ONLY	
4	SOURCE OF FUNDS AF	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(e) or 2(f)	<input type="checkbox"/>
6	CITIZENSHIP OR PLACE OF ORGANIZATION PENNSYLVANIA	
7	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 0	
8	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (7) EXCLUDES CERTAIN SHARES	<input type="checkbox"/>
9	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (7) 0%	
10	REPORTING PERSON CO	

SCHEDULE 14D-1

CUSIP No. 208368 10 0

1	NAMES OF REPORTING PERSONS S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON CSX CORPORATION	
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP	(a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/>
3	SEC USE ONLY	
4	SOURCE OF FUNDS BK, WC, OO	
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(e) or 2(f)	<input type="checkbox"/>
6	CITIZENSHIP OR PLACE OF ORGANIZATION VIRGINIA	

7	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 83,382,513 Common Shares
8	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (7) EXCLUDES CERTAIN SHARES []
9	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (7) 96%
10	REPORTING PERSON HC and CO

SCHEDULE 14D-1

CUSIP No. 208368 10 0

1	NAMES OF REPORTING PERSONS S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON GREEN ACQUISITION CORPORATION
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) [X] (b) []
3	SEC USE ONLY
4	SOURCE OF FUNDS AF
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(e) or 2(f) []
6	CITIZENSHIP OR PLACE OF ORGANIZATION PENNSYLVANIA
7	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 83,382,413 Common Shares
8	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (7) EXCLUDES CERTAIN SHARES []
9	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (7) 96%
10	REPORTING PERSON CO

SCHEDULE 14D-1

1	NAMES OF REPORTING PERSONS S.S. OR I.R.S. IDENTIFICATION NO. OF ABOVE PERSON CRR HOLDINGS LLC
2	CHECK THE APPROPRIATE BOX IF A MEMBER OF A GROUP (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/>
3	SEC USE ONLY
4	SOURCE OF FUNDS AF
5	CHECK BOX IF DISCLOSURE OF LEGAL PROCEEDINGS IS REQUIRED PURSUANT TO ITEMS 2(e) or 2(f) <input type="checkbox"/>
6	CITIZENSHIP OR PLACE OF ORGANIZATION DELAWARE
7	AGGREGATE AMOUNT BENEFICIALLY OWNED BY EACH REPORTING PERSON 83,382,413 Common Shares
8	CHECK BOX IF THE AGGREGATE AMOUNT IN ROW (7) EXCLUDES CERTAIN SHARES <input type="checkbox"/>
9	PERCENT OF CLASS REPRESENTED BY AMOUNT IN ROW (7) 96%
10	REPORTING PERSON OO

This Statement amends and supplements the Tender Offer Statement on Schedule 14D-1 filed with the Securities and Exchange Commission (the "SEC") on December 6, 1996, as previously amended and supplemented (the "Schedule 14D-1"), by Green Acquisition Corp. ("Purchaser"), a Pennsylvania corporation, CSX Corporation, a Virginia corporation ("Parent" or "CSX"), and Norfolk Southern Corporation, a Virginia corporation ("NSC"), to purchase all 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 December 6, 1996, the Supplement thereto, dated December 19, 1996 (the "First Supplement"), the Second Supplement thereto, dated March 7, 1997 (the "Second Supplement"), and the Third Supplement thereto, dated April 10, 1997 (the "Third Supplement"), and the related Letters of Transmittal (which, together with any amendments or supplements thereto, constitute the "Second Offer") at a purchase price of \$115 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 First Supplement, the Second Supplement, the Third Supplement and the Schedule 14D-1.

ITEM 6. INTEREST IN SECURITIES OF THE SUBJECT COMPANY.

Item 6 is hereby amended and supplemented by the following:

(a)-(b) Following expiration of the Second Offer at 5:00 p.m., New York City time, on May 23, 1997, Purchaser accepted for payment all Shares validly tendered pursuant to the Second Offer. Purchaser has been informed by the Depositary that 57,407,389 Shares (including 8,937,900 Shares tendered pursuant to guaranteed delivery procedures), representing approximately 94% of Shares not already owned by CSX and NSC, were tendered pursuant to the Second Offer. A copy of the press release issued by NSC and CSX on May 27, 1997 relating to the completion of the Second Offer is filed as Exhibit (a)(42) hereto and is incorporated herein by reference.

ITEM 11. MATERIAL TO BE FILED AS EXHIBITS.

Item 11 is hereby amended and supplemented by the following:

(a)(42) Text of Press Release issued by NSC and CSX on May 27, 1997.

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: May 27, 1997

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.

NORFOLK SOUTHERN CORPORATION

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

Dated: May 27, 1997

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.

ATLANTIC ACQUISITION CORPORATION

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

Dated: May 27, 1997

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: Vice President

Dated: May 27, 1997

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.

CRR HOLDINGS LLC

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

Dated: May 27, 1997

EXHIBIT INDEX

Exhibit
No.

- * (a) (1) Offer to Purchase, dated December 6, 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.
- * (a) (7) Tender Offer Instructions for Participants of Conrail Inc. Dividend Reinvestment Plan.
- * (a) (8) Text of Press Release issued by Parent and the Company on December 6, 1996.
- * (a) (9) Form of Summary Advertisement, dated December 6, 1996.
- * (a) (10) Text of Press Release issued by Parent on December 5, 1996.
- * (a) (11) Text of Press Release issued by Parent and the Company on December 10, 1996.
- * (a) (12) Text of Advertisement published by Parent and the Company on December 10, 1996.
- * (a) (13) Text of Press Release issued by Parent on December 11, 1996.
- * (a) (14) Text of Advertisement published by Parent and the Company on December 12, 1996.
- * (a) (15) Supplement to Offer to Purchase, dated December 19, 1996.
- * (a) (16) Revised Letter of Transmittal.
- * (a) (17) Revised Notice of Guaranteed Delivery.
- * (a) (18) Text of Press Release issued by Parent and the Company on December 19, 1996.
- * (a) (19) Letter from Parent to shareholders of the Company, dated December 19, 1996.
- * (a) (20) Text of Press Release issued by Parent on December 20, 1996.
- * (a) (21) Text of Press Release issued by Parent and the Company on January 9, 1997.
- * (a) (22) Text of Press Release issued by Parent and the Company on January 13, 1997.
- * (a) (23) Text of Press Release issued by Parent and the Company on January 15, 1997.
- * (a) (24) Text of Press Release issued by Parent on January 17, 1997.
- * (a) (25) Deleted.
- * (a) (26) Text of Letter issued by Parent and the Company dated January 22, 1997.
- * (a) (27) Text of Advertisement published by Parent and the Company on January 29, 1997.
- * (a) (28) Text of Press Release issued by Parent and the Company on January 31, 1997.
- * (a) (29) Text of Press Release issued by Parent on February 14, 1997.
- * (a) (30) Text of Press Release issued by Parent on March 3, 1997.
- * (a) (31) Second Supplement to Offer to Purchase, dated March 7, 1997.
- * (a) (32) Revised Letter of Transmittal.
- * (a) (33) Revised Notice of Guaranteed Delivery.
- * (a) (34) Text of Press Release issued by Parent on March 7, 1997.
- * (a) (35) Form of Summary Advertisement, dated March 10, 1997.
- * (a) (36) Letter from Parent to employees of the Company, published on March 12, 1997.
- * (a) (37) Text of Press Release issued by CSX and NSC on April 8, 1997.
- * (a) (38) Third Supplement to Offer to Purchase, dated April 10, 1997.
- * (a) (39) Revised Letter of Transmittal circulated with the Third Supplement.
- * (a) (40) Revised Notice of Guaranteed Delivery circulated with the Third Supplement.
- * (a) (41) Text of Press Release issued by NSC and CPRC on May 14, 1997.

- (a) (42) Text of Press Release issued by NSC and CSX on May 27, 1997.
- * (b) (1) Credit Agreement, dated November 15, 1996 (incorporated by reference to Exhibit (b) (2) to Parent and Purchaser's Tender Offer Statement on Schedule 14D-1, as amended, dated October 16, 1996).
- * (b) (2) Credit Agreement, dated as of February 10, 1997, by and among NSC, Morgan Guaranty Trust Company of New York, as administrative agent, Merrill Lynch Capital Corporation, as documentation agent, and the banks from time to time parties thereto (incorporated by reference to NSC's and Atlantic Acquisition Corporation's Tender Offer Statement on Schedule 14D-1, dated February 12, 1997).
- * (b) (3) Commitment Letter, dated April 22, 1997, among Morgan Guaranty Trust Company of New York, J.P. Morgan Securities Inc., Merrill Lynch Capital Corporation, Merrill Lynch & Co. and Norfolk Southern Corporation.
- * (c) (1) Agreement and Plan of Merger, dated as of October 14, 1996, by and among Parent, Purchaser and the Company (incorporated by reference to Exhibit (c) (1) to Parent and Purchaser's Tender Offer Statement on Schedule 14D-1, as amended, dated October 16, 1996).
- * (c) (2) Company Stock Option Agreement, dated as of October 14, 1996, between Parent and the Company (incorporated by reference to Exhibit (c) (2) to Parent and Purchaser's Tender Offer Statement on Schedule 14D-1, as amended, dated October 16, 1996).
- * (c) (3) Parent Stock Option Agreement, dated as of October 14, 1996, between Parent and the Company (incorporated by reference to Exhibit (c) (3) to Parent and Purchaser's Tender Offer Statement on Schedule 14D-1, as amended, dated October 16, 1996).
- * (c) (4) Voting Trust Agreement, dated as of October 15, 1996, by and among Parent, Purchaser and Deposit Guaranty National Bank (incorporated by reference to Exhibit (c) (4) to Parent and Purchaser's Tender Offer Statement on Schedule 14D-1, as amended, dated October 16, 1996).
- * (c) (5) First Amendment to Agreement and Plan of Merger, dated as of November 5, 1996, by and among Parent, Purchaser and the Company (incorporated by reference to Exhibit (c) (7) to Parent and Purchaser's Tender Offer Statement on Schedule 14D-1, as amended, dated October 16, 1996).
- * (c) (6) Second Amendment to Agreement and Plan of Merger, dated as of December 18, 1996, by and among Parent, Purchaser and the Company.
- * (c) (7) Form of Amended and Restated Voting Trust Agreement.
- (c) (8) Deleted.
- * (c) (9) Text of STB Decision No. 5 of STB Finance Docket No. 33220, dated January 8, 1997.
- (c) (10) Deleted.
- * (c) (11) Text of opinion of Judge Donald VanArtsdalen of the United States District Court for the Eastern District of Pennsylvania as delivered from the bench on January 9, 1997.
- * (c) (12) Third Amendment to Agreement and Plan of Merger, dated as of March 7, 1997, by and among Parent, Purchaser and the Company.
- * (c) (13) Form of Amended and Restated Voting Trust Agreement.
- * (c) (14) Letter Agreement between CSX and NSC, dated April 8, 1997.
- * (c) (15) Fourth Amendment to Agreement and Plan of Merger, dated as of April 8, 1997, by and among CSX, Purchaser and the Company.
- * (c) (16) Letter from the Honorable Vernon A. Williams, dated May 8, 1997.
- (d) Not applicable.
- (e) Not applicable.
- (f) Not applicable.

* Previously filed.

CSX and Norfolk Southern Close Tender Offer for Conrail Shares

CONTACTS:

Thomas E. Hoppin
CSX Corporation
804-782-1450

Robert Fort
Norfolk Southern Corporation
757-629-2710

RICHMOND and NORFOLK, Va., May 27, 1997 - CSX Corporation (NYSE: CSX) and Norfolk Southern Corporation (NYSE: NSC) today announced that their jointly owned acquisition company, Green Acquisition Corp., has accepted for payment more than 94 percent of Conrail Inc.'s outstanding shares not already owned by CSX and Norfolk Southern. Based on a preliminary count, approximately 57,407,389 Conrail shares had been tendered (including 8,937,900 shares by notice of guaranteed delivery) into the joint tender offer that expired at 5:00 p.m. EDT on Friday, May 23. Payment for shares will be made promptly.

These shares, together with the Conrail shares already owned by CSX and Norfolk Southern, represent approximately 96% of the outstanding Conrail shares. In connection with the tender offer and subsequent merger, Norfolk Southern will have contributed 58 percent, and CSX 42 percent, toward the aggregate purchase price for all shares. All Conrail shares acquired will be placed in a joint voting trust pending Surface Transportation Board approval of the proposed transaction. Conrail shares not purchased in the tender offer will be converted into the right to receive \$115 per share in cash in a merger that will occur as soon as practicable following the payment for the shares received in the tender offer.

"With the successful completion of this tender offer, we move another step closer to delivering the benefits of this transaction to all parties," said John W. Snow, CSX's chairman, president and chief executive officer. "At CSX, our management team is focused on continuing to improve our existing railroad operations, while preparing for the smooth and efficient integration into CSX of the Conrail assets we will operate."

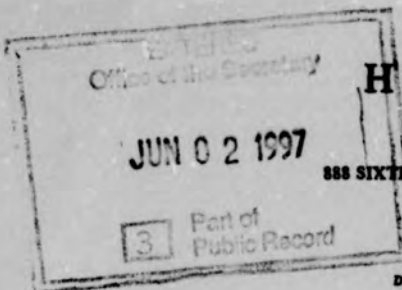
David R. Goode, Norfolk Southern's chairman, president and chief executive officer, said, "With the financial part of this transaction nearly completed, we will now present to the Surface Transportation Board our plan for improving the rail system in the East. Norfolk Southern eagerly looks forward to the day when we can put that plan into action and begin delivering its many benefits to customers, communities and the nation's economy."

CSX and Norfolk Southern expect to file their joint application with the STB in mid-June. Management of both companies are confident the application will win support from customers and the public.

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. CSX's home page can be reached at <http://www.CSX.com>.

Norfolk Southern is a Virginia-based holding company with headquarters in Norfolk, Va. It owns a major freight railroad, Norfolk Southern Railway Company, which operates more than 11,300 miles of road in 20 states, primarily in the Southeast and Midwest, and the Province of Ontario, Canada. The corporation also owns North American Van Lines, Inc., and Pocahontas Land Corporation, a natural resources company. Norfolk Southern's home page can be reached at <http://www.nscorp.com>.

Norfolk Southern Corporation
<http://www.nscorp.com/>



HOPKINS & SUTTER

(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

888 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20006 (202) 835-8049
FACSIMILE (202) 835-8136

CHICAGO OFFICE THREE FIRST NATIONAL PLAZA 60602
DALLAS OFFICE 3700 BANK ONE CENTER 1717 MAIN STREET 75201
DETROIT OFFICE 1535 BREWERY PARK BOULEVARD SUITE 101 48207



ALICIA M. SERFATY
(202) 835-8049

June 2, 1997

Vernor. A. Williams, Secretary
Office of the Secretary
Case Control Branch
ATTN: STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

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

Dear Secretary Williams:

Enclosed are an original and twenty-five (25) copies of Philadelphia Belt Line Railroad Company's Notice of Intent to Participate for filing in the above-referenced proceeding. An additional copy is enclosed for file stamp and return with our messenger. Please note that a copy of this pleading is also enclosed on a 3.5-inch diskette in WordPerfect 5.1 format.

Sincerely,

Alicia M. Serfaty

AMS/lib
encl; a/s

cc: The Honorable Jacob Leventhal
Applicants' Representatives

179985

Before The
SURFACE TRANSPORTATION BOARD
Washington, D.C.

Finance Docket No. 33388

CSX Corporation and CSX Transportation Inc.
Norfolk Southern Corporation and
Norfolk Southern Railway Company
-- Control and Operating Leases/Agreements --
Conrail Inc. and Consolidated Rail Corporation --



NOTICE OF INTENT TO PARTICIPATE

Please enter the appearance of the undersigned counsel on behalf of the Philadelphia Belt Line Railroad Company ("PBL"), which intends to participate and become a party of record in this proceeding. Pursuant to 49 C.F.R. § 1104.12, service of all documents filed in this proceeding should be made upon the undersigned.

Dated: June 2, 1997

Respectfully submitted,

Charles A. Spitulnik
Alicia M. Serfaty
HOPKINS & SUTTER
888 Sixteenth Street, NW
Washington, D.C. 20006
(202) 835-0000

Counsel for Philadelphia Belt Line
Railroad Company

CERTIFICATE OF SERVICE

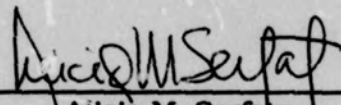
I hereby certify that on June 2, 1997, a copy of the foregoing Philadelphia Belt Line Railroad Company's Notice Of Intent To Participate was served by first-class, U.S. mail, postage prepaid upon the following:

The Honorable Jacob Leventhal
Administrative Law Judge
Federal Energy Regulatory Commission
888 First Street, N.E.
Suite 11F
Washington, D.C. 20426

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

Richard A. Allen, Esquire
Zuckert, Scutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, D.C. 20006-3939

Paul A. Cunningham, Esquire
Harkins Cunningham
Suite 600
1300 Nineteenth Street, N.W.
Washington D.C. 20036



Alicia M. Serfaty

STB

FD-

33388

5-27-97

D

179902

R.E. ROWE
General Chairman

D.A. PILLEN
Vice Chairman

W.R. LEASON
Secretary



320 S. MAIN STREET
PLYMOUTH, MI 48170-1604
TEL: (313) 453-4610
FAX: (313) 453-0610

united transportation union

GENERAL COMMITTEE OF ADJUSTMENT
CSX TRANSPORTATION
CHESAPEAKE AND OHIO (NORTH)



May 20, 1997

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



Re: Entry of Appearance, Finance Docket No. 33388
CSX Corp., et al., Norfolk Southern Corp., et al., --
Control and Operating Leases/Agreements - Conrail
Inc., et al., - Transfer of Railroad Line by Norfolk
Southern Railway Co. to CSX Transportation, Inc.

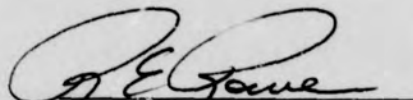
Dear Secretary Williams:

179902

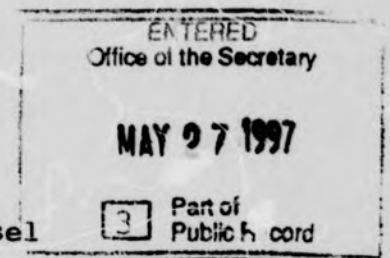
Please enter my appearance on behalf of the United Transportation Union General Committee of Adjustment CSXT -C&O (North) in the above-referenced proceeding and include me on the service list.

Thank you for your attention to this matter.

Sincerely,


General Chairman

cc: C. L. Little, International President
D. R. Elliott, III, Assistant General Counsel



CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing Entry of Appearance were served by first-class, postage pre-paid mail, this 20 day of May, 1997 upon the following:

James C. Bishop, Jr.
William C. Woolridge
J. Gary Lane
James L. Howe, III
Robert J. Cooney
George A. Aspatore
Norfolk Southern Corp.
Three Commercial Place
Norfolk, VA 23510-9241

Bruce B. Wilson
Constance L. Abrams
Consolidated Rail Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Larry Pruden, Esquire
Transportation Communications
International Union
3 Research Place
Rockville, MD 20850

Larry Willis, Esquire
Transportation Trades Dept.
AFL-CIO
400 N. Capitol Street, N.W.
Washington, DC 20001

Richard Edelman
Higsaw, Mahoney & Clarke
1050 17th Street, N.W., Suite 210
Washington, DC 20036

The Honorable Jacob Leventhal
Federal Energy Regulatory
Commission
880 First Street, N.E., Suite 11F
Washington, DC 20426

Richard A. Allen
James A. Calderwood
Andrew R. Plump
John V. Edwards
Zuckert, Scott &
Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, DC 20006-3939

Paul A. Cunningham
Harkins Cunningham
Suite 1600
1300 19th Street, N.W.
Washington, DC 20036

Mark G. Aron
Peter J. Shudtz
CSX Corporation
One James Center
901 East Cary Street
Richmond, VA 23219

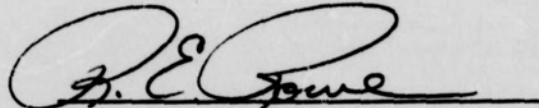
P. Michael Giftos
Paul R. Hitchcock
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

Dennis G. Lyons
Richard L. Rosen
Paul T. Denis
Arnold & Porter
555 12th Street, N.W.
Washington, DC 20004-1202

John M. Nannes
Scot B. Hutchins
Skadden, Arps, Slate,
Meagher & Flom, L.L.P.
1440 New York Avenue, N.W.
Washington, DC 20005

Timothy T. O'Toole
Constance L. Abrahms
Consolidated Rail Corp.
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Samuel M. Sipe, Jr.
Timothy M. Walsh
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, DC 20036-1795



General Chairperson

STB

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5-23-97

D

179880

**united
transportation
union**

D



D. J. O'Connell
General Chairman

S.J. Nasca
Secretary

GENERAL COMMITTEE OF ADJUSTMENT
CONRAIL SOUTH (E)

May 20, 1997

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

179880



Dear Sir:

Enclosed please find a notice of appearance request, along with 25 copies in regards to the CSX Transportation (CSX) and Norfolk Southern (NS) Control Transaction involving Conrail in Finance Docket No. 33388.

Your consideration in this matter is appreciated.

Sincerely yours,

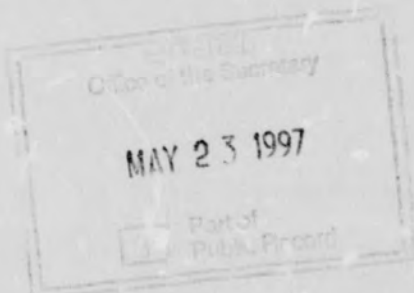
D.J. O'Connell

D. J. O'Connell
General Chairman

Enclosure

DJOC/rmb

cc: C. L. Little, International President
D. R. Elliott, III, Assistant General Counsel



May 5, 1997



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

Re: Entry of Appearance, Finance Docket No. 33388
CSX Corp., *et al.*, Norfolk Southern Corp., *et al.*, --
Control and Operating Leases/Agreements -- Conrail
Inc., *et al.*, -- Transfer of Railroad Line By Norfolk
Southern Railway Co. to CSX Transportation, Inc.

Dear Secretary Williams:

Please enter my appearance on behalf of the United Transportation Union General
Committee of Adjustment GC-770 in the above-referenced proceeding and include me on the
service list.

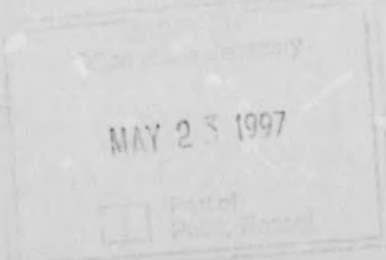
Thank you for your attention to this matter.

Sincerely,

179880

Daniel J. O'Connell
General Chairperson

cc: C. L. Little, International President
D. R. Elliott, III, Assistant General Counsel



CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing Entry of Appearance were served by first-class, postage pre-paid mail, this 21st day of May, 1997 upon the following:

James C. Bishop, Jr.
William C. Woolridge
J. Gary Lane
James L. Howe, III
Robert J. Cooney
George A. Aspatore
Norfolk Southern Corp.
Three Commercial Place
Norfolk, VA 23510-9241

Bruce B. Wilson
Constance L. Abrams
Consolidated Rail Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Larry Pruden, Esquire
Transportation Communications
International Union
3 Research Place
Rockville, MD 20850

Larry Willis, Esquire
Transportation Trades Dept.
AFL-CIO
400 N. Capitol Street, N.W.
Washington, DC 20001

Richard Edelman
Highsaw, Mahoney & Clarke
1050 17th Street, N.W., Suite 210
Washington, DC 20036

The Honorable Jacob Leventhal
Federal Energy Regulatory
Commission
888 First Street, N.E., Suite 11F
Washington, DC 20426

Richard A. Allen
James A. Calderwood
Andrew R. Plump
John V. Edwards
Zuckert, Scout &
Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, DC 20006-3939

Paul A. Cunningham
Harkins Cunningham
Suite 1600
1300 19th Street, N.W.
Washington, DC 20036

Mark G. Aron
Peter J. Shultz
CSX Corporation
One James Center
901 East Cary Street
Richmond, VA 23219

P. Michael Giftos
Paul R. Hitchcock
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

Dennis G. Lyons
Richard L. Rosen
Paul T. Denis
Arnold & Porter
555 12th Street, N.W.
Washington, DC 20004-1202

John M. Nannes
Scot B. Hutchins
Skadden, Arps, Slate,
Meagher & Flom, L.L.P.
1440 New York Avenue, N.W.
Washington, DC 20005

Timothy T. O'Toole
Constance L. Abrahms
Consolidated Rail Corp.
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Samuel M. Sipe, Jr.
Timothy M. Walsh
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, DC 20036-1795

Daniel J. O'Connell
General Chairperson

STB

FD

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5-20-97

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179799

DELBERT G. STRUNK, JR.
Chairman
BELLEVUE, OHIO

ROBERT J. KAHLE
Secretary
BELLEVUE, OHIO

united transportation union

General Committee of Adjustment NORFOLK SOUTHERN RAILWAY

(Nick, Plate & Wheeling & Lake Erie Districts)

817 Kilbourne Street
Bellevue, Ohio 44811-9407



May 12, 1997



179799
CARROLL E. WILLIAMS
Sr. Vice Chairman
DELPHOS, OHIO

WALTER L. BINNER
Jr. Vice Chairman - NKP
CROWN POINT, INDIANA

GREGORY G. EHMANN
Jr. Vice Chairman - WLE
TOLEDO, OHIO

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



Re: Entry of Appearance, Finance Docket No. 33388
CSX Corp., et al., Norfolk Southern Corp., et al., -
Control and Operating Leases/Agreements - Conrail
Inc., et al., - Transfer of Railroad Line by Norfolk
Southern Railway Co. to CSX Transportation, Inc.

Dear Secretary Williams:

Please enter my appearance on behalf of the United Transportation Union General Committee of Adjustment GU-687 in the above-referenced proceeding and include me on the service list.

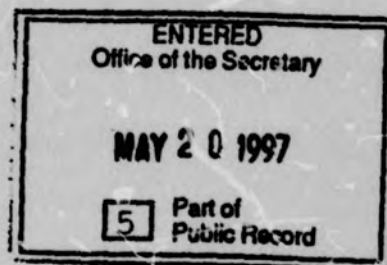
Thank you for your attention to this matter.

Sincerely,

Delbert G. Strunk, Jr.

Delbert G. Strunk, Jr.
General Chairman
United Transportation Union

cc: C. L. Little, International President
D. R. Elliott, III, Assistant General Counsel



CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing Entry of Appearance were served by first-class, postage pre-paid mail, this 12 day of May, 1997 upon the following:

James C. Bishop, Jr.
William C. Woolridge
J. Gary Lane
James L. Howe, III
Robert J. Cooney
George A. Aspatore
Norfolk Southern Corp.
Three Commercial Place
Norfolk, VA 23510-9241

Bruce B. Wilson
Constance L. Abrams
Consolidated Rail Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Larry Pruden, Esquire
Transportation Communications
International Union
3 Research Place
Rockville, MD 20850

Larry Willis, Esquire
Transportation Trades Dept.
AFL-CIO
400 N. Capitol Street, N.W.
Washington, DC 20001

Richard Edelman
Highsaw, Mahoney & Clarke
1050 17th Street, N.W., Suite 210
Washington, DC 20036

The Honorable Jacob Leventhal
Federal Energy Regulatory
Commission
888 First Street, N.E., Suite 11F
Washington, DC 20426

Richard A. Allen
James A. Calderwood
Andrew R. Plump
John V. Edwards
Zuckert, Scoutt &
Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, DC 20006-3939

Paul A. Cunningham
Harkins Cunningham
Suite 1600
1300 19th Street, N.W.
Washington, DC 20036

Mark G. Aron
Peter J. Shudtz
CSX Corporation
One James Center
901 East Cary Street
Richmond, VA 23219

P. Michael Giftos
Paul R. Hitchcock
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

Dennis G. Lyons
Richard L. Rosen
Paul T. Denis
Arnold & Porter
555 12th Street, N.W.
Washington, DC 20004-1202

John M. Nannes
Scot B. Hutchins
Skadden, Arps, Slate,
Meagher & Flom, L.L.F.
1440 New York Avenue, N.W.
Washington, DC 20005

Timothy T. O'Toole
Constance L. Abrahms
Consolidated Rail Corp.
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Samuel M. Sipe, Jr.
Timothy M. Walsh
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, DC 20036-1795

Dellard S. Strunk, Jr.
General Chairperson

STB

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5-19-97

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179782



U. S. Department of Justice
Antitrust Division

179782

325 7th Street, N.W., Suite 500
Washington, DC 20530

May 15, 1997



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

Re: Conrail Control Case -- STB Finance Docket No. 33388

Dear Secretary Williams:

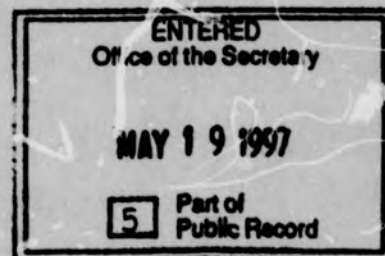
The purpose of this letter is to notify the Surface Transportation Board and the parties that the United States Department of Justice intends to participate in the above-captioned proceeding. Please add my name to the appropriate service list as party of record for receipt of all submissions of the parties and all Board decisions.

Thank you for your assistance in this matter. If you have any questions, please feel free to call me at 202-307-6357.

Sincerely yours,

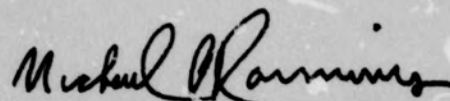
Michael P. Harmonis

Michael P. Harmonis
Attorney
Transportation, Energy and
Agriculture Section



CERTIFICATE OF SERVICE

I certify that I have this 15th day of May 1997, served the foregoing NOTICE OF INTENT TO PARTICIPATE by first-class mail, postage prepaid, upon Administrative Law Judge Jacob Leventhal and to each of the applicants' representatives of record in STB Finance Docket No. 33388: (1) Dennis G. Lyons, Esq., (2) Richard A. Allen, Esq., and (3) Paul A. Cunningham, Esq.

A handwritten signature in dark ink, appearing to read "Michael P. Harmonis", written in a cursive style.

Michael P. Harmonis

STB

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5-19-97

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179788

F. R. PICKELL
General Chairperson

J. L. ARNOLD
Vice Chairperson



GENERAL COMMITTEE OF ADJUSTMENT (C&T)
Conrail West & South • Norfolk Southern Ry. Co.
GO-777

179788
T. E. PRIEBE
Alternate Vice Chairperson

D. E. MYERS
Secretary

6797 NORTH HIGH ST., SUITE 108
WORTHINGTON, OHIO 43085
(614) 846-7397
FAX (614) 846-7641

May 14, 1997

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



Re: Entry of Appearance, Finance Docket
No. 33388 CSX Corp., et al., Norfolk
Southern Corp., et al., - Control
and Operating Leases/Agreements -
Conrail Inc., et al., - Transfer of
Railroad Line By Norfolk Southern
Railway Co. to CSX Transportation,
Inc.

Dear Secretary Williams:

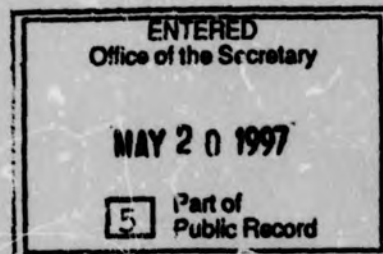
Please enter my appearance on behalf of the United Transportation
Union General Committee of Adjustment - Conrail West &
South/Norfolk Southern Railway Co. (GO-777) in the above-referenced
proceeding and include me on the service list.

Thank you for your attention to this matter.

Sincerely,

Frank R. Pickell
Frank R. Pickell
General Chairman

cc: C. L. Little, International President
D. R. Elliott, III, Assistant General Counsel



CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing Entry of Appearance were served by first-class, postage pre-paid mail, this 14 day of May, 1997 upon the following:

James C. Bishop, Jr.
William C. Woolridge
J. Gary Lane
James L. Howe, III
Robert J. Cooney
George A. Aspatores
Norfolk Southern Corp.
Three Commercial Place
Norfolk, VA 23510-9241

Bruce B. Wilson
Constance L. Abrams
Consolidated Rail Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Larry Pruden, Esquire
Transportation Communications
International Union
3 Research Place
Rockville, MD 20850

Larry Willis, Esquire
Transportation Trades Dept.
AFL-CIO
400 N. Capitol Street, N.W.
Washington, DC 20001

Richard Edelman
Highsaw, Mahoney & Clarke
1050 17th Street, N.W., Suite 210
Washington, DC 20036

The Honorable Jacob Leventhal
Federal Energy Regulatory
Commission
388 First Street, N.E., Suite 11F
Washington, DC 20426

Richard A. Allen
James A. Calderwood
Andrew R. Plump
John V. Edwards
Zuckert, Scott &
Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, DC 20006-3939

Paul A. Cunningham
Harkins Cunningham
Suite 1600
1300 19th Street, N.W.
Washington, DC 20036

Mark G. Aron
Peter J. Shultz
CSX Corporation
One James Center
901 East Cary Street
Richmond, VA 23219

P. Michael Giftos
Paul R. Hitchcock
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

Dennis G. Lyons
Richard L. Rosen
Paul T. Denis
Arnold & Porter
555 12th Street, N.W.
Washington, DC 20004-1202

John M. Nannes
Scot B. Hutchins
Skadden, Arps, Slate,
Meagher & Flom, L.L.P.
1440 New York Avenue, N.W.
Washington, DC 20005

Timothy T. O'Toole
Constance L. Abrahms
Consolidated Rail Corp.
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Samuel M. Sipe, Jr.
Timothy M. Walsh
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, DC 20036-1795


General Chairperson

STB

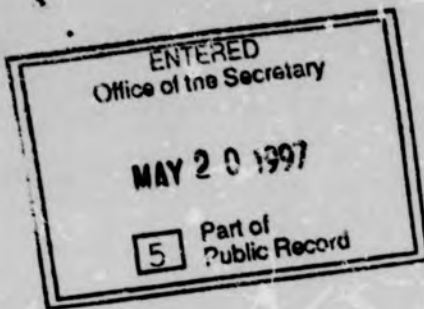
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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388



CSX Corporation and CSX Transportation, Inc.
Norfolk Southern Corp. and Norfolk
Southern Ry. Co.--Control and Operating
Leases/Agreements--Conrail Inc.
and Consolidated Rail Corporation
Transfer of Railroad Line by Norfolk
Southern Railway Company to CSX Transportation, Inc.

**ALLIED RAIL UNIONS' REQUEST FOR LEAVE TO FILE
REPLY IN OPPOSITION TO PETITION FOR WAIVER
OR CLARIFICATION OF RAILROAD CONSOLIDATION PROCEDURES
AND REPLY IN OPPOSITION TO PETITIONS FOR WAIVER
OF 49 CFR §1180.4(c)(2)(vi)**

INTRODUCTION

On May 2, 1997, Applicants, CSX Corp. and its subsidiaries ("CSX"), and Norfolk Southern Corp. and its subsidiary ("NSC"), filed a petition for waiver or clarification of various aspects of the filing requirements applicable to their effort to acquire control of the Consolidated Rail Corp. ("Conrail") under the Boards' Railroad Consolidation Procedures. The Allied Rail Unions ("ARU")^{1/} oppose this petition for waiver/clarification

^{1/} American Train Dispatchers Department/BLE; Brotherhood of Locomotive Engineers; Brotherhood of Maintenance of Way Employees; Brotherhood of Railroad Signalmen; Hotel Employees and Restaurant Employees International Union; International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers; International Brotherhood of Electrical Workers; The National Conference of Firemen & Oilers/SEIU; and Sheet Metal Workers' International Association.

with respect to the request that the Board authorize the Applicants to "use November 1996 to create the base line for rail carrier employees covered by collective bargaining agreements" in developing their statements as to the impact on the CSX/NS acquisition of cont. 1/division of Conrail ("Transaction") on employees of the carriers involved. Petition for Waiver or Clarification (CSX/NS-10) at 23. The ARU opposes this request of the Applicants because it would be highly prejudicial to employees of the railroads involved, especially those represented by the Brotherhood of Maintenance of Way Employees ("BMWE").

The ARU recognizes that the Board's rules ordinarily do not permit replies to petitions for waivers (49 C.F.R. §1180.4(f)(3)), however, as is apparent from the arguments set forth below and the attached declarations, a grant of the requested waiver with respect to the base line for employment figures would have such a significant impact on railroad employees that they should be allowed to submit this reply.

As is shown in the declarations of various BMWE General Chairmen that are attached hereto, many maintenance of way jobs begin in late winter and end in the late fall, so late fall and early winter are low points in maintenance of way employment. Among the reasons that the employment figures in the maintenance of way craft are low in November are furloughs because of weather conditions, furloughs because the programmed work of large

production gangs often ends in late fall, and furloughs because maintenance of way budgets tend to run out at the end of the calendar year. See Declarations of J. D. Knight ¶4, Jed Dodd ¶4 and Perry Geller ¶4.^{2/} This means that November employment figures are typically significantly lower for the maintenance of way craft than figures for the rest of the year; employment figures for November are therefore not reflective of the actual number of employees working in the craft during the year. Consequently, use of November 1996 as a base year would result in an understatement of the difference between employment prior to the transaction and projected employment after the Transaction. *Id.*

The ARU notes that Applicants have stated (CSX/NS-10) that use of November 1996 figures would result in "figures which would not be affected by seasonal fluctuations", thereby suggesting that their request is motivated by a desire to provide accurate employment numbers. However, they have failed to acknowledge that the fluctuations that they cite involve a reduction in the statement of maintenance of way employment and an actual undercount of maintenance of way employees for the base line

^{2/} Copies of the Knight, Dodd and Geller declarations are attached hereto as Attachments A, B and C. Because these individuals were away from their offices last week, the ARU is providing photocopies of the declarations which were signed by Messrs. Knight, Dodd and Geller. The signed originals will be filed with the Board as soon as they are received by ARU's counsel.

calculation. Consequently, the figures produced with such a base line will not be more accurate; they will be below actual employment levels and thus inaccurate.

Applicants have asserted that the ICC granted "analogous requests from applicants wishing to deviate from the base year requirements set out in the regulations" CSX/NS-10 at 23 n.23, citing *Illinois Central Corp--Common Control--Illinois Central R.R. Co.*, F.D. No. 32556 (Served October 17, 1994); and *Illinois Central Corp--Control--Midsouth Corp.*, F.D. No. 31801 (Served February 22, 1991). However, as the Applicants' discussion of those cases demonstrates, the requests in those cases did not involve employee impact statements. Furthermore, neither decision authorized the use of data from a single month as a base line for any information (one case involved use of a split year rather than a full calendar year, and the other allowed substitution of data from a prior year where data from the specified base line year was unavailable). Moreover, it does not appear that the requests of the applicants in those cases had the type of substantive impact on the data involved as would the request of the Applicants here. Although Applicants carefully used the word "analogous" rather than the word "similar" to describe the relationship between this case and the cases on which they rely, it is apparent that the word that best describes that relationship is "different".

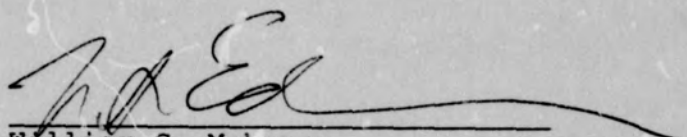
The understatement of employee impact which would result from the waiver/clarification sought in CSX/NS-10 would be prejudicial to BMW members because it would allow CSX and NS to minimize the impact of the Transaction on employees. Knight Declaration ¶5, Dodd Declaration ¶5 and Geller Declaration ¶5. Additionally, use of November figures for a base line suggests that workers who are furloughed in the fall are not actually affected by the Transaction because they are not counted in the employee impact statement. This could adversely affect BMW members in post-Transaction employee protection proceedings. *Id.* In this regard, it is especially troubling that Applicants have suggested that use of November 1996 figures would be more accurate than some other base line figures.

The ARU further submits that if the Board believes that it is appropriate to use a single month as its base line for setting forth the impacts of the Transaction on employees, the Board should designate July of 1996 as the base line. As the BMW General Chairmen explain, Knight Declaration ¶6, Dodd Declaration ¶6, Geller Declaration ¶6, use of July 1996 employment figures would insure that all employees who have an employment relationship with the involved carriers are counted in the employee impact statement, and that employees who may be furloughed in November are not at a disadvantage in connection with post-Transaction employee protective proceedings.

CONCLUSION

For all the foregoing reasons, the ARU should be granted leave to file this reply and the Board should deny the CSX/NS petition for waiver or clarification of the filing requirements applicable to their effort to acquire control of Conrail with respect to the use November 1996 as a base line for the statements as to the impact of the Transaction on employees of the carriers involved.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'R. S. Edelman', is written over a horizontal line.

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Date: May 20, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served one copy of Allied Rail Unions; Request For Leave To File Reply In Opposition To Petition For Waiver Or Clarification Of Railroad Consolidation Procedures And Reply In Opposition To Petitions For Waiver Of 49 CFR \$1180.4(c)(2)(vi), by hand delivery to the offices of the following:

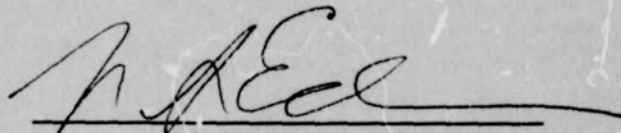
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and by first-class mail, postage prepaid, to the offices of the parties on the attached list.

Dated at Washington, D.C. this 20th day of May, 1997.


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ATTACHMENT A

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

CSX Corporation and CSX Transportation, Inc.,
Norfolk Southern Corp. and Norfolk
Southern Ry. Co.--Control and Operating
Leases/Agreements--Conrail Inc.
and Consolidated Rail Corporation
Transfer of Railroad Line by Norfolk
Southern Railway Company to CSX Transportation, Inc.

DECLARATION OF J. D. KNIGHT

I, J. D. Knight, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct and based on personal knowledge.

1. I am a General Chairman of the Brotherhood of Maintenance of Way Employees ("BMWE") and my responsibilities include negotiation and administration of contracts between BMWE and CSX Transportation, Inc. ("CSXT") on the former Seaboard Airline Railroad properties of CSXT. I am also Chairman of the CSXT General Chairmen's Association, an association of the General Chairmen and other International Officers of the unions which represent employees employed by CSXT in various crafts and classes.

2. I am familiar with changes in employment on CSXT because I am responsible for enforcing the seniority rights of BMWE members and for insuring CSXT compliance with the layoff,

-2-

recall and bidding and assignment provisions of BMWE agreements with CSXT.

3. I understand that CSX and NS have petitioned the Board for a waiver/clarification of the Board's railroad consolidation procedures under which they would "use November 1996 to create the base line for rail carrier employees covered by collective bargaining agreements" in developing their statements as to the impact on the CSX/NS acquisition of control/division of Conrail ("Transaction").

4. Granting the CSX/NS request would be highly prejudicial to BMWE members and other railroad employees. Many maintenance of way jobs in particular are seasonal in nature and late fall and early winter are low points in maintenance of way employment. Some employees are furloughed because of the impact of the weather on their jobs; some employees are furloughed because they work in large productions gangs whose work is programmed to begin in late winter and end in late fall, and some employees are furloughed simply because the carrier's budget for maintenance of way work runs out at the end of the calendar year. Consequently use of November 1996 as a base year would result in an understatement of the difference between employment prior to the transaction and projected employment after the Transaction.

5. The understatement of employee impact which would result from the waiver/clarification sought by NS and CSX would be prejudicial to BMWE members in two respects. First, it would

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PAGE 4/13

-3-

allow CSX and NS to minimize the impact of the Transaction on employees. Second, use of November figures for a base line suggests that seasonal workers are not actually affected by the Transaction; this could adversely affect BMW members in post-Transaction employee protection proceedings.

6. If the Board believes that it is appropriate to use a single month as its base line for setting forth the impacts of the Transaction on employees, the Board should designate July of 1996 as the base line. Use of July 1996 employment figures would insure that all employees who have an employment relationship with the involved carriers are counted in the employee impact statement, and that seasonal employees are not at a disadvantage in connection with post-Transaction employee protective proceedings.

I declare under penalty of perjury that the foregoing is true and correct.

May 16, 97
Date

James D. Knight
James D. Knight

ATTACHMENT B

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

CSX Corporation and CSX Transportation, Inc.,
Norfolk Southern Corp. and Norfolk
Southern Ry. Co.--Control and Operating
Leases/Agreements--Conrail Inc.
and Consolidated Rail Corporation
Transfer of Railroad Line by Norfolk
Southern Railway Company to CSX Transportation, Inc.

DECLARATION OF JED DODD

I, Jed Dodd, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct and based on personal knowledge.

1. I am a General Chairman of the Brotherhood of Maintenance of Way Employees ("BMWE") and my responsibilities include negotiation and administration of contracts between BMWE and the Consolidated Rail Corp. ("Conrail") on the portions of Conrail within the jurisdiction of the BMWE Pennsylvania Federation.
2. I am familiar with changes in employment on Conrail because I am responsible for enforcing the seniority rights of BMWE members and for insuring Conrail compliance with the layoff, recall and bidding and assignment provisions of BMWE agreements with Conrail.
3. I understand that CSX and NS have petitioned the Board

-2-

for a waiver/clarification of the Board's railroad consolidation procedures under which they would "use November 1996 to create the base line for rail carrier employees covered by collective bargaining agreements" in developing their statements as to the impact on the CSX/NS acquisition of control/division of Conrail ("Transaction").

4. Granting the CSX/NS request would be highly prejudicial to BMW members and other railroad employees. Many maintenance of way jobs in particular are seasonal in nature and late fall and early winter are low points in maintenance of way employment. Some employees are furloughed because of the impact of the weather on their jobs; some employees are furloughed because they work in large productions gangs whose work is programmed to begin in late winter and end in late fall, and some employees are furloughed simply because the carrier's budget for maintenance of way work runs out at the end of the calendar year. Consequently use of November 1996 as a base year would result in an understatement of the difference between employment prior to the Transaction and projected employment after the Transaction.

5. The understatement of employee impact which would result from the waiver/clarification sought by NS and CSX would be prejudicial to BMW members in two respects. First, it would allow CSX and NS to minimize the impact of the Transaction on employees. Second, use of November figures for a base line suggests that seasonal workers are not actually affected by the

-3-

Transaction; this could adversely affect BMW members in post-Transaction employee protection proceedings.

6. If the Board believes that it is appropriate to use a single month as its base line for setting forth the impacts of the Transaction on employees, the Board should designate July of 1996 as the base line. Use of July 1996 employment figures would insure that all employees who have an employment relationship with the involved carriers are counted in the employee impact statement, and that seasonal employees are not at a disadvantage in connection with post-Transaction employee protective proceedings.

I declare under penalty of perjury that the foregoing is true and correct.

May 19, 1997
Date

Jed Dodd
Jed Dodd

ATTACHMENT C

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 83388

CSX Corporation and CSX Transportation, Inc.,
Norfolk Southern Corp. and Norfolk
Southern Ry. Co.--Control and Operating
Leases/Agreements--Conrail Inc.
and Consolidated Rail Corporation
Transfer of Railroad Line by Norfolk
Southern Railway Company to CSX Transportation, Inc.

DECLARATION OF PERRY GELLER

I, Perry Geller, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct and based on personal knowledge.

1. I am a General Chairman of the Brotherhood of Maintenance of Way Employees ("BMWE") and my responsibilities include negotiation and administration of contracts between BMWE and the Consolidated Rail Corp. ("Conrail") on the portions of Conrail within the jurisdiction of the BMWE Conrail Federation.

2. I am familiar with changes in employment on Conrail because I am responsible for enforcing the seniority rights of BMWE members and for insuring Conrail compliance with the layoff, recall and bidding and assignment provisions of BMWE agreements with Conrail.

3. I understand that CSX and NS have petitioned the Board for a waiver/clarification of the Board's railroad consolidation

-2-

procedures under which they would "use November 1996 to create the base line for rail carrier employees covered by collective bargaining agreements" in developing their statements as to the impact on the CSX/NS acquisition of control/division of Conrail ("Transaction").

4. Granting the CSX/NS request would be highly prejudicial to EMWE members and other railroad employees. Many maintenance of way jobs in particular are seasonal in nature and late fall and early winter are low points in maintenance of way employment. Some employees are furloughed because of the impact of the weather on their jobs; some employees are furloughed because they work in large production gangs whose work is programmed to begin in late winter and end in late fall, and some employees are furloughed simply because the carrier's budget for maintenance of way work runs out at the end of the calendar year. Consequently use of November 1996 as a base year would result in an understatement of the difference between employment prior to the Transaction and projected employment after the Transaction.

5. The understatement of employee impact which would result from the waiver/clarification sought by NS and CSX would be prejudicial to EMWE members in two respects. First, it would allow CSX and NS to minimize the impact of the Transaction on employees. Second, use of November figures for a base line suggests that seasonal workers are not actually affected by the Transaction; this could adversely affect EMWE members in post-

-3-

Transaction employee protection proceedings.

6. If the Board believes that it is appropriate to use a single month as its base line for setting forth the impacts of the Transaction on employees, the Board should designate July of 1996 as the base line. Use of July 1996 employment figures would insure that all employees who have an employment relationship with the involved carriers are counted in the employee impact statement, and that seasonal employees are not at a disadvantage in connection with post-Transaction employee protective proceedings.

I declare under penalty of perjury that the foregoing is true and correct.

5-19-97

Date


Perry Geller

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May 15, 1997

BY FEDERAL EXPRESS

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1201 Constitution Avenue, N.W.
Room 2215
Washington, D.C. 20423



Re: Amendment No. 27 to Schedule 14D-1 and Amendment No. 37 to Schedule 13D Filed Pursuant to 49 C.F.R. Section 1013.3(c); CSX/Norfolk Southern Acquisition of Control of Conrail; Finance Docket No. 33388

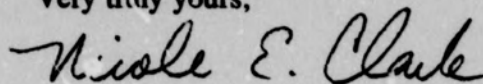
Dear Secretary Williams:

Pursuant to Section 1013.3(c) of Title 49, Code of Federal Regulations, we deliver to you herewith, on behalf of CSX Corporation and its wholly owned subsidiary, Green Acquisition Corp., for filing twenty-five (25) photocopies of Amendment No. 27 to CSX Corporation's Schedule 14D-1 and Amendment No. 37 to Schedule 13D, as filed via EDGAR with the Securities and Exchange Commission on May 14, 1997.

Surface Transportation Board
May 15, 1997
Page 2

The amendment filed herewith is a hard copy version of the computerized EDGAR filing with the Securities and Exchange Commission and, as filed with the Securities and Exchange Commission, contains the computerized equivalent of the necessary signatures.

Very truly yours,

A handwritten signature in cursive script that reads "Nicole E. Clark". The signature is written in dark ink and is positioned above the printed name.

Nicole E. Clark

Enclosure

cc: Dennis G. Lyons

FD 333 88. 179784
SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

SCHEDULE 14D-1

TENDER OFFER STATEMENT
(AMENDMENT NO. 27)

PURSUANT TO

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

AND
AMENDMENT NO. 37

TO
SCHEDULE 13D*

AND
AMENDMENT NO. 14

TO
SCHEDULE 13D**

CONRAIL INC.

(Name of Subject Company)

CSX CORPORATION
NORFOLK SOUTHERN 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)

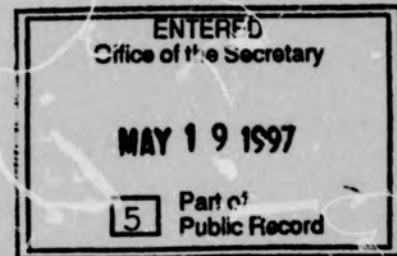
NOT AVAILABLE

(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

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

JAMES C. BISHOP, JR.
NORFOLK SOUTHERN CORPORATION
THREE COMMERCIAL PLACE
NORFOLK, VIRGINIA 23510
TELEPHONE: (757) 629-2750



With a copy to:

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

RANDALL H. DOUD
SKADDEN, ARPS SLATE, MEAGHER & FLOM LLP
91st THIRD AVENUE
NEW YORK, NEW YORK 10022
TELEPHONE: (212) 735-3000

-
- * of CSX Corporation and Green Acquisition Corp.
 - ** of Norfolk Southern Corporation

This Statement amends and supplements the Tender Offer Statement on Schedule 14D-1 filed with the Securities and Exchange Commission (the "SEC") on December 6, 1996, as previously amended and supplemented (the "Schedule 14D-1"), by Green Acquisition Corp. ("Purchaser"), a Pennsylvania corporation, CSX Corporation, a Virginia corporation ("Parent" or "CSX"), and Norfolk Southern Corporation, a Virginia corporation ("NSC"), to purchase all 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 December 6, 1996, the Supplement thereto, dated December 19, 1996 (the "First Supplement"), the Second Supplement thereto, dated March 7, 1997 (the "Second Supplement"), and the Third Supplement thereto, dated April 10, 1997 (the "Third Supplement"), and the related Letters of Transmittal (which, together with any amendments or supplements thereto, constitute the "Second Offer") at a purchase price of \$115 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 First Supplement, the Second Supplement, the Third Supplement and the Schedule 14D-1.

ITEM 5. PURPOSE OF THE TENDER OFFER AND PLANS OR PROPOSALS OF THE BIDDER.

On May 14, 1997, NSC and Canadian Pacific Railway Company ("CPRC") issued a press release announcing that Norfolk Southern Railway Company ("NSR"), a controlled subsidiary of NSC, and CPRC have reached an agreement (the "NSR/CPRC Agreement") regarding the future flow of rail traffic between a number of points in Canada, New England, Pennsylvania, Michigan and Illinois. Under the NSR/CPRC Agreement, which is subject to STB approval, NSR will obtain haulage rights over CPRC's Delaware and Hudson Railway subsidiary from Harrisburg, Pennsylvania and Binghamton, New York to Albany, New York. At the same time, CPRC will receive haulage rights on the Company's line that NSC expects to operate between Detroit and Chicago, via Kalamazoo, Michigan. A copy of the press release is included as an exhibit hereto and is incorporated herein by reference.

ITEM 11. MATERIAL TO BE FILED AS EXHIBITS.

Item 11 is hereby amended and supplemented by the following:

(a) (41) Text of Press Release issued by NSC and CPRC on May 14, 1997.

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: May 14, 1997

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.

NORFOLK SOUTHERN CORPORATION

By: /s/ JAMES C. BISHOP, JR.

Name: James C. Bishop, Jr.

Title: Executive Vice President-Law

Dated: May 14, 1997

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.

ATLANTIC ACQUISITION CORPORA-

TION

By: /s/ JAMES C. BISHOP, JR.

Name: James C. Bishop, Jr.

Title: Vice President and
General Counsel

Dated: May 14, 1997

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: May 14, 1997

EXHIBIT INDEX

**EXHIBIT
NO.**

- *(a) (1) Offer to Purchase, dated December 6, 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.
- *(a) (7) Tender Offer Instructions for Participants of Conrail Inc. Dividend Reinvestment Plan.
- *(a) (8) Text of Press Release issued by Parent and the Company on December 6, 1996.
- *(a) (9) Form of Summary Advertisement, dated December 6, 1996. *(a) (10) Text of Press Release issued by Parent on December 5, 1996.
- *(a) (11) Text of Press Release issued by Parent and the Company on December 10, 1996.
- *(a) (12) Text of Advertisement published by Parent and the Company on December 10, 1996.
- *(a) (13) Text of Press Release issued by Parent on December 11, 1996.
- *(a) (14) Text of Advertisement published by Parent and the Company on December 12, 1996.
- *(a) (15) Supplement to Offer to Purchase, dated December 19, 1996.
- *(a) (16) Revised Letter of Transmittal.

- * (a) (17) Revised Notice of Guaranteed Delivery.
- * (a) (18) Text of Press Release issued by Parent and the Company on December 19, 1996.
- * (a) (19) Letter from Parent to shareholders of the Company, dated December 19, 1996.
- * (a) (20) Text of Press Release issued by Parent on December 20, 1996.
- * (a) (21) Text of Press Release issued by Parent and the Company on January 9, 1997.
- * (a) (22) Text of Press Release issued by Parent and the Company on January 13, 1997.
- * (a) (23) Text of Press Release issued by Parent and the Company on January 15, 1997.
- * (a) (24) Text of Press Release issued by Parent on January 17, 1997.
- * (a) (25) Deleted.
- * (a) (26) Text of Letter issued by Parent and the Company dated January 22, 1997.
- * (a) (27) Text of Advertisement published by Parent and the Company on January 29, 1997.
- * (a) (28) Text of Press Release issued by Parent and the Company on January 31, 1997.
- * (a) (29) Text of Press Release issued by Parent on February 14, 1997.
- * (a) (30) Text of Press Release issued by Parent on March 3, 1997.
- * (a) (31) Second Supplement to Offer to Purchase, dated March 7, 1997.
- * (a) (32) Revised Letter of Transmittal.
- * (a) (33) Revised Notice of Guaranteed Delivery.
- * (a) (34) Text of Press Release issued by Parent on March 7, 1997.
- * (a) (35) Form of Summary Advertisement, dated March 10, 1997.
- * (a) (36) Letter from Parent to employees of the Company, published on March 12, 1997.
- * (a) (37) Text of Press Release issued by CSX and NSC on April 8, 1997.
- * (a) (38) Third Supplement to Offer to Purchase, dated April 10, 1997.
- * (a) (39) Revised Letter of Transmittal circulated with the Third Supplement.
- * (a) (40) Revised Notice of Guaranteed Delivery circulated with the Third Supplement.
- (a) (41) Text of Press Release issued by NSC and CPKC on May 14, 1997.
- * (b) (1) Credit Agreement, dated November 15, 1996 (incorporated by reference to Exhibit (b) (2) to Parent and Purchaser's Tender Offer Statement on Schedule 14D-1, as amended, dated October 16, 1996).
- * (b) (2) Credit Agreement, dated as of February 10, 1997, by and among NSC, Morgan Guaranty Trust Company of New York, as administrative agent, Merrill Lynch Capital Corporation, as documentation agent, and the banks from time to time parties thereto (incorporated by reference to NSC's and Atlantic Acquisition Corporation's Tender Offer Statement on Schedule 14D-1, dated February 12, 1997).
- (b) (3) Commitment Letter, dated April 22, 1997, among Morgan Guaranty Trust Company of New York, J.P. Morgan Securities Inc., Merrill Lynch Capital Corporation, Merrill Lynch & Co. and Norfolk Southern Corporation.
- * (c) (1) Agreement and Plan of Merger, dated as of October 14, 1996, by and among Parent, Purchaser and the Company (incorporated by reference to Exhibit (c) (1) to Parent and Purchaser's Tender Offer Statement on Schedule 14D-1, as amended, dated October 16, 1996).
- * (c) (2) Company Stock Option Agreement, dated as of October 14, 1996, between Parent and the Company (incorporated by reference to Exhibit (c) (2) to Parent and Purchaser's Tender Offer Statement on Schedule 14D-1, as amended, dated October 16, 1996).

- * (c) (3) Parent Stock Option Agreement, dated as of October 14, 1996, between Parent and the Company (incorporated by reference to Exhibit (c) (3) to Parent and Purchaser's Tender Offer Statement on Schedule 14D-1, as amended, dated October 16, 1996).
- * (c) (4) Voting Trust Agreement, dated as of October 15, 1996, by and among Parent, Purchaser and Deposit Guaranty National Bank (incorporated by reference to Exhibit (c) (4) to Parent and Purchaser's Tender Offer Statement on Schedule 14D-1, as amended, dated October 16, 1996).
- * (c) (5) First Amendment to Agreement and Plan of Merger, dated as of November 5, 1996, by and among Parent, Purchaser and the Company (incorporated by reference to Exhibit (c) (7) to Parent and Purchaser's Tender Offer Statement on Schedule 14D-1, as amended, dated October 16, 1996).
- * (c) (6) Second Amendment to Agreement and Plan of Merger, dated as of December 18, 1996, by and among Parent, Purchaser and the Company.
- * (c) (7) Form of Amended and Restated Voting Trust Agreement.
- (c) (8) Deleted.
- * (c) (9) Text of STB Decision No. 5 of STB Finance Docket No. 33220, dated January 8, 1997.
- (c) (10) Deleted.
- * (c) (11) Text of opinion of Judge Donald VanArtsdalen of the United States District Court for the Eastern District of Pennsylvania as delivered from the bench on January 9, 1997.
- * (c) (12) Third Amendment to Agreement and Plan of Merger, dated as of March 7, 1997, by and among Parent, Purchaser and the Company.
- (*) (c) (13) Form of Amended and Restated Voting Trust Agreement.
- * (c) (14) Letter Agreement between CSX and NSC, dated April 8, 1997.
- * (c) (15) Fourth Amendment to Agreement and Plan of Merger, dated as of April 8, 1997, by and among CSX, Purchaser and the Company.
- * (c) (16) Letter from the Honorable Vernon A. Williams, dated May 8, 1997.
- (d) Not applicable.
- (e) Not applicable.
- (f) Not applicable.

* Previously filed.

NEWS RELEASE

Contacts: Robert Fort
Norfolk Southern
(757) 629-2710

Barry Scott
Canadian Pacific Railway
(403) 218-7525

FOR IMMEDIATE RELEASE
May 14, 1997

NS AND CPR REACH AGREEMENT TO IMPROVE TRAFFIC FLOWS

Norfolk VA -- Norfolk Southern Railway Company (NS) and Canadian Pacific Railway Company (CPR) have reached an agreement that will improve the future flow of rail traffic between a number of points in Canada, New England, Pennsylvania, Michigan and Illinois.

The agreement is subject to Surface Transportation Board approval of the proposal by Norfolk Southern Corporation and CSX Corporation to acquire Conrail, Inc. (CR).

Under the agreement, NS will obtain haulage rights over CPR's Delaware and Hudson Railway (D&H) subsidiary from Harrisburg, Pa., and Binghamton, N.Y., to Albany, N.Y. In addition, NS and CPR will shorten transit times and routes by relocating their interchange at Potomac Yard, Va., to Harrisburg, Pa., and share investment in certain track and bridge improvements on the D&H line. This arrangement will give NS a direct connection to Guilford Transportation, increasing competitive rail service to New England while improving service to Canada.

At the same time, CPR will receive haulage rights on the CR line that NS expects to operate between Detroit and Chicago, via Kalamazoo, Mich. This will give CPR a shorter, faster route for intermodal and other freight moving into the U.S. from shippers in the provinces of Quebec and Ontario. CPR will also receive trackage rights between Harrisburg, Pa., and Reading, Pa., improving service to Philadelphia.

This agreement will contribute to our goal of defining a viable role for the D&H following the restructuring of Conrail, and we expect to explore other opportunities, said Rob Ritchie, CPR president and chief executive officer. Service for CPR shippers will be improved both in the Northeast and the important corridor linking Central Canada and Chicago.

Our agreement with CPR is another example of how our plan for the restructuring of Conrail will promote balanced competition in the East, said David R. Goode, NS chairman, president and chief executive officer. It has the potential to benefit both American and Canadian shippers by offering them wider market access and by improving the speed and ease with which their freight can be moved.

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

CPR World Wide Web Site - <http://www.cprailway.com>

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AMERICAN TRUCKING ASSOCIATIONS



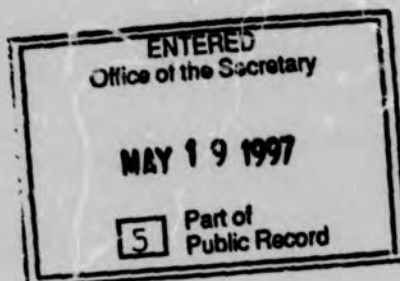
2200 Mill Road • Alexandria, VA 22314-4677

Kenneth E. Siegel
Deputy General Counsel

May 16, 1997

Tel (703) 838-1857
Fax (703) 838-3226

Office of the Secretary
Case Control Unit
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001



Attn: STB Financial Docket No. 33388

Dear Secretary:

Enclosed for filing are this original and twenty-five copies of the comments of the American Trucking Associations, Inc. ("ATA") in response to the Board's Notice of petitions filed by applicants seeking waiver of otherwise applicable requirements for seven construction projects and to the Board's request for comments, published in the *Federal Register* May 13, 1997 (62 FR 26352). Also submitted is a 3 1/2" computer disk containing ATA's filing in Wordperfect 5.1 format.

The ATA is the national trade association of the trucking industry. We are a federation of over 36,000 member companies and represent an industry that employs over nine million people, providing one of every ten civilian jobs. ATA's direct membership includes nearly 4,200 carriers, affiliated associations in every state, and 10 specialized national associations, including the ATA Intermodal Conference -- the only national association representing exclusively the interests of the intermodal highway drayage haulers. We represent motor carriers who are some of the largest rail shippers.

Petitioners have asked the Board to waive certain otherwise applicable requirements respecting seven "gap closing" construction projects. ATA has expressed its intent to take a position on the primary application, which we will do only after the formal application is filed with the Board. However, we urge the Office of the Secretary Board to deny the requested waivers and to reserve judgement on this matter until the primary filing has been made and reviewed by all parties. ATA considers that such a waiver granted now is inconsistent with guaranteeing a full and fair hearing of the primary application.

May 16, 1997

Page 2

Board to deny the requested waivers and to reserve judgement on this matter until the primary filing has been made and reviewed by all parties. ATA considers that such a waiver granted now is inconsistent with guaranteeing a full and fair hearing of the primary application.

The Board's request for comment affirms that existing regulation provides that, in cases such as this, applicants would normally seek authority to construct new rail lines as part of their primary application. Although requests for a waiver of this rule may be granted "for good cause shown," we believe that the burden of proof should be very high indeed.

Despite any assertion by the Board to the contrary, it is inevitable that approval of these waivers would be understood by the public as signaling tacit support for the primary application. By approving the waiver, the Board could inadvertently stifle the full public debate that will provide essential input to the Board's own deliberations.

Adherence to the Board's basic regulation in these matters is, therefore, important in order to safeguard its objectivity, particularly to prevent any appearance of having undermined the opportunity for all parties to obtain a full and impartial hearing.

Applicants have argued that, if the primary application is approved, denial of the waiver would delay the ability of CSX Corporation ("CSX") and Norfolk Southern ("NS") immediately to compete with each other in providing certain anticipated service offerings. Accelerating the opportunity of the applicants to realize maximum immediate advantage from an acquisition should not be a consideration of the Board at this juncture. The applicant's argument does not constitute "good cause" for approval of the waiver.

The applicants are proposing massive changes to the competitive environment for freight transportation in the United States, which would presumably bring them substantial financial reward. In this matter, accelerated approval by the Board of the new rail projects raises a number of other important matters:

- Approval of the waiver would impose on motor carriers and many other parties an unreasonable burden of time and expense that would be altogether unnecessary if the primary application is denied. Although the applicants are willing to make a speculative investment up front, other parties should not be forced to do so. For example, extensive state and

May 16, 1997
Page 3

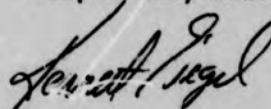
local participation in Office of the Secretary assessing the environmental impact of the new routes will require public participation and expense that need not be incurred at all if the primary application is denied.

- To evaluate the impact of the underlying application, interested parties would now be forced to deal with key issues in incremental installments, thus imposing further, unreasonable expense to evaluate a complex proposal.
- In the absence of approval of the primary application, in what manner and to what extent would the existence of the seven new rail connections impact the competitive balance among CSX, NS, Conrail, and other rails in the East Coast service area?
- Would approval of the waiver to assist CSX and NS in getting the benefits of the proposed acquisition "out of the starting blocks" create an unlevel playing field? Would it adversely affect carriers who do not have the benefit of making early competitive investments based upon proprietary information now available only to the applicants?
- Approval of the waiver could foreclose development of additional line concessions and other options for rail competition that would serve the public interest.

The CSX and NS request for waiver is filed in conjunction with a recent application by the same parties to reduce by 30 percent the time allotted for review of the primary application by the Board. Taken together, these two requests invite a rush to judgement that the Board has compelling reasons to reject.

This is a very important matter that justifies proceeding at the cautious and deliberate pace established by the Board's standard procedure for such matters. ATA would therefore urge the Board to reject the CSX Corporation and Norfolk Southern waiver request.

Respectfully submitted,



Kenneth Siegel

Attachment and Enclosures

CERTIFICATE OF SERVICE

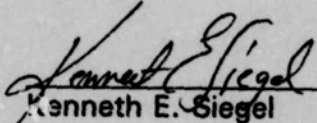
I hereby certify that on this 16th day of May, 1997, I have served a copy of the foregoing response upon the parties listed below and on the attached list:

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

Richard A. Allen
Zuckert, Scoutt, & Rasenberger
888 Seventeenth Street, N.W.
Washington, D.C. 20006-3939

Paul A. Cunningham, Esq.
Harkins, Cunningham
Suite 600
13000 Nineteenth Street, N.W.
Washington, D.C. 20036

Jacob Leventhal
Administrative Law Judge
F.E.R.C.
888 First Street, N.E.
Suite 11F
Washington, D.C. 20426


Kenneth E. Siegel

Attachment

STB

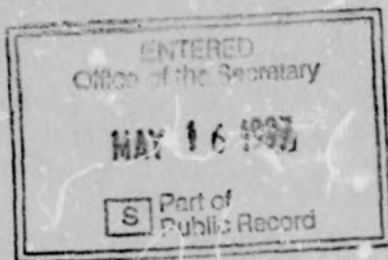
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May 5, 1997

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

179757

Re: Entry of Appearance, Finance Docket No. 33388
CSX Corp., *et al.*, Norfolk Southern *et al.*, -
Control and Operating Leases/Agreements - Conrail
Inc., *et al.*, - Transfer of Railroad Line By Norfolk
Southern Railway Co. to CSX Transportation, Inc.

Dear Secretary Williams:

Please enter my appearance on behalf of the United Transportation Union General
Committee of Adjustment Norfolk in the above-referenced proceeding and include me on the
service list. AW-C

Thank you for your attention to this matter.

Sincerely,

General Chairperson
L P KING JR

cc: C. L. Little, International President
D. R. Elliott, III, Assistant General Counsel

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing Entry of Appearance were served by first-class, postage pre-paid mail, this 13 day of MAY, 1997 upon the following:

James C. Bishop, Jr.
William C. Woolridge
J. Gary Lane
James L. Howe, III
Robert J. Cooney
George A. Aspatore
Norfolk Southern Corp.
Three Commercial Place
Norfolk, VA 23510-9241

Bruce B. Wilson
Constance L. Abrams
Consolidated Rail Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Larry Pruden, Esquire
Transportation Communications
International Union
3 Research Place
Rockville, MD 20850

Larry Willis, Esquire
Transportation Trades Dept.
AFL-CIO
400 N. Capitol Street, N.W.
Washington, DC 20001

Richard Edelman
Highsaw, Mahoney & Clarke
1050 17th Street, N.W., Suite 210
Washington, DC 20036

The Honorable Jacob Levarthal
Federal Energy Regulatory
Commission
888 First Street, N.E., Suite 11F
Washington, DC 20426

Richard A. Allen
James A. Calderwood
Andrew R. Plump
John V. Edwards
Zuckert, Scoutt &
Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, DC 20006-3939

Paul A. Cunningham
Harkins Cunningham
Suite 1600
1300 19th Street, N.W.
Washington, DC 20036

Mark G. Aron
Peter J. Shultz
CSX Corporation
One James Center
901 East Cary Street
Richmond, VA 23219

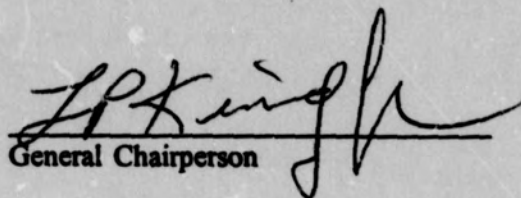
P. Michael Giftos
Paul R. Hitchcock
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

Dennis G. Lyons
Richard L. Rosen
Paul T. Denis
Arnold & Porter
555 12th Street, N.W.
Washington, DC 20004-1202

John M. Nannes
Scot B. Hutchins
Skadden, Arps, Slate,
Meagher & Fom, L.L.P.
1440 New York Avenue, N.W.
Washington, DC 20005

Timothy T. O'Toole
Constance L. Abrahms
Consolidated Rail Corp.
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Samuel M. Sipe, Jr.
Timothy M. Walsh
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, DC 20036-1795


General Chairperson

NEW YORK METROPOLITAN TRANSPORTATION COUNCIL

James W. Harris, P.E.
Director

May 9, 1997

Ms. Linda Morgan, Chairperson
Surface Transportation Board
12th Street and Constitution Ave. N.W.
Washington, DC 20423

Dear Ms. Morgan:

We understand that the CSX Corporation and Norfolk Southern have petitioned the Surface Transportation Board to provide an expedited 255 day review process for the Conrail Acquisition proposal expected to be submitted shortly. This letter is to inform you that the New York Metropolitan Transportation Council does not support the expedited 255 day procedural schedule (as in Federal Register Doc. 97-10337).

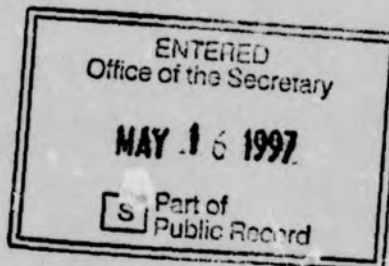
The acquisition of Conrail is a significant opportunity for improving the rail competitiveness in the New York metropolitan region. Therefore, careful review and analysis are mandatory. In order to develop the regional position that will benefit the regional and the national economy, in-depth discussions with stakeholders are required.

To assure that the rail competitiveness in the region will be achieved, we urge you to maintain the 365-day schedule that was originally proposed by the Surface Transportation Board.

Thank you for your consideration.

Sincerely,

James W. Harris
James W. Harris, P.E.
Executive Director



CA/JWH/vg-s

pc: A. Borenstein, J. E. Bergman, C. Adidjaja, NYMTC

THE METROPOLITAN PLANNING ORGANIZATION

1 WORLD TRADE CENTER • SUITE 82 EAST • NEW YORK • NY • 10048-0043 • TEL 212.938.3300 • FAX 212.938.3295 • BBS 212.938.4371

WEBSITE WWW.DOT.STATE.NY.US/REG/NYMTC/COUNCIL.HTML

NEW YORK METROPOLITAN TRANSPORTATION COUNCIL

James W. Harris, P.E.
Director

STB FINANCE DOCKET NO. 33388

The attached letter was sent to the following:

25 copies
Office of the Secretary
Case Control Unit
Attn: STB Finance Docket No. 33388
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0111



1 copy
Administrative Law Judge Jacob Leventhal
Federal Energy Regulatory Commission
888 First Street, N.E. - Suite 11F
Washington, DC 20426

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

1 copy
Richard A. Allen, Esq.
Zuckert, Scutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, DC 20006-3939

1 copy
Paul A. Cunningham, Esq.
Harkins Cunningham
1300 Nineteenth Street, N.W.
Suite 600
Washington, DC 20036

THE METROPOLITAN PLANNING ORGANIZATION

1 WORLD TRADE CENTER SUITE 82 EAST NEW YORK, NY 10048-0043 TEL 212.938.3300 FAX 212.938.3295 BBS 212.938.4371

WEBSITE WWW.DOT.STATE.NY.US/REG/NYMTCC/COUNCIL.HTML

COVINGTON & BURLING

1201 PENNSYLVANIA AVENUE, N. W.

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(202) 662-6000

FACSIMILE: (202) 662-6291

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LECONFIELD HOUSE
CURZON STREET
LONDON W1Y 8AS
ENGLAND

TELEPHONE: 44-171-495-5656
FACSIMILE: 44-171-495-3101

BRUSSELS OFFICE
KUNSTLAAN 44 AVENUE DES ARTS
BRUSSELS 1040 BELGIUM
TELEPHONE: 32-2-549-5230
FACSIMILE: 32-2-502-1578

ENTERED
Office of the Secretary

MAY 16 1997

ARVID E. ROACH II

DIRECT DIAL NUMBER

(202) 662-5538

DIRECT FACSIMILE

(202) 778-5380

May 16, 1997

BY HAND

Honorable Vernon A. Williams
Secretary
Interstate Commerce Commission
12th Street & Constitution Avenue, N.W.
Room 2215
Washington, D.C. 20423



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

Dear Secretary Williams:

179763

Please note the appearance of the undersigned in this proceeding for Union Pacific Corporation and Union Pacific Railroad Company. I would appreciate being added to the service list for receipt of all orders of the Board and the presiding Administrative Law Judge.

By copy of this letter, I am requesting of the applicants and all other known parties of record that they serve me with all pleadings and correspondence filed to date, and filed hereafter, in the proceeding, and in related matters such as requests for informal clearance of voting trusts.

Sincerely,

Arvid E. Roach II

Arvid E. Roach II

Attorney for Union Pacific
Corporation and Union Pacific
Railroad Company

ENTERED
Office of the Secretary

MAY 16 1997

Part of
Public Record

cc: All Parties of Record

STB

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5-8-97

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179629

CHARLES L. LITTLE
International President

BYRON A. BOYD, JR.
Assistant President

ROGER D. GRIFFETH
General Secretary and Treasurer

**united
transportation
union**

14600 DETROIT AVENUE
CLEVELAND, OHIO 44107-4250
PHONE: 216-228-9400
FAX: 216-228-0937

LEGAL DEPARTMENT

CLINTON J. MILLER, III
General Counsel

KEVIN C. BRIDGEMAN
Associate General Counsel

ROBERT L. McCARTY
Associate General Counsel

DANIEL R. ELLIOTT, III
Assistant General Counsel

UPS NEXT DAY AIR

May 6, 1997

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



Re: Entry of Appearance, Finance Docket No. 33388
CSX Corp., *et al.*, Norfolk Southern Corp., *et al.*, --
Control and Operating Leases/Agreements -- Conrail
Inc., *et al.*, -- Transfer of Railroad Line By Norfolk
Southern Railway Co. to CSX Transportation, Inc.

Dear Secretary Williams:

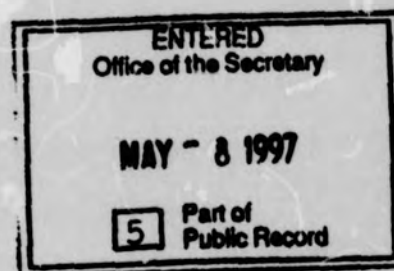
Please enter my appearance on behalf of the United Transportation Union in the above-referenced proceeding and include me on the service list.

Thank you for your attention to this matter.

Sincerely,

Daniel R. Elliott, III
Assistant General Counsel

cc: C. L. Little, International President
C. J. Miller, III, General Counsel



CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing Entry of Appearance were served by first-class, postage pre-paid mail, this 6th day of May, 1997 upon the following:

James C. Bishop, Jr.
William C. Woolridge
J. Gary Lane
James L. Howe, III
Robert J. Cooney
George A. Aspatore
Norfolk Southern Corp.
Three Commercial Place
Norfolk, VA 23510-9241

Bruce B. Wilson
Constance L. Abrams
Consolidated Rail Corporation
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Larry Pruden, Esquire
Transportation Communications
International Union
3 Research Place
Rockville, MD 20850

Larry Willis, Esquire
Transportation Trades Dept.
AFL-CIO
400 N. Capitol Street, N.W.
Washington, DC 20001

Richard Edelman
Highsaw, Mahoney & Clarke
1050 17th Street, N.W., Suite 210
Washington, DC 20036

The Honorable Jacob Leventhal
Federal Energy Regulatory
Commission
888 First Street, N.E., Suite 11F
Washington, DC 20426

Richard A. Allen
James A. Calderwood
Andrew R. Plump
John V. Edwards
Zuckert, Scoutt &
Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, DC 20006-3939

Paul A. Cunningham
Harkins Cunningham
Suite 1600
1300 19th Street, N.W.
Washington, DC 20036

Mark G. Aron
Peter J. Shultz
CSX Corporation
One James Center
901 East Cary Street
Richmond, VA 23219

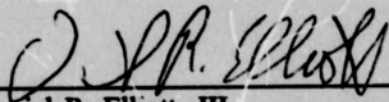
P. Michael Giftos
Paul F. Hitchcock
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

Dennis G. Lyons
Richard L. Rosen
Paul T. Denis
Arnold & Porter
555 12th Street, N.W.
Washington, DC 20004-1202

John M. Nannes
Scot B. Hutchins
Skadden, Arps, Slate,
Meagher & Flom, L.L.P.
1440 New York Avenue, N.W.
Washington, DC 20005

Timothy T. O'Toole
Constance L. Abrahms
Consolidated Rail Corp.
Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

Samuel M. Sipe, Jr.
Timothy M. Walsh
Steptoe & Johnson, L.L.P.
1330 Connecticut Avenue, N.W.
Washington, DC 20036-1795



Daniel R. Elliott, III

STB

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• 33388

5-7-97

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• 179625

D

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388

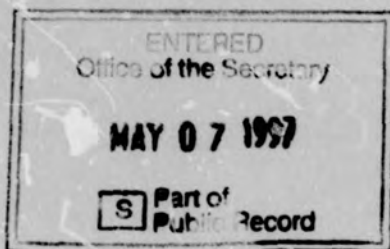


117625

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

REPLY TO PETITION FOR WAIVER OR
CLARIFICATION OF RAILROAD CONSOLIDATION
PROCEDURES, AND RELATED RELIEF

Hugh H. Welsh, Deputy General
Counsel
The Port Authority of New York
and New Jersey
One World Trade Center, 67E
New York, NY 10048
(212) 435-6915



Paul M. Donovan
LaRoe, Winn, Moerman & Donovan
3506 Idaho Avenue, N.W.
Washington, DC 20016
(202) 362-3010

Attorneys for
The Port Authority of New York
and New Jersey

STATEMENT

Applicants have filed a "Petition for Waiver or Clarification of Railroad Consolidation Procedures, and Related Relief. The Port Authority of New York and New Jersey (the Port Authority) does not object to the relief requested, with one exception.

Applicants seek "Waiver of clarification of § 1180.9(a), (b), and (c), relating to financial information, to permit Applicants not to file separate pro forma financial statements for Conrail." (Petition, pg. 9). This request is justified, in part, as follows:

While Conrail and its subsidiaries will continue to exist as separate legal entities following the acquisition of control of Conrail by CSX and NS, the ultimate transportation and other economic effects of this transaction (including gains and losses from continuing Conrail operations) will be fully reflected in the pro forma financial statements of CSX and NS. Those statements will accordingly provide the most accurate reporting of the transaction's effects. By contrast, Conrail will cease to be an independent rail carrier and separate pro formas for it on a freestanding basis would not be meaningful and would not contribute to the Board's analysis of the proposed transaction.

ARGUMENT

In the Notice of Intent to File Railroad Control Application, Applicants stated that Conrail will "own and operate, directly or through subsidiaries, among other things, certain track and other fixed rail assets in the New York/New Jersey area.... (CSX/NS-1, pg. 3). In NYNJ-1 (then designated as PANY/NJ-1), the Port Authority noted that "[t]he decision to keep

Conrail in place as the only carrier serving the metropolitan area of New York and New Jersey raises several important issues." Among these issues was noted the critical question of whether an independent, although jointly owned, Conrail would provide the service necessary to the future development of the New York/New Jersey area. As it was stated: "Does the decision to retain Conrail as the only carrier actually serving New York/New Jersey effectively preclude or discourage the construction and operation of additional rail infrastructure in the metropolitan area?" (NYNJ-1, pg.3).

Plainly, the decision on the part of CSX and NS to invest or disinvest in Conrail rail facilities at New York/New Jersey will depend, in substantial part, upon the profitability of Conrail and the return Conrail will provide on any such investment. Further, the question of what, if any, investment the joint owners plan to have Conrail make in New York/New Jersey rail facilities will be critical in determining whether other parties, including the Port Authority, file inconsistent applications seeking to acquire Conrail assets located at New York/New Jersey. Accordingly, financial information in the form of pro forma statements by Conrail will be crucial to the parties and to the Board in resolving these, and possibly other questions.

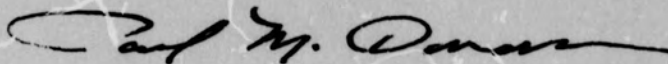
CONCLUSION

In view of the foregoing, the Petition for Waiver or Clarification of Railroad Consolidation Procedures and Related Relief should be denied insofar as it seeks relief from the requirement

to file financial information and pro forma statements for
Conrail and its subsidiaries.

Respectfully submitted,

Hugh H. Welsh, Deputy General
Counsel
The Port Authority of New York
and New Jersey
One World Trade Center, 67E
New York, NY 10048
(212) 435-6915



Paul M. Donovan
LaRoe, Winn, Moerman & Donovan
3506 Idaho Avenue, N.W.
Washington, DC 20016
(202) 362-3010

Attorneys for
The Port Authority of New York
and New Jersey

CERTIFICATE OF SERVICE

I, Paul M. Donovan, hereby certify that on May 7, 1997, I have caused to be served a true copy of the foregoing NYNJ-3, Reply to Petition for Waiver or Clarification of Railroad Consolidation Procedures, and Related Relief, on all parties that have appeared in Finance Docket No. 33388, by first-class mail, postage prepaid, or by more expeditious means.


Paul M. Donovan

STB

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5-7-97

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D

DONELAN, CLEARY, WOOD & MASER, P.C.

ATTORNEYS AND COUNSELORS AT LAW
SUITE 750
1100 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-3934

OFFICE: (202) 371-9500

177626
TELECOPIER: (202) 371-0100

May 7, 1997

Via Hand Delivery

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



Re: Finance Docket No. 33388 *CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY—Control and Operating Leases/Agreements—CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION*

Dear Secretary Williams:

Please find enclosed for filing in the above-referenced proceeding an original and twenty-five (25) copies of the Notice of Intent to Participate, submitted to the Board on behalf of the Institute of Scrap Recycling Industries, Inc. In accordance with 49 C.F.R. § 1180.4(a)(2), this party selects the acronym "ISRI" and, accordingly, the enclosed document is identified as ISRI-1.

In accordance with Decision No. 2 in this proceeding, copies of this document are being served upon Applicants' counsel, Administrative Law Judge Jacob Leventhal, and all known parties of record. Also enclosed is a 3.5-inch floppy diskette containing the text of this pleading in WordPerfect 6.0 format. Should you have any questions concerning this filing, please do not hesitate to contact the undersigned.



Sincerely yours,

John K. Maser III
Attorney for the Institute of Scrap Recycling
Industries, Inc.

Enclosures

cc: All parties of record (w/encl)

3310-070

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK SOUTHERN
CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

—Control and Operating Leases/Agreements—

CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

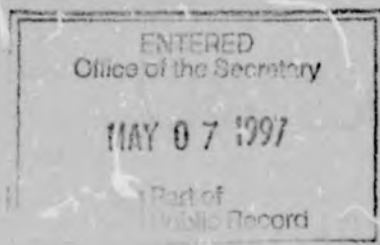


NOTICE OF INTENT TO PARTICIPATE

In accordance with 49 C.F.R. §1180.4(a)(4), the Institute of Scrap Recycling Industries, Inc. hereby submits its Notice of Intent to Participate. This party respectfully requests that its representatives, as listed below, be included in the service list maintained by the Board in this proceeding so that the listed representatives receive copies of all orders, notices, and other pleadings in this proceeding. Further, these parties request that Applicants and other parties of record serve copies of all pleadings filed in this proceeding directly upon the indicated representatives as listed below:

John K. Maser III, Esquire
Jeffrey O. Moreno, Esquire
DONELAN, CLEARY, WOOD & MASER, P.C.
Suite 750
1100 New York Avenue, N.W.
Washington, DC 20005-3934

Michael Mattia
Director, Risk Management
Institute of Scrap Recycling Industries, Inc.
1325 G Street, N.W.
Washington, DC 20005



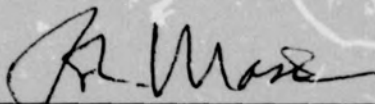
May 7, 1997

Respectfully submitted,

[Signature]
John K. Maser III
Jeffrey O. Moreno
DONELAN, CLEARY, WOOD & MASER, P.C.
1100 New York Avenue, N.W., Suite 750
Washington, DC 20005-3934
(202) 371-9500
Attorneys for Institute of Scrap
Recycling Industries, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this seventh day of May, 1997, copies of the foregoing NOTICE OF INTENT TO PARTICIPATE were served upon Administrative Law Judge Jacob Leventhal, Federal Energy Regulatory Commission, Suite 11F, 888 First Street, N.E., Washington, DC 20426; Dennis G. Lyons, Esquire, Arnold & Porter, 555 12th Street, N.W., Washington, DC 20004-1202; Richard A. Allen, Esquire, Zuckert, Scoutt & Rasenberger, L.L.P., 888 Seventeenth Street, N.W., Washington, DC 20006-3939; and Paul A. Cunningham, Esquire, Harkins Cunningham, Suite 600, 1300 19th Street, N.W., Washington, DC 20036, by hand delivery or telecopy, and upon other known parties of record by first-class mail, postage prepaid, in accordance with the rules of the Surface Transportation Board.



John K. Maser III

STB

FD

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5-7-97

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179621

ORIGINAL

LAW OFFICES
FRITZ R. KAHN, P.C.
SUITE 750 WEST
1100 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-7234
(202) 371-8037
FAX (202) 371-0900



April 28, 1997

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, DC 20423

Dear Secretary Williams:

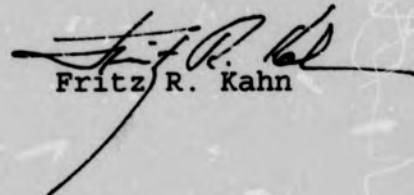
Enclosed for filing in STB Finance Docket No. 33388, CSX Corp., et al.--Control and Operating Leases/Agreement--Conrail, Inc., et al., are the original and ten copies of the Notice of Intent to Participate of Shintech Incorporated.

Extra copies of the Notice and of this letter are enclosed for you to stamp to acknowledge your receipt of them and to return to me in the enclosed self-addressed, stamped envelope.

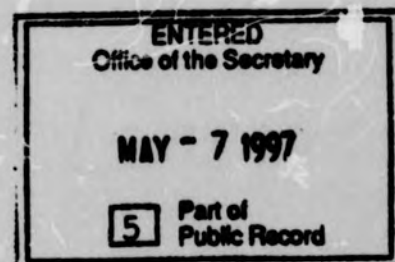
By copy of this letter, service is being effected upon counsel for the Applicants.

If you have any question concerning this filing or if I otherwise can be of assistance, please let me know.

Sincerely yours,


Fritz R. Kahn

enc.
cc: James C. Bishop, Jr., Esq.
Richard A. Allen, Esq.
Paul R. Hitchcock, Esq.
Dennis G. Lyons, Esq.
W. David Tidholm, Esq.
Mr. Yasuhiko Saitoh
Mr. Jack Hensen
Mr. G. W. Fauth III



ORIGINAL 179621

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423



STB Finance Docket No. 33383

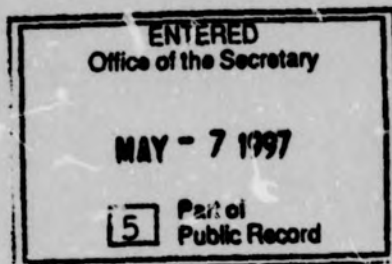
CSX CORP., et al.,
--CONTROL AND OPERATING LEASES/AGREEMENT--
CONRAIL, INC., et al.

NOTICE OF INTENT
TO PARTICIPATE

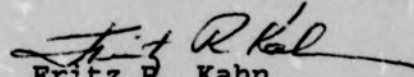
Shintech Incorporated of Houston Texas ("Shintech"), advises the Board of its intent to participate in the proceeding as its interests may appear and asks that the appearance of its attorneys be entered. Shintech has selected the acronym "SHIN" for identifying such filings as it may make.

Respectfully submitted,

SHINTECH INCORPORATED



W. David Tidholm
Hutcheson & Grundy
1200 Smith Street (#3300)
Houston, TX 77002-4579
Tel.: (713) 951-2800

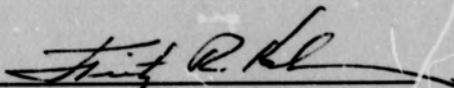

Fritz R. Kahn
Fritz R. Kahn, P.C.
Suite 750 West
1100 New York Avenue, NW
Washington, DC 20005-3934
Tel.: (202) 371-8037

Date: April 28, 1997

CERTIFICATE OF SERVICE

Copies of the foregoing Notice this day were served by me by mailing copies thereof, with first-class postage prepaid, to counsel for the Applicants.

Dated at Washington, DC, this 28th day of April 1997.


Fritz R. Kahn

STB

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5-6-97

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BRICKFIELD
BURCHETTE
RITTS, P.C.

May 6, 1997



HAND DELIVERED

The Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20001

Re: Finance Docket No. 33388

Dear Secretary Williams:

On behalf of Steel Dynamics, Inc. ("SDI"), please find enclosed for filing an original and twenty-five copies of:

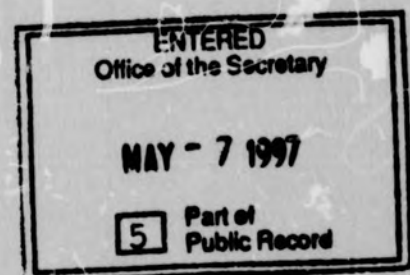
- Reply of Steel Dynamics, Inc. to the Petition for Waiver Filed by NS (SDI-3).

A copy of the pleadings is provided on the enclosed 3.5" diskette in WordPerfect 5.1 for DOS format. The document has been served in accordance with Decision No. 2. Please do not hesitate to contact me if you have any questions or concerns.

Thank you for your cooperation in this matter.

Very truly yours,

Christopher C. O'Hara



BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388



CSX Corporation and CSX Transportation, Inc.
Norfolk Southern Corporation and
Norfolk Southern Railway Company
-- Control and Operating Leases/Agreements --
Conrail Inc. and Consolidated Rail Corporation --
Transfer of Railroad Line by Norfolk Southern Railway Company
To CSX Transportation, Inc.

**REPLY OF STEEL DYNAMICS, INC.
TO THE PETITION FOR WAIVER FILED BY NS
(SDI-3)**

Peter J.P. Brickfield
Peter J. Mattheis
Christopher C. O'Hara
Brickfield, Burchette & Ritts, P.C.
1025 Thomas Jefferson Street, NW
Eighth Floor, West Tower
Washington, DC 20007

Telephone: (202) 342-0800
Facsimile: (202) 342-0807

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 33388

**REPLY OF STEEL DYNAMICS, INC.
TO THE PETITION FOR WAIVER FILED BY NS
(SDI-3)¹**

Steel Dynamics, Inc. ("SDI"), by its attorneys, files this reply to the petition for waiver filed by NS:²

1. NS has submitted an "out of the ordinary" proposal seeking a waiver from the mandate of 49 C.F.R. § 1180.4(c)(2)(vi) requiring the concurrent filing of applications to construct certain interconnections located at Alexandria, Indiana, Colsan/Bucyrus, Ohio, and Sidney, Illinois. All three of the proposed interconnections address predicted rail traffic patterns in light of the proposed multiple transfers of midwestern lines. SDI believes that the proposed interconnections are intimately intertwined with significant issues involved in Docket No. 33388 and in the newly created sub-docket addressing the transfer of the Fort Wayne Line. SDI believes that creating separate dockets for these interconnections, as NS has proposed, will not be an efficient use of the Board's resources and will not allow for an in depth examination of the complex issues involved in the mid-west region.

2. The Board addressed the Fort Wayne Line in Decision No. 4 and noted astutely that that "[t]he division of CRC's assets does not inherently require that anything be done with

¹ SDI-1 was its Entry of Appearance. SDI-2 was its Comments on the Proposed Procedural Schedule.

² Although the Board's rules do not allow for replies to petitions for waiver, the Board has considered such replies. See, e.g., Decision No. 2, 62 Fed. Reg. 19,391-92 (1997).

respect to [NS's Fort Wayne Line]." NS and CSX both have existing Chicago-bound lines located in northeast Indiana. The proposed transfer of NS's Fort Wayne Line to CRC or a newly-created subsidiary in exchange for CRC's "Streator line," thereby making NS's line available to be transferred to CSX, is designed to disguise the fact the acquisition of Conrail will create a duplicative line. NS's acquisition of CRC's line would create duplicative Chicago-bound lines only about 25 miles apart, running through Waterloo and Fort Wayne. Transferring the Fort Wayne Line to CSX does not resolve the duplicative line issue, as CSX currently has a line running from northeast Indiana to Chicago.

3. SDI believes that, after analysis of the application, the Board will determine that a duplicative line is created by the acquisition of Conrail and will require divestiture of one of the lines. The Board should resist NS's attempt to force premature resolution of complex issues and to compromise the Board's authority to review the proposed interconnections in the context of the primary control application.

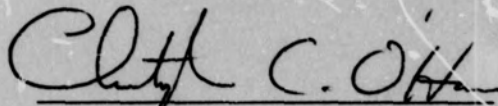
4. As an additional note, 49 C.F.R. § 1180.4 (f)(2) of the Board's rules require that petitions for waiver be filed at least 45 days prior to the filing of the application. NS has not sought waiver of this requirement. NS's petition was filed on May 2, 1997. SDI respectfully asks the Board to clarify that the Applicants not be permitted to file their application before June 16, 1997, irrespective of whether the Board grants the waiver.

WHEREFORE, SDI respectfully requests that the Board:

- (1) Require NS to file all proposed construction applications or exemptions with the primary control application in the main docket or in the sub-docket; and,
- (2) Establish June 16, 1997, as the earliest date on which the application can be filed.

Respectfully submitted,

BRICKFIELD, BURCHETTE & RITTS, P.C.

A handwritten signature in dark ink, appearing to read "Chry C. O'Hara", written over a horizontal line.

Peter J.P. Brickfield

Peter J. Mattheis

Christopher C. O'Hara

Brickfield, Burchette & Ritts, P.C.

1025 Thomas Jefferson Street, NW

Eighth Floor, West Tower

Washington, DC 20007

Telephone: (202) 342-0800

Facsimile: (202) 342-0807

Date: May 6, 1997

Certificate of Service

Finance Docket No. 33388

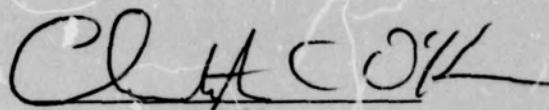
In accordance with Decision No. 2 in this docket, I hereby certify that on May 6, 1997, a copy of the attached document was sent by United States mail, first class, postage prepaid to:

The Hon. Jacob Leventhal
Administrative Law Judge
Federal Energy Regulatory Commission
888 First Street, N.E.
Suite 11F
Washington, DC 20426

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

Richard A. Allen, Esq.
Zuckert, Scoutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Washington, DC 20006-3939

Paul A. Cunningham, Esq.
Harkins Cunningham
Suite 600
1300 Nineteenth Street, N.W.
Washington, DC 20036


Christopher C/O'Hara

STB

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HARKINS CUNNINGHAM

ATTORNEYS AT LAW
SUITE 600
1300 NINE TEENTH STREET, N.W.
WASHINGTON, D.C. 20036-1609
202 973-7600
FACSIMILE 202 973-7610

WRITER'S DIRECT DIAL

(202) 973-7608

1800 ONE COMMERCE SQUARE
2005 MARKET STREET
PHILADELPHIA, PA 19103-7042
215 851-6700
FACSIMILE 215 851-5710

May 6, 1997

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
Case Control Unit
ATTN: STB Finance Docket No. 33388
1925 K Street, N.W.
Washington, DC 20433-0001



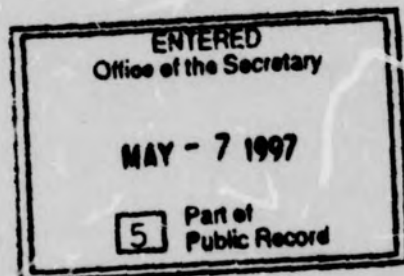
Re: Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company -- Control and Operating Leases/Agreements -- Conrail Inc. and Consolidated Rail Corporation

Dear Mr. Williams:

Enclosed for filing are an original and 25 copies of Reply of Conrail Inc. and Consolidated Rail Corporation to Motion to Compel of Canadian National Railway (CR-1). Also enclosed are three diskettes containing the text of this document in WordPerfect 5.1 format.

Sincerely,

James M. Guinivan
James M. Guinivan



179616

CR-1

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

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



REPLY OF CONRAIL INC. AND CONSOLIDATED
RAIL CORPORATION TO MOTION TO COMPEL
OF CANADIAN NATIONAL RAILWAY

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May 6, 1997

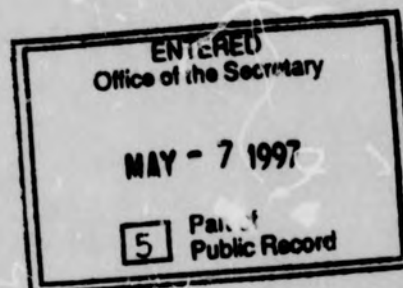


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REPLY OF CONRAIL INC. AND CONSOLIDATED
RAIL CORPORATION TO MOTION TO COMPEL
OF CANADIAN NATIONAL RAILWAY

Conrail Inc. and Consolidated Rail Corporation (collectively "Conrail"), submit this reply to the motion of Canadian National Railway ("CN") to compel discovery responses by Conrail. CN seeks an extraordinary order compelling discovery prior to the commencement of a proceeding. That discovery is premature and also objectionable on a number of other grounds. The motion should be denied.

I. INTRODUCTION AND SUMMARY

The CN motion is based on Conrail's refusal to search for and produce documents responsive to two dozen detailed requests covering virtually all aspects of Conrail's operations. CN says it particularly needs such discovery in aid of its possible negotiations with CSX and NS to purchase "certain" unidentified Conrail lines. There is no authority for such discovery at this time.

CN's request for compulsory discovery at this stage is made with complete disregard for the law (the ICCTA¹), rules, and precedent governing discovery in control proceedings before the Surface Transportation Board ("Board"). This body of authority establishes that a control proceeding does not commence for discovery purposes at least until the filing of the application for Board approval. This definition of proceeding provides effective and workable limits on discovery, and confines it to actual adversary proceedings. There is no authority or justification for the unprecedented preapplication discovery CN seeks.

Furthermore, the distinct need that CN asserts for this extraordinary request -- to help it negotiate line purchases from CSX and NS -- provides no basis for the requested discovery, even if discovery were available now. A party in a control proceeding is entitled to discovery from the applicants that might help it evaluate and respond to the application, not to get information that may help in negotiating line purchases or other agreements it may desire with the applicants or anyone else. If CN needs information in aid of negotiations it can do what other parties normally do: contact the other party, negotiate a confidentiality agreement, and seek such information as may be needed for that purpose.

¹ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (1995) (codified generally at 49 U.S.C. §§ 10101-16106).

CN's request improperly intrudes upon the time reserved to Applicants² under the Board's rules for preparing their application and developing the information those rules require. Applicants are now heavily engaged in preparing studies and analyses, working with experts, organizing documents, and the myriad of other tasks involved in presenting the application. CN asserts a right to discovery that will unnecessarily impose upon and distract Applicants as they prepare their application.

CN accuses Conrail of "stonewall[ing]." CN Motion at 9 & 16. CN also asserts that "Conrail has no intention of producing any documents or information in discovery unless and until ordered to do so" (CN Motion at 16). CN is wrong.

Conrail is saying only that it should not have to engage in discovery at this time, before an application is filed and a proceeding is begun. The 24 categories of documents or information CN has requested from Conrail, which CN lifted wholesale from NS's prior request in a different context would require substantial work by Conrail to identify, locate, collect, review, and produce, and in some cases would require special studies.

CN does not suggest that the application and related workpapers will not contain extensive "basic information" about Conrail. And CN -- like other parties -- will have adequate time

²"Applicants" refers to CSX Corporation and CSX Transportation, (collectively "CSX"), and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively "NS"), as well as Conrail, and certain affiliates.

under the Board's schedule to analyze and supplement that information before its comments or other filings are due. There is simply neither authority nor reason for accelerating the orderly production of requested documents or information, even assuming eventual relevance, need, and lack of undue burden.

CN says it seeks no more than what NS requested, and perhaps that it seeks no more than what Conrail has provided in response to NS's earlier requests. However, CN has not shown why broad system-wide requests made in aid of NS's proposal to buy Conrail in its entirety are justified by CN's more limited -- and relatively routine -- interest in negotiating about purchase of only certain Conrail lines. Moreover, NS later withdrew a number of its requests in view of their evident burden; ultimately, the negotiations ensuing from NS's prior discovery requests ended with Conrail not having responded to them.

CN's conclusory arguments of relevance, need, and lack of burden are unfounded and do not warrant an extraordinary order compelling preapplication discovery. CN's novel request should be rejected, and Conrail (and the other Applicants) should be protected from the premature and disruptive burden that would be imposed by permitting the discovery requests by CN (or others) to go forward at this time. The denial of CN's request could, of course, be without prejudice to renewal if the discovery requested is still needed after Applicants have filed the application and produced the extensive workpapers required to be

put in the document depository to be established with that filing.

II. BACKGROUND

On October 18, 1996, pursuant to the Board's rules, Applicants CSX and Conrail filed, in what was designated Finance Docket 33220 ("CSX/Conrail"), a notice of intent to file an application seeking Board approval of control of Conrail by CSX under 49 U.S.C. §§ 11323-25 et seq.³ (CSX/CR-1).⁴

In addition, on November 6, 1996, NS filed with the Board, in a separate matter Finance Docket 33286 ("NS/Conrail"), a notice of intent to file its own application for approval of its control of Conrail (NSC-1).⁵

NS made an informal request for voluntary discovery in CSX/Conrail to Conrail covering over two dozen varied matters concerning the entire Conrail system.⁶ These were followed by a motion by NS to compel such discovery. Conrail, joined by CSX, filed a reply demonstrating that discovery was premature, and otherwise unduly burdensome or unwarranted.

³For a major transaction, 49 C.F.R. § 1180.4(b) requires notification between three to six months prior to the proposed filing of an application for Board approval under 49 U.S.C. §§ 11321 et seq. The statute requires the agency to publish notice of acceptance or rejection of the application within 30 days of its filing. 49 U.S.C. § 11325(a).

⁴"CSX/CR-__" and "NS-__" refer to filings by CSX and Conrail jointly, and to filings by NS, respectively, in CSX/Conrail.

⁵"NSC-__" refers to filings of NS in NS/Conrail.

⁶NS also made such informal requests to Conrail and CSX for certain traffic tapes.

At a hearing on January 27, 1997, the presiding Administrative Law Judge ("ALJ"), Jacob Leventhal, referred to the parties' written filings and observed at the outset to counsel for NS that Conrail and CSX had "made a very strong point and that your motion appears to me to be made prior to the time that I have jurisdiction over it, but I'll listen to your argument." Tr. at 13. After oral argument, Applicants and NS reached a mutually satisfactory arrangement, pursuant to which NS withdrew its motion to compel, without prejudice to its right to return if the arrangement was not satisfactorily consummated (Tr. at 46). CN was represented at this hearing (Tr. at 9).

Subsequently, NS and Conrail discussed the NS requests and the problems they presented for Conrail. These discussions, and the parties' related internal inquiries, revealed that the requests were more difficult for Conrail to respond to than NS had initially understood, assumed, or asserted, and that for some of the requests it was unlikely that responsive documents would be found. In the end, as noted, the various issues concerning the NS discovery request were not resolved; Conrail provided no information or documents in response thereto. Thus, CN is wrong in suggesting that Conrail has been responding to the NS requests since late January (CN Motion at 5; see id. at 3, 4).

As a result of new agreements among the Applicants herein, CSX and NS will jointly acquire control of Conrail and divide most of its operations between them. Accordingly, on April 10, 1997, Applicants filed a new notice of the intent of

CSX and NS to file an application for joint control of Conrail, with related filings proposing a new schedule for that new docket (CSX/NS, Finance Docket 33388), and dismissing as moot the prior dockets (CSX/Conrail, Finance Docket 33220 and NS/Conrail, Finance Docket 33286). By decisions served April 16, 1997, the Board discontinued those dockets. The Applicants have also begun the process of preparing and assembling the voluminous application and document depository,⁷ with a target filing date of June 1997.

In the January-February period when Conrail and NS were actively negotiating about discovery, CN informally expressed to Conrail its interest in obtaining the same voluntary discovery Conrail provided to NS. Many weeks later CN served its formal discovery requests, which in substance repeated all of the extensive requests that NS had made (other than for traffic tapes), even though CN, unlike NS, was not proposing an inconsistent application to acquire control of all of Conrail. Moreover, despite contrary intimations in its motion (CN Motion

⁷49 C.F.R. Part 1180 sets forth the information required in an application. In recent mergers or control proceedings, the application and associated workpapers have been substantial. For example, in the most recent merger involving Union Pacific and Southern Pacific, the five-volume application consisted of nearly 9,000 pages, along with some 60,000 pages initially produced to the document depository. Union Pac. Corp. -- Control and Merger -- Southern Pac. Rail Corp., Finance Docket 32760 ("UP/SP"). In the preceding merger of Burlington Northern and Santa Fe, the six-volume application was over 4,000 pages, and approximately 40,000 pages were deposited in the document depository at the time the application was filed. Burlington N. Inc. -- Control and Merger -- Santa Fe Pac. Corp., Finance Docket 32549 ("BN/SF").

at 4-5, 16), the request (like CN's motion) was not limited to what Conrail may have already provided to NS.

Conrail objected on the grounds of prematurity, among other things (Conrail's response, omitted from CN's filing, is attached as Exhibit A). CN made no offer to limit its request and instead filed the present motion to compel. CN filed the motion not only in the now-discontinued CSX/Conrail and NS/Conrail dockets, but also in the new CSX/NS docket, in which CN had not served any discovery requests and the Board had then not yet taken any formal action.

As discussed below, CN's motion does not acknowledge or attempt to respond to the authorities Conrail cited in its reply to NS's motion to compel.

III. CN IS NOT ENTITLED TO DISCOVERY AT THIS TIME

A. The Governing Statute, Board Rules, and Precedent Establish That a Proceeding Does Not Commence For Discovery Purposes Until The Filing of an Application

CN claims that the Board's rules place no limitation on when discovery commences in a proceeding. CN Motion at 7. CN argues that there cannot be "any doubt that there are pending Board proceedings" because docket numbers have been assigned, a notice of intent and certain necessary preapplication filings have been made, and procedural orders have been entered. Id. at 6. However, CN fails to identify any authority to support its argument that a "proceeding" has commenced for purposes of initiating discovery.

CN relies on a Board rule, 49 C.F.R. § 1114.21(a),⁸ that permits discovery "in a proceeding other than an informal proceeding" (CN Motion at 6). While CN evidently accepts that there must be a "proceeding" for discovery to be available, it ignores the law bearing on the question of when a control proceeding begins for discovery purposes.⁹ The ICCTA authorizes the Board to "begin a proceeding" to approve and authorize

⁸CN also cites the Board's recent amendments to § 1114.21(b) of its discovery rules (CN Motion at 7), but they do not alter the requirement of § 1114.21(a) that there be a "proceeding," and the general statement in 49 C.F.R. § 1100.3 that the rules should be "construed liberally" (*id.* at 6) does not aid CN's argument here. Moreover, CN overlooks the fact that, although the Board's rules make the discovery rules of part 1114 specifically applicable to various other types of proceedings (*e.g.*, §§ 1121.2, 1144.6(c)), they do not do so as to control proceedings. Rather, the control proceeding rules permit the Board to determine on a case by case basis what evidentiary procedures are appropriate. § 1180.4(e). Indeed, those rules still reflect the ICC's former practice in which, within 45 days after the application was filed, an interested party had to file a comment setting forth, *inter alia*, all information sought to be discovered from the applicants. See § 1180.4(d)(1)(iii)(F).

⁹CN has also overlooked that the discovery rules only apply by their terms in "other than an informal proceeding," which § 1114.21(a) defines as one "not required to be determined on the record after hearing" The statute expressly provides that proceedings on an application for control authority are not required to be determined on the record after hearing. 49 U.S.C. § 11324(f)(1); accord, e.g., Norfolk & W. Ry. -- Pet. for Declar. Order -- Lease of Line in Cook & Will Counties, IL, 9 I.C.C.2d 1155, 1158 (1993) (proceeding under predecessor to 49 U.S.C. § 11323 not required to be decided on record after hearing), vacated and remanded on other grounds sub nom. United Transp. Union-Ill. Legislative Bd. v. ICC, 52 F.3d 1074 (D.C. Cir. 1995). Hence control proceedings are in that excluded category under § 1114.21(a). The discovery rules do not apply to informal proceedings unless the agency has effectively made them applicable in a particular proceeding by some other rule or order. E.g., Finance Docket 41621, Habco Steel Serv., Inc. -- Pet. for Declaratory Order -- Illinois Cent. R.R., Slip Op. (served Nov. 1, 1995). CN cites no such rule or decision applying to this matter. See n.8, *supra*.

control "on application." 49 U.S.C. § 11324(a).¹⁰ The governing statute thus specifies that, for a proceeding to begin for purposes of discovery, at a minimum an application must have been filed with the Board.

Consistent with the statute, the Board's Rules of Practice define a "proceeding" to include an "application." 49 C.F.R. § 1101.2(e). The Board's control rules define a "primary application" as a proposal for approval of control, "which begins a new proceeding" 49 C.F.R. § 1180.3(f) (emphasis added). Nothing in the Board's rules suggests that a "proceeding" starts for discovery purposes upon filing of a notice of intent, or at any other time prior to filing of a primary application.¹¹

ICC precedent establishes that a notice of intent, petition for waiver, or other preapplication filing, does not commence a "proceeding," for discovery purposes: "An adversary proceeding will not begin until the application is formally accepted. . . . The appropriate time for interested parties to seek further information is after a proceeding has been initiated by the acceptance of an application." Union Pac. Corp. -- Control -- Missouri Pac. Corp., Finance Docket 30,000, 45 Fed.

¹⁰The prior provisions of the Interstate Commerce Act were to like effect. See former 49 U.S.C. §§ 11341-57.

¹¹The purpose of the notice of intent is not to commence the proceeding. Even if a notice of intent is filed, the proposed application may or may not be filed later, may not be accepted for filing, or may be dismissed. See Railroad Consolidation Procedures, 363 I.C.C. 200, 207 (1980).

Reg. 63164, 63165, served Sept. 23, 1980 (Exhibit B hereto). Thus, the orders of the ICC and the Board accepting an application and setting forth a schedule have stated routinely that discovery "may begin immediately." E.g., Finance Docket 33311, Kansas City S. Indus., Inc. -- Control -- Gateway W. Ry., Slip Op. at 4 (served Feb. 13, 1997); Finance Docket 32640, Canadian Nat'l Ry. -- Contract to Operate -- Grand T. W. R.R., Slip Op. at 11 (served Jan. 18, 1995); BN/SF, Decision No. 5, Slip Op. at 21, (served Nov. 10, 1994). This longstanding rule serves the salutary purposes of avoiding discovery impositions and burdens on primary applicants when they are preparing their application,¹² and deferring discovery to them or others until it is known that an application will in fact be filed.¹³

Indeed, a significant prudential reason for not allowing preapplication discovery is that -- as this matter demonstrates -- a notice of intent is not always followed by an application for approval of the transaction identified in the

¹²Here, the Board recognized the desirability of an early filing of the application in Decision No. 2, served April 21, 1997, at 3, waiving the three-month prefiling notification requirement.

¹³At the January 27 hearing in CSX/Conrail, NS belatedly relied upon Finance Docket 32,000, Rio Grande Indus., Inc. -- Control -- Southern Pac. Transp. Co. ("RGI/SP"), (served Feb. 12, 1988), but CN wisely does not cite it here. As Conrail noted, that decision involved a unique context of a divestiture application as part of a pending control application proceeding in which the ICC had denied approval. The decision understandably did not address the issue here, i.e., whether there was a proceeding in which discovery was then appropriate. (Tr. at 21-23, 33).

notice,¹⁴ and as CN concedes here, the transaction that does follow may raise "quite different" issues (CN Motion at 3).

In sum, the statute, the Board's rules, and precedent show that, absent a proceeding within the scope of § 1114.21(a) begun by the filing of a primary application, there is no jurisdictional basis for discovery.¹⁵

B. There is No Authority for CN's Vague Category of "Limited" Preapplication Discovery

CN evidently recognizes that the logic of its position could lead to "unlimited" preapplication discovery, which CN agrees would be unacceptable. To avert that outcome CN argues, as a matter of policy, that only "limited," "introductory," or "preliminary" preapplication discovery should be available (CN Motion at 2, 7-9). However, CN offers no authority for such a vague and ad hoc standard. CN's suggested distinction between "discovery regarding the terms and competitive effects of a

¹⁴As the Board recently observed in this matter (Decision No. 4, served May 2, 1997, at 3 n.8):

the prefiling notice is not intended to set forth more than a general description of the transaction; rather, the application itself is the filing in which applicants must set forth all of the details of the proposed transaction.

¹⁵CN also suggests that Decision No. 4 in CSX/Conrail is a source of authority for discovery to begin (CN Motion at 6). See also Decision No. 1 in this matter, served April 16, 1997, at 2. There the Board appointed an ALJ only to rule upon disputes concerning discovery that might later arise. It in no way intimated that it was authorizing preapplication discovery. The ICC issued a similar order in UP/SP, Decision No. 4 (served Sept. 7, 1995), but it was not regarded as sanctioning mandatory preapplication discovery, and none occurred in that case.

proposed control transaction" and "certain basic information regarding Conrail's operations and properties" (*id.* at 7, 16) may conveniently cover the discovery requests CN borrowed from NS, but it finds no rationale in the governing law, rules or precedent, nor in sound policy. Discovery in both categories can be comparably burdensome and intrusive, especially when an application is being prepared.

IV. CN'S ARGUMENTS OF RELEVANCE, NEED, AND READY AVAILABILITY ARE INSUFFICIENT TO SUPPORT THE EXTRAORDINARY RELIEF REQUESTED

CN's arguments about need, relevance and burden (CN Motion at 8, 13-15) consist of unsupported assertions. Any of the dozens of others participating in this matter could make similar claims.

A. CN Identifies No Basis for Assessing Relevance Before the Application is Filed

CN asserts that the discovery it seeks "is relevant to any Conrail merger" (CN Motion at 9; emphasis in original). But relevance is necessarily defined by the primary Application that allows discovery in a proceeding to begin. Relevance must be assessed against the framework of issues addressed in or raised by the application to which CN intends to respond. Otherwise, matters that CN or another party thinks might be relevant may not be in fact raised by -- or even relate to -- the application, and therefore may end up being neither relevant nor a basis for discovery. Alternatively, matters CN thinks relevant may, in fact, be answered in the Application and/or in the document

depository that will be opened simultaneously with that filing. Without the benefit of the Application, CN cannot make -- and has not made -- a specific showing that all of the extensive requested information is relevant, or needed in a special, premature discovery process.

B. The Board's Schedule Does Not Create a Need for Preapplication Discovery

CN argues that insufficient time for discovery would be allowed by the schedule proposed by Applicants, allowing 120 days for discovery on the application. See CSX/NS, Decision No. 2 (served April 21, 1997). First, of course, no schedule has yet been adopted by the Board in Finance Docket 33388. Moreover, the 120-day schedule was itself essentially identical to the schedule used in UP/SP, which the Board found "allowed ample time for all concerned." Decision No. 44, Slip Op. at 190 (served Aug. 12, 1996); accord, CSX/Conrail, Decision No. 4, served Jan. 30, 1997 (120-day schedule "allows sufficient time for meaningful discovery").

Indeed, CN's recent comment on the proposed schedule in this docket specifically endorsed the 120-day discovery schedule (which does not assume any pre-application discovery), and made no suggestion that there was a need for preapplication discovery (CN-6, at 2; copy attached as Exhibit C).¹⁶

¹⁶CN also endorsed the 120-day discovery adopted schedule in CSX/Conrail (CN-2 at 4-6).

The Board's forthcoming ruling on the schedule will determine the time needed for discovery on the Application. By seeking preapplication discovery based on a need for more time, CN is in effect engaging in an impermissible (to say nothing of premature) collateral attack on the schedule determination to be made by the Board.¹⁷

C. CN Has Shown No Legitimate Need
for its Broad Requests for discovery

Unable to rely credibly on its asserted need for discovery to respond to the Application, CN reveals its true purpose as being "negotiations with the primary applicants" about possible purchase of certain Conrail lines (CN Motion at 2). But CN cites no authority -- and there is none -- for imposing the costs, disruption and burdens of formal involuntary discovery on Conrail so that CN can put itself in a better position to negotiate commercial arrangements with CSX or NS, if either would be interested in selling any Conrail lines should the Application be approved. A fortiori CN has shown no legitimate need for preapplication discovery for that purpose.

Nor has CN shown that its requests are carefully tailored to meet a demonstrated legitimate need for extraordinary discovery at this time. As noted, the requests were adopted wholesale from the prior requests of NS, which had said they were needed in connection with the plan NS was then pursuing to file

¹⁷The scheduling orders in CSX/Conrail and NS/Conrail denied the ALJ authority to alter the schedule. E.g., CSX/Conrail, Decision No. 8, Slip Op. at 8 (served Jan. 30, 1997).

an inconsistent application for control of all of Conrail. CN has no such plan, and has not even attempted to show that its broad requests are relevant to its more modest goal of negotiating the acquisition of certain (unidentified) lines.¹⁸ If it truly wishes to negotiate, then (as noted) seeking concurrence by NS or CSX to such negotiations, execution of a confidentiality agreement, and a voluntary exchange of information directly related to the subject matter of the negotiation would be a far more appropriate procedure.

D. CN's Assertions of Ready Availability and Lack of Burden are Unsubstantiated and Wrong

CN suggests that all of the information it seeks is readily available, and can be easily produced by Conrail. CN Motion at 13-14. These assertions are without foundation.

Conrail knows from examining the identical requests from NS that production of the items requested would require significant effort to interpret the requests, identify, locate, copy, review, and prepare for production, by many of the same people who are involved in preparation of the application. Claims concerning ready availability and reasonable burden are also properly judged in the context of not only the application,

¹⁸For example, CN has shown no plausible need for or relevance of Conrail's records of empty car movements (No. 7), typical crew assignments for local service (no. 8), all yard engine assignments (No. 10), detailed descriptions of crew districts (No. 13), detailed history for "each locomotive in Conrail's fleet" (No. 14), detailed descriptions of Conrail's maintenance or repair shops (No. 16), "truck traffic counts to and from all Conrail intermodal and automotive facilities" (No. 24).

but also of other burdens facing the producing party at the time production is requested. Here, that includes preparation of the Application. In addition, CN's requests would require special studies, that are not normally part of Board discovery. Finance Docket 31012, Cheney R.R. -- Feeder Line Acquisition -- CSX Transp., Inc., Slip Op. at 2 (Apr. 26, 1989).

While suggesting that it merely seeks "basic" information routinely provided in such proceedings, CN has not shown that what it seeks is routinely sought or produced in control proceedings at any stage -- let alone prior to the filing of the Application. Nor, to the extent that such information or documents may be produced eventually, has CN shown a need to impose on Conrail the burden of searching for and producing them now.

The statute, implemented by the procedural schedule to be adopted by the Board, will permit orderly conduct of the proceeding. The Board's schedule will provide time for the Applicants to organize and present their case, with limits on when further burdens can be imposed by discovery requests. The fact that Applicants may be obliged to produce certain information at a later date, in accordance with a schedule, is no reason to discard the schedule.

E. CN's Comments About Particular
Objections are Without Merit

In view of the prematurity of CN's entire discovery request, its overbreadth, its burdensomeness, and CN's failure to tender factual support for its assertions, it should not be necessary for Conrail at this time to set forth in full detail all of the reasons why CN's requests are otherwise objectionable.¹⁹ However, it may be useful to make a few observations about CN's bald assertions in this regard.

CN asks why production of all of Conrail's joint facility agreements (Request No. 23) would be burdensome (CN Motion at 14). Conrail has some 1200 such agreements with a large number of parties entered into or amended at various times, many of which agreements contain confidentiality provisions. Wholesale production of joint facility agreements was not required and did not occur in UP/SP or prior control proceedings. CN has identified no distinct need for all or even most such agreements, and it would be an undue imposition for Conrail to have to produce them. Indeed, for that reason NS withdrew its comparable request.

CN assumes that Conrail must have handy information about "its average daily train movements by line segment (Request No. 3)" (CN Motion at 14). However, while Conrail has data

¹⁹Should the ALJ find that CN has any right to preapplication discovery, and have any doubts whether the documents are readily available or properly discoverable, Conrail requests the opportunity to particularize and substantiate their objectionable character more specifically.

concerning daily movements, they are reported by train, not by line segment. A special study would be required to respond to this request.

CN asks why it would be burdensome for Conrail to produce its "empty car movement file (Request No. 7)" (id. at 14). This is not "off the shelf" information and the records are voluminous. NS was sufficiently persuaded of the problems involved for Conrail that it withdrew its request for such information.

To take another example, Request No. 1 (CN Motion at 14; id. at Attachment 2 at 4) calls for "local terminal maps (both as intergraph or similar data/graph files and printed map copies)." This seemingly simple request calls for a variety of types of records that do not necessarily exist system-wide and are not located in one place.²⁰

Similar problems are raised not only by the requests cited by CN but by the many others not mentioned. While we have not imposed on the ALJ or the Board by addressing all of the objections to these premature requests, we would be prepared to do so if it would be helpful or necessary. In this regard, we note that CN makes the further mistake of focussing on each request in isolation. To assess discovery requests properly, one must also take into account the cumulative effects of all discovery demands being imposed on a party by that request and

²⁰CN seeks Conrail's "system diagram map" (Request No. 4), but that is readily available to CN from the Board, where a copy is filed.

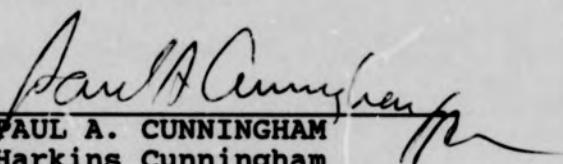
others, and the other obligations the party has concerning that proceeding (or otherwise). Here, in addition to being premature as matter of law, CN's requests impose unduly on Conrail at this time.²¹

CONCLUSION

For the reasons set forth above, Conrail respectfully requests that CN's motion be denied.

Respectfully submitted,

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May 6, 1997

²¹CN has misapprehended Conrail's objection to Instruction B calling for a detailed privilege log (CN Motion at 12). Conrail suggested only that, if a privilege log of some kind is required, it would be preferable to follow the approach of UP/SP, where, in view of the enormous volume of privileged documents potentially covered by discovery requests, the parties and the ALJ agreed that logs need only identify categories of documents rather than individual documents.

CERTIFICATE OF SERVICE

I hereby certify that I have, this 6th day of May, 1997, caused the foregoing Reply of Conrail Inc. and Consolidated Rail Corporation to Motion to Compel of Canadian National Railway (CR-1) to be served on all parties who have entered an appearance in Finance Docket No. 33388 by sending a copy by first-class mail, postage prepaid, and by hand delivery on the parties listed below:

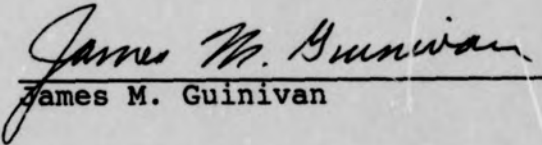
The Honorable Jacob Leventhal
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Federal Energy Regulatory Commission
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James M. Guinivan

US OFFICE PRODUCTS

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33220

CSX CORPORATION AND CSX TRANSPORTATION, INC.
-- CONTROL AND MERGER --
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

OBJECTIONS OF APPLICANTS CONRAIL, INC. AND
CONSOLIDATED RAIL CORPORATION TO CANADIAN NATIONAL'S
FIRST SET OF INTERROGATORIES AND DOCUMENT REQUESTS TO CONRAIL

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Counsel for Conrail Inc. and
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Dated: April 2, 1997

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33220

CSX CORPORATION AND CSX TRANSPORTATION, INC.
-- CONTROL AND MERGER --
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

OBJECTIONS OF APPLICANTS CONRAIL, INC. AND
CONSOLIDATED RAIL CORPORATION TO CANADIAN NATIONAL'S
FIRST SET OF INTERROGATORIES AND DOCUMENT REQUESTS TO CONRAIL

Applicants Conrail, Inc. and Consolidated Rail Corporation (collectively "Conrail") submit here their objections to the First Set of Interrogatories and Documents Requests to Conrail served by Canadian National Railway Co. ("CN") on March 18, 1997.

GENERAL OBJECTIONS

The following objections are made with respect to all of the interrogatories and document requests (collectively "requests"):

1. The requests are premature and unauthorized in that a control proceeding in which discovery can be sought does not begin prior to the filing of an application, which has not occurred and may not occur in the context of this docket because of material changes in the proposed transaction.
2. Conrail objects to production of documents or information subject to the attorney-client privilege.

3. Conrail objects to production of documents or information subject to the work product doctrine.

4. Conrail objects to production of documents prepared in connection with, or containing information relating to, possible settlement of this or any other matter.

5. Conrail objects to production of public documents or information that is readily available, including but not limited to documents on public file at the Surface Transportation Board ("STB"), the Securities and Exchange Commission, or any other government agency or court, or that have appeared in newspapers or other public media.

6. Conrail objects to the extent that the requests seek documents containing confidential or sensitive commercial information, including information subject to disclosure restrictions imposed in other proceedings or by contractual obligation to third parties, and that is of insufficient materiality to warrant production here even under a protective order.

7. Conrail objects to any request seeking documents created or information from before January 1, 1995.

8. Conrail objects to Instructions A-J to the extent they seek to impose requirements that exceed those specified in the STB's discovery rules.

9. Conrail objects to Instruction B of the requests to the extent it requests detailed information regarding otherwise responsive documents that fall within the scope of a

privilege. Such detailed information is not necessary, and is unreasonably burdensome to provide. Such information was not required or provided in the most recent major control case, and no showing has been made here to warrant different treatment.

10. Conrail objects to the requests to the extent they seek production of executed written agreements between Conrail and CN, or agreements to which CN is a party.

11. Conrail objects to the requests to the extent they seek documents or information in a form not maintained by Conrail in the regular course of business or not readily available in the form requested by CN, on the ground that such documents or information could only be developed, if at all, through unduly burdensome and oppressive special studies, which are not ordinarily required and which Conrail objects to performing.

ADDITIONAL OBJECTIONS TO SPECIFIC REQUESTS

In addition to the General Objections, Conrail makes the following objections to the requests.

Request 1: Produce local terminal maps (both as intergraph or similar data/graph files and printed map copies) for the Conrail system.

Request 5: Produce detailed Conrail system maps, including special maps indicating number of tracks along given routes.

Request 7: Produce Conrail's empty car movement file.

Request 12: Produce a current set of Conrail ZTS maps.

Request 15: Produce all management reports or studies, for the period January 1, 1995 to present, that evaluate Conrail's deferred locomotive and freight car maintenance.

Request 18: Produce current Conrail track charts/data and/or other documents showing at least the following data by line segment:

- (a) Rail weight, type, CWR or conventional installation date.
- (b) Tie installation dates.
- (c) Surfacing intervals.
- (d) Curvature, grade and authorized speeds.
- (e) Cumulative tonnage on rail.

Request 19: Produce current Conrail slow order reports.

Request 20: Describe Conrail's double-stack cleared routes, and produce all plans or studies for clearance improvement of Pattenburg Tunnel to handle domestic double-stack traffic.

Request 21: Produce all Conrail management reports or studies, for the period January 1, 1995 to present, assessing actual or possible deferred track maintenance, including main track, siding and yard.

Request 22: Produce current Conrail organization charts for all functions.

Request 23: Produce all Amtrak, passenger and joint facility agreements to which Conrail is a party.

Additional Objections: Conrail objects to these requests as unduly vague and burdensome, and overbroad in that they request information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Request 2: Provide the annual gross tons handled by Conrail line segment, in map and tabular form.

Request 3: Provide Conrail's average daily train movements by line segment.

Request 8: Identify and describe (including the typical assignment done by each crew) all local train service currently provided by Conrail.

Request 9: Produce a list of Conrail unit train movements.

Request 10: List and describe all Conrail yard engine assignments, by terminal or yard.

Request 11: Provide a count of all Conrail employees, by craft, department, and location, distinguishing between craft, officer and exempt.

Request 13: Describe all Conrail crew districts, including identification of home terminals, and provide the number of crew runs for a representative 1995 month.

Request 14: For each locomotive in Conrail's fleet, identify and describe such locomotive's number, build date, manufacturer, horsepower, fuel capacity, service status, maintenance history, last unit overhaul or rebuild (5 year or million mile rebuild equivalent by Conrail's definition), availability and reliability.

Request 16: Describe all Conrail maintenance or repair shops by location, including size, capacity, 1995 output and list of major shop equipment.

Request 17: Provide the average age of Conrail's locomotive fleet.

Request 24: Provide truck traffic counts to and from all Conrail intermodal and automotive facilities.

Additional Objections: Conrail objects to these requests as unduly vague and burdensome, and overbroad in that they request information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Conrail also objects to these requests as requiring special studies.

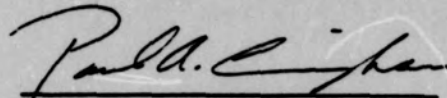
Request 4: Produce Conrail's most recent system diagram map.

Additional Objections: None.

Request 6: Produce Conrail's operating employee timetables (3 sets).

Additional Objections: The STB has specifically required that these documents be made available when an application is filed. Decision No. 7, served Jan. 24, 1997, at 14. There is no basis and none is asserted -- for seeking discovery of them at any earlier date.

Respectfully submitted,



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Counsel for Conrail Inc. and
Consolidated Rail Corporation

Dated: April 2, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have, this 2nd day of April, 1997, caused the foregoing Objections of Applicants Conrail, Inc. and Consolidated Rail Corporation to Canadian National's First Set of Interrogatories and Documents Requests (CR-2) to be served on all known parties in Finance Docket No. 33220 to these matters by sending a copy by first-class mail, postage prepaid, and by hand delivery on the parties listed below:

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Jennifer S. Dowling

ANDREWS OFFICE PRODUCTS CAPITOL HEIGHTS, MD (K)

Citation
45 FR 63164-01
1980 WL 88850 (F.R.)
(Cite as: 45 FR 63164)

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NOTICES

INTERSTATE COMMERCE COMMISSION

[Finance Docket Nos. 30,000 (Sub-No. 1)]

Union Pacific Corp. and Union Pacific Railroad Co.--Control--Missouri Pacific Corp. and Missouri Pacific Railroad Co. and Western Pacific Railroad Co.

Tuesday, September 23, 1980

*63164 AGENCY: Interstate Commerce Commission.

ACTION: Decision on petition to proceed under proposed procedural regulations and to waive specific filing requirements; decision to require applicants to file additional information.

SUMMARY: The Commission decided to grant the applicants' request to apply the Commission's proposed regulations (both procedural and informational) to the proceeding. The Commission also decided to grant most of applicants' requests for waiver of specific filing requirements. The Commission is also asking for additional information related to specific issues in the proceeding. Finally, the Commission is publishing revised guidelines for the preparation of traffic studies in this case.

FOR FURTHER INFORMATION CONTACT:

Ellen D. Hanson (202) 275-7245.

SUPPLEMENTARY INFORMATION: On May 2, 1980, the Union Pacific Company *63165 (UPC), Union Pacific Railroad Company (UPRR), Missouri Pacific Corporation (MPC), Missouri Pacific Railroad Company (MPRR), and Western Pacific Railroad Company (WPRR) filed a petition seeking waiver and clarification of our railroad consolidation regulations.

Our decision today resolves the issues raised by that petition. In addition, it requires applicants to provide the Commission with specific information, described below, relating to potential impacts of the proposed transaction.

Applicants filed a waiver petition in anticipation of submitting two consolidation applications under 49 U.S.C. ss 11343-44 later this year. Petitioners indicate that they plan to file their applications on about September 15, 1980. The applications will seek Commission authorization for UPC to acquire control of MPC and WPRR, and for UPRR to exercise control over MPRR and WPRR.

Specifically, petitioners seek:

(1) Waiver of the presently codified rail consolidation regulations (49 CFR Part 1111), and use of the Commission's proposed revisions to the consolidation regulations instead (44 FR 66626).

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(Cite as: 45 FR 63164, *63165)

(2) Waiver or clarification of the following sections of the proposed consolidation regulations:

1/8 Proposed ss 1111.2(A)(3)(h)(iii-vi), 1111.3(A-H), and 1111.2(A)(2)(c).

1/8 Proposed s 1111.7(B).

1/8 Proposed s 1111.3(H).

1/8 Proposed ss 1111.2(A)(3)(h)(vi) and 1111.3(D-G).

1/8 Proposed s 1111.5(B)(1-5).

1/8 Proposed s 1111.6(C)(2)(c) and (f).

(3) Clarification of 49 CFR 1100.5. We shall address each request separately.

On June 24, 1980, the Denver & Rio Grande Western Railroad Company (Rio Grande) filed: (1) A petition for leave to file a reply; and (2) a reply to the above parties' waiver petition. Rio Grande requests that the waiver petition be partially denied or conditioned. We will deny Rio Grande's petition and dismiss its reply.

The Commission's position on replies to waiver petitions is both longstanding and clear. The sole purpose of waiver and clarification petitions is to facilitate rail consolidation proceedings by determining at the outset what information will be necessary in preparing a complete application. See Burlington Northern Inc.--Control & Merger--St. L., 354 I.C.C. 182, 190-191 (1977); accord 49 CFR 1100.10 (1979). Since there is no adjudicatory proceeding at the waiver stage, interested parties do not have a right to reply to a waiver petition and suggest what information prospective applicants must file with their application. An adversary proceeding will not begin until the application is formally accepted. See Finance Docket No. 28499 (Sub-No. 1), Norfolk & Western Railway Company and Baltimore & Ohio Railroad Company--Control-Detroit, Toledo & Ironton Railroad Company (not printed), decided November 15, 1977. The appropriate time for interested parties to seek further information is after a proceeding has been initiated by the acceptance of an application. Additional information may be sought at several points throughout the proceeding such as at the prehearing conference, during the discovery stages, or in the course of the hearing. We believe the rights of interested parties are adequately protected, since our decision on the application's completeness only relates to whether or not the application will be rejected. If any party can establish the need for further information, we can order the applicants to provide information at a later stage of the proceeding.

The principal exception to this general rule was discussed in Itel Corp.--Control--Green Bay & W. R. Co., 354 I.C.C. 232, 233 (1978). When a prospective consolidation proceeding and a related transaction are both pending and involve the same parties, we will require the parties seeking waiver (or clarification) of the consolidation regulations to serve a copy of the waiver petition on the other parties to the related proceeding. Further, in recognition of those parties' special interest in the related proceedings, we will entertain any replies filed by those parties to the waiver petition.

Appropriate Set of Regulations

The Commission's current rail consolidation regulations are codified at 49 CFR Part 1111 (1979), Railroad Acquisition, Control, Merger, Consolidation Project, Trackage Rights and Lease Procedures. Last fall we proposed revisions to the current regulations and published them in the Federal Register for public

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(Cite as: 45 FR 63164, *63165)

comment. See Ex Parte No. 282 (Sub-No. 3), Railroad Consolidation Procedures (served November 8, 1979), 44 FR 66626 (November 26, 1979). Petitioners request that their consolidation proceedings be handled under the informational and procedural requirements of the proposed--rather than current--consolidation regulations. We substantially agree.

Numerous comments were submitted in response to our proposed regulatory revisions in Ex Parte No. 282 (Sub-No. 3). After reviewing those comments, we concluded that the procedural requirements of our consolidation regulations should be modified as proposed in that rulemaking proceeding. [FN1] These modifications are being implemented in a supplemental rulemaking notice which we are issuing in Ex Parte No. 282 (Sub-No. 3). Accordingly, petitioners' request for waiver of the old procedural requirements--and use of the proposed procedural requirements instead--is now moot, as the proposed procedural guidelines are now final and have superseded those codified at 49 CFR Part 1111 (1979).

FN1 Those procedural requirements were generally contained in s 1111.6 of the proposed rules published November 26, 1979.

We have not yet issued a final rule concerning the informational and data requirements for consolidation applications. However, we have decided to grant petitioners' request to proceed under the November version of those regulations rather than under our current requirements. The public comments submitted in Ex Parte No. 282 (Sub-No. 3), coupled with our own analysis, convince us that there is a general need for substantial reductions in the informational requirements associated with rail consolidations. The only reason we are not adopting the November 26 informational revisions is because we believe they may not go far enough. However, they are a major improvement over the informational requirements codified at 49 CFR Part 1111.

Since we believe the informational requirements of our rail consolidation regulations should be streamlined even further than we had previously proposed in the November 26, 1979 rulemaking notice, we are issuing a new rulemaking notice in Ex Parte No. 282 (Sub-No. 3) proposing further reductions in informational requirements. Since we have decided to revise our draft regulations to reduce the information required from applicants, petitioners should not be required to prepare their prospective applications under the old, more burdensome procedures. Moreover, substitution of the previously proposed regulations' informational requirements for those of the current regulations is wholly consistent with our traditional use of waivers to eliminate unnecessary informational burdens. Accordingly, we shall grant petitioners' request to comply with the November 26, 1979 informational requirements, without prejudice to petitioners right to seek further informational waivers. [FN2]

*63166 Further, in this interest of conformity, this general authority to proceed under the previously proposed regulations [FN1] shall extend to all other persons who may become parties to this proceeding.

FN2 At the same time, we will require applicants to submit the additional information, described below, which relates specifically to potential impacts of the proposed transaction.

Proposed s 1111.2(A) (3) (h) (iii-vI), s 1111.3(A-H), and s 1111.2(A) (2) (c)
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(Cite as: 45 FR 63164, *63166)

Petitioners request a waiver to permit them to submit--on a consolidated basis for each of petitioners' rail systems--the system map required by s 1111.2(A)(2)(c) and the employment and traffic data required by ss 1111.2(A)(3)(h)(iii-VI) and 1111.3(A-H) of the previously proposed rail consolidation regulations. [FN3]

FNAt the same time, we will require applicants to submit the additional information, described below, which relates specifically to potential impacts of the proposed transaction.

Petitioners contend that it would be excessively burdensome to develop this information on an individual subsidiary basis where it does not now exist and that such an effort, even if it could be done, would serve no useful purpose.

We consider a waiver unnecessary, since the proposed regulations do not prohibit applicants from filing this information on a consolidated basis. The previously proposed regulations do not require "applicant carriers" to submit the foregoing information on an individual subsidiary basis, rather than on a consolidated system-wide basis. In fact, we encourage petitioners to submit this information on a consolidated basis, so long as their submissions are adequately explained and rationally set forth. Also, any information submitted on a consolidated basis should, wherever possible, indicate which of the consolidated information is attributable to which particular corporate subsidiaries. We further recommend that, with regard to the map required by s 1111.2(A)(2)(c), petitioners submit one master map identifying all the various rail lines involved in the transaction, instead of submitting separate maps for each of the 3 major rail systems involved in this consolidation (UPRR, MPRR, and WPRR).

Proposed s 1111.7(B):

Petitioners request a clarification that the term, "applicant carrier" as used in proposed s 1111.7(B) does not include certain carriers which are allegedly not part of petitioners' rail systems. While these carriers would be identified in the corporate chart required by proposed s 1111.2(B)(1)(f), petitioner do not believe it necessary to submit any other information concerning them in the application. We agree with petitioners' interpretation.

UPRR, MPRR and WPRR have non-controlling interests (50 percent or less) in several terminal, switching, or short-line railroads owned jointly with other railroads. These non-system railroads are listed and briefly described in Appendix B to the waiver petition. In addition, MPRR owns a majority interest in two companies of the same nature, which are also listed in Appendix B to the petition. These carriers are operated independently, not as part of the petitioners' systems. Their records are separately maintained, and we believe it would serve no useful purpose to produce detailed data for them. Since they will be identified in the corporate chart required by s 1111.2(B)(1)(f), any interested parties may seek discovery regarding them during the initial stages of the proceeding upon a showing of good cause.

However, the definition of "applicant carrier" in s 1111.7(B) embraces all the railroads comprising the UPRR, MPRR, and WPRR systems. These carriers are listed in Appendix A to the waiver petition, and information regarding them must be submitted in the applications.

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Proposed s 1111.3(H)

Petitioners seek waiver (or clarification) of previously proposed s 1111.3(H) concerning traffic studies to permit petitioners to: (1) Exclude from the traffic study base shipments for which the study carrier performed only a switching function; (2) eliminate from the study base certain categories of non-relevant traffic; and (3) dispense with the preparation of study movement sheets and retrieval of waybills and abstracts for certain categories of unaffected traffic. We believe these requests should be conditionally granted, as discussed below.

At the same time, we are slightly modifying the general guidelines contained in proposed s 1111.3(H). In general, our modifications require that the traffic sample used in the study be drawn from potentially divertible traffic rather than from total traffic. Revised guidelines for the preparation of traffic studies were drafted after informal consultation between staff and applicants and are included as Appendix A to this decision. The revisions are intended to produce a study which more accurately estimates the extent of diversion likely to result from the transaction. We thus hope during this proceeding to focus any controversy concerning traffic studies upon the extent of estimated diversions rather than upon sampling methods.

Switched Traffic--Proposed s 1111.3(H) (2) requires that a "railroad performing the traffic study must sample all of the traffic it handled in the study year," with certain exceptions not relevant here (emphasis in original). However, petitioners contend it would be unfeasible and unnecessary to include in the traffic base any shipments for which the study carriers served only as a "switching" carrier. These shipments are almost impossible to sample and study without causing excessive delays in completing the applications, since the study carriers lack the information necessary to make traffic diversion judgments. As no line-haul service is provided by the study carrier, the only information available to it would be the names of the connecting line-haul carrier and consignor or consignee. Moreover, to the extent these shipments might be potentially divertible as a result of the consolidation, they may be examined in the traffic diversion studies of any protesting carrier that presently participates in the line-haul movement.

In view of these facts, petitioners should not be required to include, in the traffic study base, shipments for which a study carrier performed only a switching function. However, so that both the Commission and protestants can effectively analyze petitioners' traffic studies, the study carriers shall clearly indicate (in their instructions regarding selection of the sample data base) that these shipments were excluded from the study.

Non-Relevant Traffic--Petitioners also request a waiver of s 1111.3(H) (2)'s prohibition against the elimination of traffic (except local traffic and system local traffic) from the data base. More specifically, petitioners wish to exclude geographically non-relevant traffic and U.S. Postal Service traffic prior to selecting the sample. The result would be a significant reduction in the size of the sample, which will be large in any event. Elimination of this traffic before sampling will also remove the need for individual consideration of thousands of shipments which can be determined in advance, on a categorical basis, to be irrelevant to the proposed consolidation. Petitioners contend

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(Cite as: 45 FR 63164, *63166)

that this pre-sample-selection elimination of categories of shipments is essential to permit a study of the magnitude involved here.

We agree with petitioners that certain categories of shipments may be eliminated from the data base prior to sample selection, if they are categorically irrelevant to the proposed consolidation. Accordingly, we shall permit petitioners to exclude from the sample the two categories described, but we shall require them to indicate which categories of shipments were excluded. *63167 In this way, protestants may challenge the exclusions during the proceeding.

Post-Sample Exclusions--Petitioners seek a waiver of s 1111.3(H) (2)'s requirement for the retrieval of bills of lading and abstracts regarding shipments contained in the sample which were determined, by the final evaluator, to be unaffected by the consolidation, based on geographic or other criteria not programmed into the computer prior to selection of the sample.

However, petitioners would make available to the parties a computer printout of these shipments showing: Way-bill-type data such as the class of traffic (e.g., interline received, interline forwarded, or intermediate); date waybill issued; origin; destination; partial routing; commodity description; type of shipment (e.g., car, TOFC or COFC); tonnage; freight; and revenues. These printouts will enable any interested party to test the validity of the evaluator's judgment of non-divertability. Appendix C to the waiver petition lists the shipment-related information which will be contained in the computer printouts.

We agree that study movement sheets need not be prepared, and waybills and abstracts need not be retrieved, for shipments in the sample which are later found to be nondivertable. However, to facilitate full discussion of the nondivertability issue, we shall require petitioners to identify these shipments in their printout, and to indicate these exclusions in their instructions regarding selection of the sample data base.

Proposed s 1111.2(A) (3) (h) (vi) and s 1111.3(D-G)

Petitioners seek waiver of previously proposed ss 1111.2(A) (3) (h) (vi) and 1111.3(D-G) to permit submission of certain categories of historical data only for the years 1977, 1978, and 1979, the 3 years preceding the application's filing. We believe this waiver is warranted.

The note following s 1111.3(G) requires that the data provided under s 1111.3(D-G) be submitted for the first, fifth and tenth years preceding the application's filing. This information (Exhibits 21-24) concerns freight commodity tonnage. Previously proposed s 1111.2(A) (3) (h) (vi) requires a showing in Exhibit 4 of the annual net change in employment, by craft or class and classification, for the last 6 years preceding the application's filing. Petitioners state that this approach would impose an undue burden, requiring them to search out older data which in some instances may not be fully available.

We do not believe the value, if any, of information older than 3 years preceding the application outweighs the burden of producing this information. The comments received in Ex Parte No. 282 (Sub-No. 3) lead us to question the need for such dated information. Accordingly, petitioners may submit the information called for in Exhibits 21-24 and the net change in employment data

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(Cite as: 45 FR 63164, *63167)

of Exhibit 4 only for 1977, 1978 and 1979, the 3 years preceding the filing of an application in 1980.

Proposed s 1111.5(B) (1-5)

Petitioners seek: (1) waiver of s 1111.5(B) (1) and (3) to permit submission of financial statements on a consolidated basis; (2) clarification that s 1111.5(B) (2) and (4), requiring pro forma financial statements, are not applicable; (3) waiver and clarification of section 1111.5(B) (5), which calls for source and application-of-funds statements, to permit their submission for each of the 3 rail systems on a consolidated basis; and (4) clarification that the term "current year" in s 1111.5(B) (5) refers only to the last full calendar year before the applications are filed. We believe these waivers should be granted and the proposed clarifications made, as discussed below.

Sections 1111.5(B) (1) and (3)--These sections require submission of balance sheets and income statements for the transferee, transferee's parent, and each subsidiary of the transferee on a "corporate entity" basis (among others). Petitioners seek a waiver permitting them to submit balance sheet and income statement data: (1) For the applicant railroad corporations and their subsidiaries on a consolidated basis; and (2) in the cases of UPC and MCP, for the holding companies and their subsidiaries on a consolidated basis. Under this approach, separate financial statements for petitioners, for non-railroad companies, and for subsidiary railroad companies would not need to be filed. Petitioners contend that no useful purpose would be served by submission of these separate financial statements, which do not presently exist for many of petitioners' subsidiaries.

We see no problem with granting the desired waiver, particularly in view of the fact that petitioners' corporate structures do not provide for separate financial statements for subsidiaries in many instances. However, to permit meaningful analysis, the financial statements submitted on a consolidated basis should, wherever possible, indicate which of the consolidated information is attributable to which particular corporate subsidiaries. Subject to this condition, petitioners may submit consolidated balance sheets and income statements for the UPRR, MPRR and WPRR systems, and for UPC and MPC, as requested.

Sections 1111.5(B) (2) and (4)--These sections require submission of pro forma balance sheets and income statements "where the transaction involves a proceeding other than a control." Although certain corporate subsidiaries may be "merged" to effect UPC control of MPC and WPRR, the underlying transactions remain "control" transactions for Commission purposes. Accordingly, the pro forma financial statements of s 1111.5(B) (2) and (4) are not required here.

Section 1111.5(B) (5)--This section requires:

Transferor's and transferee's statement of sources and application of funds for the current year, and a forecast of source and application of funds for each carrier * * * for the year following consummation of the proposed transaction, and years necessary to effectuate the operating plan.

Based on the definitions of "transferee" and "transferor" in ss 1111.7(E) and (F), the first requirement of s 1111.5(B) (5) would apply to UPC, MPC, and WPRR. Petitioners argue, however, that the required financial statements would be more useful to the Commission if they were submitted for WPRR and the railroad

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(Cite as: 45 FR 63164, *63167)

subsidiaries of UPC and MPC, rather than for the holding companies of these railroads. We agree.

The purpose of s 1111.5(B)(5) is to reflect the impact of the proposed transaction on the cash flow of the railroads involved. Accordingly, it is unnecessary at this time to require financial statements for holding companies of the involved rail carriers.

Petitioners also seek clarification regarding s 1111.5(B)(5)'s requirement for forecasts of source and application of funds "for each carrier." Petitioners maintain that it would be simpler and more useful to submit these forecasts for each of the applicant carriers on a consolidated basis. As discussed above, we have no objection to the submission of information on a consolidated basis, so long as petitioners indicate, wherever possible, which of the consolidated information is attributable to which particular corporate subsidiaries.

Accordingly, petitioners may submit their "current year" statements for UPRR, MPRR, and WPRR, with each submitted on a consolidated system basis. They may also submit the requisite "forecasts" for UPRR, MPRR, and WPRR, each on a consolidated system basis. Finally, we confirm petitioners' interpretation of the term *63168 "current year" in s 1111.5(B)(5) as referring only to the last full calendar year before the applications are filed.

Proposed s 1111.6(C)(2)(c)

Petitioners seek a waiver of this section to permit the filing of an original and one copy only of Exhibit 19 (state-by-state carload interchange data). We believe the waiver is warranted.

Section 1111.6(C)(2)(c) requires that each copy of the application conform to the original in all respects, but subsection (g) makes an exception for Exhibit 18 (carload interchange data). Exhibit 19 (state-by-state carload interchange data) will be much larger than Exhibit 18. In view of Exhibit 19's length, petitioners may submit only an original and one copy of Exhibit 19, subject to the other provisions of s 1111.6(C)(2)(g).

However, on further consideration, we do not believe the exception for Exhibit 18 is warranted. Exhibit 18 will be a relatively brief document whose inclusion in each copy of the application will not unduly burden applicants and will greatly facilitate evaluation of the application. Accordingly, a copy of Exhibit 18 shall be submitted with each copy of the application.

Proposed s 1111.6(C)(2)(f)

This provision requires simultaneous filing with the main consolidation application of all related applications, including those seeking line abandonments. Petitioners request a waiver of the simultaneous filing requirement with respect to related abandonment applications. The waiver will be partially granted.

Petitioners note that we cannot approve contested abandonment applications unless the involved lines have been identified in a System Diagram Map at least 4 months prior to submission of the application. See 49 U.S.C. 10904(d); 49 CFR 1121.23(d). Petitioners contend that it may not be possible for them to comply with the 4-month requirement and still adhere to their present schedule for filing the consolidation applications. Accordingly, they seek a waiver to

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permit submission of related abandonment applications up to 4 months after filing of the consolidation applications. Petitioners are willing, however, to identify any proposed abandonments in their consolidation applications, and their draft environmental impact reports will take into account any environmental impacts of such abandonments.

We agree that the consolidation application should not be delayed 4 months simply so that related abandonment applications can be filed concurrently. As we have previously noted, the 4-month waiting period associated with contested abandonments presents a good case for waiving the simultaneous filing requirement of the consolidation regulations. See Finance Docket No. 28905, CSX Corporation-Control--Chessie System Inc., and Seaboard Coast Line Industries Inc. (not printed), decided January 9, 1979, at p. 4.

Accordingly, we shall permit petitioners to file their consolidation applications without concurrently filing any related abandonment or discontinuance applications. However, to permit expeditious processing of the consolidation application, petitioners shall file any related abandonment or discontinuance application within 4 months of the date by the Commission. This will satisfy the 4-month minimum notice requirement of 49 U.S.C. 10904(d), while establishing a date certain for supplementation of the consolidation applications.

Further, in the interest of full disclosure of material facts, petitioners shall include in their consolidation applications a complete summary of the lines and services to be abandoned or discontinued as a result of the consolidation. This summary shall contain such material information as: (1) Identification of the lines or services to be abandoned or discontinued (including mileposts and endpoints); (2) the latest filed system diagram map depicting these lines and properties; (3) the counties and states within which the abandonment or discontinuance would occur; (4) the date applicants expect to file an abandonment or discontinuance application for these properties; (5) how traffic over those lines would be rerouted; (6) whether the abandonment would leave shippers on the affected lines without service; and (7) any other information the applicants deem material.

Clarification of 49 CFR 1110.5

Petitioners seek clarification that 49 CFR 1110.5--rather than Rules 13 or 82 of our General Rules of Practice (49 CFR 1100.13 and 1100.82)--governs the dimensions of exhibits submitted with the consolidated applications, so that maps, density charts, and other oversized exhibits may exceed the dimension limits of Rules 13 or 82, as long as they are folded properly. Petitioners' interpretation is correct.

The size of many of the exhibits to be submitted with the contemplated applications will be considerably larger than normal pleadings filed with the Commission. These include the required system map (proposed Exhibit 1), corporate chart (proposed Exhibit 12), density charts (proposed Exhibit 17), financial statements (proposed Exhibits 32-36), and material included with the operating plan.

49 CFR 1100.5 (which would not be changed by the proposed rail consolidation regulations) provides that exhibits in consolidation applications:

may be in any convenient size but shall be folded to conform to the size of
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the application * * *

This authorizes the filing of application exhibits without regard to their original dimensions, so long as they are folded as required. See 49 CFR 1110.1(a). Our General Rules of Practice are expressly inapplicable to the extent they are "inconsistent with and superseded by requirements governing the practice and procedure in specified categories of proceedings as set out in (49 CFR) Parts 1101-1159," and to the extent "otherwise directed by the Commission in any proceeding." See 49 CFR 1100.1 (Rule 1).

Information Request

Our regulations provide that the Commission may require merger applicants to provide additional information in support of their application. [FN4] We have decided to require additional information in this proceeding; a list of the information which applicants should submit begins below. In general, we are today requiring analyses of the impacts of the proposed transaction.

FN4 49 CFR 1111.4(a)(4); proposed regulations (served November 8, 1979), 44 FR 66626 (November 20, 1979), to be codified at 49 CFR 1111.6(C)(2)(e).

Our new proposed merger regulations provide that the Commission may identify particular markets and issues that we believe warrant analysis, and that we may indicate the format of such analyses.

We believe that the markets and issues described in the information request which follows may be of particular concern in this proceeding. Wherever possible, applicants' response should correspond to each of the combinations which would be formed depending on our decision to grant or deny UP's separate applications for control of MPRR and WPRR. [FN5]

FN5 Where applicants' responses indicate that projected traffic levels may differ from the current levels, applicants should explain what factors account for the difference between projected and current levels. We are specifically interested in changes applicants expect to make after consolidation in routings, frequency and quality of service, and traffic solicitation. This information is to be submitted in addition to the operating plan required under s 1111.4 of our proposed regulations. We expect applicants' explanations concerning the specific markets listed to be more detailed than the system operating plan submitted under s 1111.4, and we request applicants to focus on describing the differences between the ways they plan to conduct operations during the projected year and those conducted during the current year.

*63169 Specifically, we are requesting applicants to provide the information indicated below:

I. General Impact on Traffic Routings

Provide current and projected traffic density maps (tonnage charts) for the consolidated system.

II. Effect on Rail Service on Traffic From the West Coast to Midwest Gateways

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A. Provide list of the feasible routings available today between the West Coast and Midwest Gateways, by carrier (not limited to applicants), and those projected after consummation, by carrier (not limited to applicants).

Supporting data may include, but need not be limited to, traffic flow charts and carload interchange data, both current and projected, and proposed maintenance and capital improvement plans.

Include in the discussion the effect on the availability of alternative rail routes in which the merged carrier is not a participant. How does the merged carrier plan to maximize profits over those routes in which it does participate

B. Provide proposed operating schedules between Pueblo, CO, and Kansas City, MO, and between El Paso, TX, and St. Louis, MO.

C. Should this merger be consummated and the merged carrier maximize its profits, to what extent would shippers face a diminution of competitive routings, number of participants in those routings, quality of service, or price increases

D. To what extent do water, motor carriers, and pipelines provide current or potential competitive alternatives for shippers For which commodities

E. To what extent do other rail carriers provide current or potential competitive alternatives for shippers For which commodities

F. To what extent would benefits to shippers, or cost savings to the merged carrier directly offset possible harm to shippers resulting from the transaction

III. Effect of the Proposed Merger on Certain Texas Traffic

A. Discuss the impact of the merger on future service along the Missouri Pacific line between El Paso and Dallas, TX.

B. Provide current and projected interchange traffic between El Paso and Dallas, TX.

C. Discuss to what extent intermodal or other intramodal feasible alternatives exist or are potentially available to offset any potential reductions in service

IV. Effect of the Merger on North-South Traffic Movements on the West Coast

A. Provide a list of the feasible routings available today between California and the Pacific Northwest, by carrier (not limited to applicants), and those projected after consummation, by carrier (not limited to applicants).

Supporting data may include, but need not be limited to, traffic flow charts and carload interchange data, both current and projected, and proposed maintenance and capital improvement plans.

Include in the discussion the effect on the availability of alternative rail routes in which the merged carrier is not a participant. How does the merged carrier plan to maximize profits over those routes in which it does participate

B. Provide current and proposed operating schedules between Stockton and Bieber, CA.

C. If the merger were approved and the merge carrier maximizes its profits, to what extent would shippers in any of these markets face a diminution of competitive routings, number of participants in those routings, or quality of service, or price increases

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D. To what extent do water, motor carriers, and pipelines provide current or potential competitive alternatives For which commodities

E. To what extent do other rail carriers provide current or potential competitive alternatives for shippers For which commodities

V. Impact of the Merger on Transportation Alternatives Between Texas Gulf Coast Points and Midwest Markets

A. List the number of feasible routings available today in these markets, by carrier (not limited to applicants), and those projected after consummation, by carrier (not limited to applicants).

Include in the discussion the effect on the availability of alternative rail routes in which the merged carrier is not a participant. How does the merged carrier plan to maximize profits over those routes in which it does participate

B. Should this merger be consummated and the merged carrier maximize its profits, to what extent would shippers using Texas Gulf to Midwest routes (or the reverse) face a diminution of competitive routings, number of participants in those routings, or quality of service, or price increases

C. Provide current interchange data for each point of interchange between applicants and the Kansas City Southern Railway (KCS), and the Missouri-Kansas-Texas Railroad (MKT).

D. Assuming the merger is not consummated, provide projected interchange data for each point of interchange between applicants and the KCS and the MKT.

E. Assuming the merger is consummated, provide projected interchange data for each point of interchange between applicants and the KCS and the MKT.

F. Discuss to the extent possible the effect of any projected decrease in interchanges with KCS and MKT resulting from consummation of the merger on their future operations.

G. To what extent do water, motor carriers, and pipelines provide current or potential alternatives for shippers For which commodities

H. To what extent do other rail carriers provide current or potential competitive alternatives for shippers For which commodities

I. To what extent would the post-merger routings offer efficiency or other gains

VI. Effect of the Merger on Ability of Chicago and North Western Transportation Co. To Provide Essential Services

A. To what extent would the proposed merger effect the continued ability of C&NW to provide service

B. Provide current interchange data for each point of interchange between applicants and the Chicago and North Western Transportation Company. Include separate data for coal.

C. Assuming the merger is not consummated, provide projected interchange data, including separate data for coal, for each point of interchange between applicants and the C&NW.

D. Assuming the merger is consummated, provide projected interchange data including separate data for coal, for each point of interchange between applicants and the C&NW.

E. Discuss to the extent possible the effect of any projected decrease in

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interchange with C&NW resulting from consummation of the merger on the C&NW's future operations.

F. Discuss to what extent intermodal or other intramodal feasible alternatives exist or are potentially available to offset any reduction in service.

***63170 VII. Effect of the Proposed Merger on the Transportation of Coal**

A. Provide current and projected coal traffic density maps on a consolidated basis for all coal traffic on any of applicants' systems. Describe maintenance and capital improvement plans for the highest density coal lines.

B. Provide the amount and origin points of coal traffic originating on each of the applicants' systems, and the delivery points (and amounts of coal delivered) for all coal originating on applicants' systems.

C. Provide current and projected coal interchange data on applicants systems, by carrier, at all points of interchange.

D. To what extent would shippers or coal regions lose rail transportation alternatives if the merger were consummated

E. To what extent do water, motor carriers, and pipelines provide competitive current or potential alternatives for shippers

F. To what extent do rail carriers provide competitive current or potential alternatives for shippers

It is ordered:

(1) The petition for waiver and clarification is granted to the extent indicated in this decision.

(2) Rio Grande's petition for leave to file a reply to the waiver petition is denied, and its reply is accordingly dismissed.

(3) Applicants shall provide the information specified in this decision.

(4) This decision shall be effective on its service date.

Decided: August 11, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam. Commissioner Stafford concurring in part and dissenting in part. Commissioner Trantum concurring with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Trantum, Concurring

This response to the waiver petition, which was filed over three months ago, should have been issued much more promptly. Petitioners have a right to expect that the Commission, notorious for delay in certain prior consolidation proceedings, is not returning to its former ways.

I believe the intent of the Commission's "information request" is to focus all parties on significant issues at the outset. However, today's "scoping order" must necessarily be viewed as tentative, with more detail and precision to be worked out along the way. Nobody should assume that each issue identified here will ultimately prove crucial, or that other important issues will not arise. In general, I am specifically interested in the applicants demonstrating the

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economic advantages of the proposed transactions, compared with potentially less anti-competitive alternatives.

Appendix A

(1) The period covered by the traffic study shall be the latest full calendar year for which data are available preceding the filing of the application. The basis for the calendar year shall be described, whether it is settlement date, movement date, accounting date, or any other date. All other traffic studies filed by any party to the proceeding shall be based on the same calendar year, but need not use the same basis for the calendar year, as the traffic study accompanying the application.

(2) Each traffic study shall include a full explanation of the sample design including: the objective of the study; the population of shipments; the frame; the stratification; the sampling units; the random numbers; the replication, if any; the management of the collection of data; the method of analysis of data; the magnitudes of the estimated characteristics of the whole population; and the associated standard errors. [FN1]

[FN1] These subjects are described in "Guidelines for the Presentation of the Results of Sample Studies" February 1971, published by the Commission's Bureau of Economics.

(3) The railroads performing a traffic study must initially consider all of the traffic handled in the study year. The specific part (or frame) of the movements to be sampled will depend upon the purpose of the study. The sample size shall be (a) large enough to produce the precision adequate for the purpose, as determined by the standard errors and (b) small enough to be manageable from a collection and evaluation point of view. The size of the sample needed may be tested from the results from the first replicate in a stratified replicate sample.

(4) For a diversion study, the population should be screened and all shipments which have no potential for being susceptible to diversion should be deleted from the sampling frame before the sample is selected. The criteria for the deletion should be specific enough so that the elimination can be made by machine. [FN2] These criteria must be designated in the application. The applicant's sample size need only be large enough to give the precision necessary for their roads.

[FN2] The Commission's staff has developed a computer program that separates movements that may be impacted by a merger or consolidation from those that are unlikely to be so affected. The program also separates the traditional categories of traffic (local, originated-forwarded, terminated-received and overhead) into a more refined matrix based on the relevant strength of carriers participating in various types of market and route combinations. Interested parties are welcome to examine the program and utilize it as a guide in developing their own computer-based decision rules. The Commission does not believe that this computer program should be used to the exclusion of any other systematic program although it will be used as a check on the effectiveness of the parties' sampling procedures. Any party desiring to review the program may contact the Deputy Director of the Section of

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Finance.

A traffic study should cover all traffic sufficient to reflect the total operations of the merged company. In general, a stratified sample should be used for the traffic diversion study and operating plan where the rates of sampling may be quite different in the various strata, and where the sample from the strata of divertible traffic needs to determine gains and losses serves as one part.

(5) A conformed copy of all study movement sheets must be maintained at the headquarters of the party making the studies and be open for inspection and readily supplied upon request to the Commission and to parties to the proceedings having a legitimate interest in such movements.

(6) At a minimum, the evaluation of sample movements shall be based on the data listed in Attachment A unless otherwise prescribed by the Commission. These data and any additional information relied upon for the evaluations shall be reproduced totally on Study Movement Sheets (SMS). An SMS shall be prepared for each sample movement whether or not a gain (or loss) has been determined. Documents, including but not limited to waybills, from which data have been extracted and placed on an SMS or considered in making a determination of divertibility, are considered work papers. Work papers should not be filed

in the application but must be made available, on request, to the Commission's staff and to parties to the proceeding having a legitimate interest in them. The minimum data required are shown in Attachment A in the suggested format for a Study Movement Sheet. This format should be followed as closely as practicable (particularly the use of only one sheet per sample movement). In some instances, the data required above for the SMS may not be readily available. In those instances, the party performing the study must use its best efforts to obtain the data, e.g., in the case of overhead traffic, the waybill data may be obtained from the terminating carrier. When the required data cannot be obtained, a separate statement should be prepared describing the missing data and reference should be made to the SMS where the data were omitted. No substitutions of non-sample movements for sample movements are allowed.

(7) The traffic study shall include a separate statement showing all written instructions, if any, for determining the amount of gains (or losses). Each instance where the generic instructions were not followed, but were subordinated to other, unwritten instructions, shall be clearly explained and indicated on the corresponding SMS.

(8) Specific percentages (less than or equal to 100%) should be applied to determine the amount of gains (or losses) on movements. The criteria used to arrive at such percentages shall be stated precisely.

(9) The traffic study shall include a statement showing the name and title of (a) the person or persons making the initial and intermediate determination of gains or losses, if any; (b) the person or persons making the final determinations; and (c) the method used to resolve any conflicting determinations between the initial, intermediate, and final *63171 determinations. The final evaluator(s) shall submit a verified statement that he (they) personally evaluated all movements.

(10) Traffic study results-applicant carriers: The estimates of gains or losses in traffic and revenue shall be broken down separately for each connecting carrier as follows:

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- (a) Interline originated traffic by off-junction with connecting carrier.
- (b) Interline terminated traffic by on-junction with connecting carrier.
- (c) Overhead traffic by on- and off-junction with connecting carriers.

To the extent known, the gain or loss estimates for each non-connecting carrier participating in the movement under (a), (b), and (c) above, should be listed. The participating carriers in this instances are those which do not connect directly with the applicant carriers, but which have a portion performed by the "connecting carriers."

(11) Traffic study results--non-applicant carriers: The gains (or losses) in traffic and revenue shall be broken down separately, showing gains from or losses to applicant carriers only, at each gateway with applicant carriers at which the gain or loss occurs, and classified as interline originated, interline terminated, or overhead movements to the non-applicant carrier performing the study. Local traffic gains or losses be shown as a separate total.

(12) Traffic study summary--all carriers: The carrier preparing the traffic study shall prepare a statement showing: (a) Each carrier's gross revenue gains (or losses); (b) the estimated cost of handling the gained or lost traffic for itself; and (c) the net revenue gain or loss thus derived for itself, including the standard errors for each and a detailed description of the methods used to compute the estimated cost of handling the traffic.

(13) Under 49 U.S.C. 11910(a)(1), the disclosure of certain traffic information is prohibited without the consent of the shipper or consignee when "that information may be used to the detriment of the shipper or consignee or may disclose improperly, to a competitor the business transactions of the shipper or consignee * * *." (Emphasis added). The voluntary exchange of traffic data to prepare an application or traffic study under 49 U.S.C. 11344 and 11346 is a proper disclosure which by itself would not constitute a violation of 49 U.S.C. 11910. Any misuse of that data, for purposes other than that for which it was obtained, would violate the statute.

(14) Non-rail traffic study. Traffic diversions from non-railroad modes of transportation may be shown in a statement estimating gross revenue gains from other modes of transportation (on traffic in which applicant carriers do not presently participate) developed from any study (e.g., a market study) conducted by applicant carriers. Sufficient information about the study must be evaluated.

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*63172 [FR Doc. 80-26176 Filed 9-22-80; 8:45 am]

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY -- CONTROL AND OPERATING LEASES/AGREEMENTS -- CONRAIL, INC. AND CONSOLIDATED RAIL CORPORATION -- TRANSFER OF RAILROAD LINE BY NORFOLK SOUTHERN RAILWAY COMPANY TO CSX TRANSPORTATION, INC.

**CANADIAN NATIONAL RAILWAY COMPANY'S
COMMENTS ON PROPOSED PROCEDURAL SCHEDULE**

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Dated: May 1, 1997

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK SOUTHERN
CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY -- CONTROL
AND OPERATING LEASES/AGREEMENTS -- CONRAIL INC. AND CONSOLIDATED
RAIL CORPORATION -- TRANSFER OF RAILROAD LINE BY NORFOLK SOUTHERN
RAILWAY COMPANY TO CSX TRANSPORTATION, INC.

CANADIAN NATIONAL RAILWAY COMPANY'S
COMMENTS ON PROPOSED PROCEDURAL SCHEDULE

Canadian National Railway Company ("CN") hereby provides the following comments on the procedural schedule proposed by the Joint Applicants¹ in CSX/NS-4, to which the Board invited comments in Decision No. 2, served April 21, 1997.

For the reasons set forth below, the 255-day schedule proposed by applicants is unduly short, and should not be adopted. The Board should retain the 365-day procedural schedule earlier adopted for the separate proposals to acquire Conrail in CSX/Conrail² and

¹ As used herein, unless the context indicates otherwise, "CSX" includes CSX Corporation and CSX Transportation, Inc., "NS" includes Norfolk Southern Corporation and Norfolk Southern Railway Company, and "Conrail" includes Conrail, Inc. and Consolidated Rail Corporation. CSX, NS and Conrail are collectively referred to as "Joint Applicants."

² See Finance Docket No. 33220, CSX Corporation and CSX Transportation, Inc. -- Control and Merger -- Conrail, Inc. and Consolidated Rail Corporation, Decision No. 8, served January 30, 1997 (unprinted) ("CSX/Conrail").

NS/Conrail.³ A 365-day schedule constitutes the minimum amount of time needed to conduct proceedings on a transaction as unique and complex as that presented in the instant case, which involves the proposed purchase and break-up of the largest railroad in the Northeast by its only other large railroad competitors in the East. The Joint Applicants, moreover, have advanced no valid reasons why more expedited treatment is needed.

A. The "Front End" of the Proposed Schedule Is Appropriate, and Should Not Be Shortened or Altered

As a preliminary matter, there should be no controversy as to the "front end" of the schedule proposed by Joint Applicants, which is identical to the procedural schedules earlier adopted by the Board in CSX/Conrail and NS/Conrail. When the Board adopted those schedules, it received and considered extensive comments on the issue of whether opposition evidence and requests for conditions should be due on day F + 120, at the same time as inconsistent and responsive applications. This issue had two facets. The first concerned the undue burden that would result if opposition evidence and requests for conditions were required to be filed sooner than day F + 120. The second, as noted by CSX and NS themselves, concerned the impracticality of having separate due dates, and the distinct advantages of having a "consolidated" due date at F + 120 for all opposition evidence, requests for conditions, and responsive (including inconsistent) applications. The Board wisely adopted this approach.

³ See Finance Docket No. 33286, Norfolk Southern Corporation and Norfolk Southern Railway Company -- Control -- Conrail, Inc. and Consolidated Rail Corporation, Decision No. 4, served January 30, 1997 (unprinted) ("NS/Conrail").

In their petition now seeking the adoption of a 255-day schedule, the Joint Applicants properly urge that the Board not alter the "front end" of the schedule previously adopted. CSX/NS-4 at 6-7. They recognize that those deadlines "reflect the well-considered, unanimous preferences" of all interested parties.

In short, there is no controversy regarding the "front end" of the schedule through F + 120, the Board should adhere to the approach followed in its earlier decisions.

B. The "Back End" of the 255-Day Schedule Proposed by Joint Applicants Is Unduly Truncated, and the Board Should Retain the 365-Day Schedule Earlier Adopted

The Joint Applicants' proposal for the "back end" of the schedule is onerous, unrealistic, and seeks expedition at the expense of full, thoughtful consideration of the issues raised by the proposed transaction. The application in this case will seek approval of the largest merger in the history of the railroad industry. The setting is the East -- and, to a large extent, the Northeast -- where no major railroad merger has occurred for many years. In a very real sense, the instant proceedings will constitute the resumption -- after a more than two-decade hiatus -- of a restructuring process that began in the 1970s. In its earlier phase, this restructuring process involved massive bankruptcies, extreme disruptions in rail service, and an unusually high level of governmental participation in the form of special legislation, the expenditure of substantial federal funds, and governmental ownership of Conrail. In order to decide the instant case, it will be necessary and appropriate to consider not only the current competitive environment, but also the unique circumstances and policy considerations that led to the creation of Conrail. A 365-day schedule is the minimum amount of time that the Board should allow for these purposes.

Indeed, the Board itself previously recognized the appropriateness of a 365-day schedule for deciding any merger involving Conrail. As the agency stated: "In summary, the procedural schedule we adopt here consisting of a 365-day time period is both fair to all of the parties and allows us sufficient time to resolve the unique issues that we anticipate will arise in connection with any merger proposal involving Conrail." See CSX/Conrail, Decision No. 8 at 8, and NS/Conrail, Decision No. 4 at 8 (emphasis added).⁴

The accelerated, 255-day schedule now proposed by Joint Applicants is based on a faulty premise. Joint Applicants argue that the 365-day schedule early adopted by the Board was based entirely on the likelihood that a major inconsistent application would be filed. They say that "the situation of the two other major rail carriers in the Eastern United States filing inconsistent and hostile application [sic] to acquire all or substantially all of Conrail in the same docket is no longer presented, and adjustments tailored to that situation are not required." CSX/NS-4 at 4-5. There are two significant flaws in this argument.

The first is an assumption that the existing 365-day schedule would have proven adequate to allow proper consideration of competing, inconsistent applications to acquire Conrail. Would have been possible, within just the 60-day period between F + 120 and F + 180, to have completed all the steps required to address not just "garden variety" responsive applications, but also a separate and inconsistent proposal to acquire Conrail?⁵ While we will

⁴ The Board also stated that the schedule must allow more time than otherwise might be needed "[b]ecause there has not been a major merger in the East since the early 1980s" See CSX/Conrail, Decision No. 3 at 7, and NS/Conrail, Decision No. 1 at 5.

⁵ These steps necessarily would have included the completion all document discovery on such applications, the conduct all depositions, analysis of the responsive and inconsistent applications, and preparation of all opposition evidence and/or applications responsive to the

never know for sure, it is far from clear that the 365-day schedule would have permitted proper consideration of such an inconsistent application.

In any event, even if it is assumed that the 365-day schedule somehow would have accommodated an inconsistent application to acquire Conrail, it does not follow that the absence of such an inconsistent application now justifies a shorter schedule. The current proposal itself involves unique issues of enormous importance -- a fact that Joint Applicants seek to downplay. But Joint Applicants, in a moment of candor, do acknowledge that this case will have some of the attributes and complexities of a case involving competing, inconsistent applications, stating:

This case . . . involves the extension of two separate and competing railroads into the territory now served by Conrail. It also involves separate, competing operating and marketing plans for those two railroads. The process thus has many of the aspects of separate applications by the two carriers.

CSX/NS-4 at 8. In other words, the two largest rail carriers in the East are proposing to acquire and divide their only significant rail competitor through a series of collaborative transactions that might be regarded as two mergers. This, combined with the fact that no significant railroad mergers have been consummated in the East for many years, is more than sufficient to justify a 365-day schedule.

inconsistent application. In this regard, the Board has observed that, since descriptions of inconsistent and responsive applications were to be filed on F + 60, parties would have "in effect" 120 days to prepare their responses due on Day F + 180. CSX/Conrail, Decision No. 8 at 7, and NS/Conrail, Decision No. 4 at 7. With all due respect, even though the F + 60 description is of some value, it is no substitute for having an inconsistent or responsive application in hand, together with the necessary discovery. Also, during the period between F + 60 and F + 120, parties necessarily are occupied with other matters -- such as responding to the primary application.

Joint Applicants also overlook the possibility that, notwithstanding the absence of an inconsistent application to acquire Conrail, this case may well involve one or more responsive applications that will require thorough consideration. CN, for its part, is highly concerned with the shortfall in rail competition that would result from the current CSX/NS proposal, and CN is likely to seek affirmative relief through a responsive application. Other parties may also seek relief that would require the filing of responsive applications. Under the schedule proposed by Joint Applicants, all discovery with respect to such responsive applications would need to be completed, and all evidence in response to such applications would need to be filed, in a period of just 30 days. Rebuttal then would be due just 15 days later, with briefs following by just another 20 days. This is simply too tight a schedule for a case as significant as the break-up of Conrail.

Another serious deficiency in the 255-day schedule proposed by Joint Applicants is that it would rob the Board itself of the time needed for careful deliberation of the important issues presented. It must be assumed that the Board's members will be unlikely to know how they will resolve these issues until briefs are filed, and perhaps until they hear oral argument. The 365-day schedule itself will allow just 45 days from the filing of briefs to the voting conference, but the proposed 255-day schedule would cut this critical period to just 20 days, making it difficult or even impossible for the members to digest the huge record before casting their votes. It would be unwise to adopt such a shortened schedule in so important a case, particularly when a new member is likely to join the Board in the near future -- perhaps even after the primary application is filed. Obviously, the shortened schedule also would make it extremely difficult for the agency's staff to prepare a thorough decision.

Joint Applicants seek to justify the proposed 255-day schedule by alluding to the UPSP proceeding. As the Board has recognized, however, the transaction proposed in that case involved rail lines in the West, where other mergers recently had been proposed and implemented. Indeed, the proposal in UPSP was largely a response to the merger recently approved in BNSF, and expedited treatment in UPSP could be justified not only by the very fresh merger experience in the West but also by the concern that, without a prompt decision, the proposed UPSP system might fall behind its competitor BNSF. An additional factor that logically could have influenced the schedule in UPSP was concern about the viability of SP. Such factors are missing in this case. The CSX/NS proposal to acquire and divide Conrail is not made in response to any other recent merger, and Conrail is secure as an independent carrier.⁶

This brings us to the Joint Applicants' purported justification for more expedited treatment than that already afforded by a 365-day schedule. In essence, they seek to justify an accelerated schedule by relying on their own decision to pay for Conrail's stock "up front," and to use a voting trust or trusts to complete the transaction even before filing an application with this Board. As a related matter, they express concern that, during the period of uncertainty pending Board consideration of the transaction (exacerbated by their own election to use voting trusts), there may be "attrition" of Conrail's management. CSX/NS-4 at 5-6.

⁶ Joint Applicants also seem to suggest that the instant case will be simpler than UPSP. They say that UPSP involved "serious competitive issues," and then go on to claim: "The transaction contemplated here will not present such [serious competitive] issues. On the contrary, it is clear that this transaction will significantly enhance rail competition in the Eastern United States." CSX/NS-4 at 4. This self-serving comment should be wholly discounted. It must be presumed that a merger of this historic proportion will raise "serious competitive issues," and CN intends to demonstrate the presence of such issues.

Joint Applicants' own determination to make an expenditure of over \$10 billion without awaiting formal Board review of their proposal should not and cannot justify greater expedition of the case than otherwise would be warranted.

CN is well aware that the Board has expedited its handling of major merger cases in recent years, and now regards the deadlines imposed by the statute as an "outside limit" that can be beaten in most cases.⁷ But it is significant that the current 15-month schedule allowed by the statute represents a substantial shortening of the time permitted for deciding railroad merger cases from that allowed in prior years, and already reflects the progress the Board and its predecessor agency have made in accelerating the merger process. Joint Applicants nevertheless are asking the Board, in deciding the largest merger in the history of the industry, to use just over one-half of the 15-months allowed under the newly-shortened statutory schedule. It is reasonable to ask: if all, or at least a substantial portion, of the recently-enacted 15-month schedule is not used for a case as significant as the break-up of Conrail, what meaning does it have? Certainly, deciding the instant case on a 365-day schedule, and thereby consuming less than 80% of the time now allowed under the statute, would constitute a very efficient and commendable performance by the agency charged with reconciling all of the conflicting interests presented in a case of this magnitude.⁸

⁷ As the Board stated in UPSP, "[O]ur interpretation of the 15-month schedule set out in section 11325(b) is that it provides an outside limit on how long the Board may take to resolve a major merger proceeding, and is not necessarily an endorsement of a longer schedule." Finance Docket No. 32760, Union Pacific Corp. -- Control and Merger -- Southern Pacific Rail Corp., Decision No. 10 at 4, served Jan. 26, 1996 (unprinted).

⁸ It should not be overlooked that the Board already has accommodated Joint Applicants by waiving the 3-month pre-filing notice requirement. Decision No. 2, served April 21, 1997.

C. If CSX and NS Are Permitted to File Separate Briefs, the Page Limit For Other Parties Should be 75 Pages

Joint Applicants propose that CSX and NS be permitted to file separate briefs, each subject to the 50-page limit imposed on other parties. (They are silent as to whether Conrail would join in both such briefs, though it must be assumed that Conrail would not file separately.) The justification offered for allowing separate CSX and NS briefs is that they are "separate and competing railroads" and will have "separate, competing operating and marketing plans." CSX/NS-4 at 8.

Given the unique circumstances of this case, and the fact that CSX and NS must remain competitors (whether or not the proposed transaction is approved), there is some logic to the request for separate briefs. However, it would be unfair to other parties if this request were granted without some further adjustment. CSX and NS each would have up to 50 pages to address such matters as their "separate, competing operating and marketing plans," but other parties would have only 50 pages to address all aspects of the case, including the separate plans of both CSX and NS.

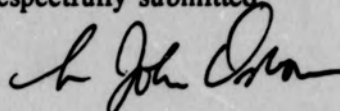
If this CSX/NS request is to be granted, a reasonable and fair compromise would be to limit CSX and NS to 50 pages each, but to allow other parties to file briefs of up to 75 pages. With this adjustment, other parties would not be unduly constricted in their efforts to address the issues raised by the separate CSX and NS plans to implement this proposed joint acquisition of a major competitor.

CONCLUSION

For all of these reasons, CN respectfully requests that --

- (1) the Board adhere to the 365-day schedule previously adopted; and
- (2) if the request for separate, 50-page CSX and NS briefs is granted, the Board allow other parties to file briefs of up to 75 pages.

Respectfully submitted,



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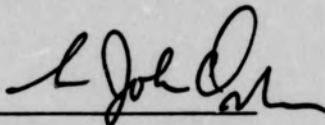
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CANADIAN NATIONAL RAILWAY COMPANY

Dated: May 1, 1997

Certificate of Service

The undersigned hereby certifies that on this 1st day of May, 1997, he served a true copy of the foregoing on counsel for all known parties by first-class mail, postage prepaid.



L. John Osborn

STB

FD

33388

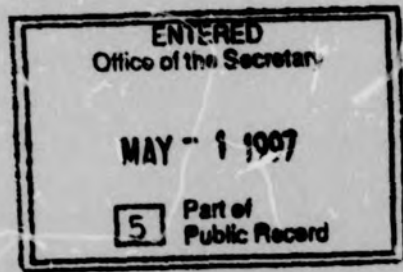
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CMA-1



BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 33388

CSX CORPORATION AND CSX TRANSPORTATION, INC., NORFOLK SOUTHERN
CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

-- CONTROL AND OPERATING LEASES/AGREEMENTS --

CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

COMMENTS OF THE CHEMICAL MANUFACTURERS ASSOCIATION

In Decision No. 2, published on April 21, 1997, the Surface Transportation Board ("Board") invited comments on the procedural schedule proposed by the Applicants (62 Fed. Reg. 19390). That schedule would require a final decision by the Board to be served 255 days after filing of the primary application and comments of interested parties on the primary application to be filed 120 days after filing of the primary application. As noted by the Board, this schedule is substantially similar to that followed in the recent merger proceedings involving the Union Pacific and Southern Pacific railroads.

The Chemical Manufacturers Association ("CMA") is a non-profit trade association whose member companies represent more than 90% of the productive capacity for basic

industrial chemicals in the United States. In 1995, the chemical industry shipped 138 million tons of products by rail and paid over \$4.5 billion in rail freight charges. CMA's members depend heavily on rail transportation in particular for movement of bulk chemicals, which typically move in tank cars and covered hopper cars owned or leased by the companies. CMA's rail transportation policy emphasizes safety, service, and competition.

In previous proceedings involving the proposed mergers of Conrail with CSX and with Norfolk Southern, the Board decided to expand from the 255-day schedules proposed by CSX and Norfolk Southern, and instead proposed a 300-day schedule, recognizing that:

"Because there has not been a merger in the East since the early 1980s, given our merger experience, we believe it would be prudent for us to factor in some additional time to accommodate possible unique issues that may arise."¹

Following comment by interested parties on the proposed schedules in those prior proceedings, the Board expanded its proposed 300-day schedules to 365 days, largely in order to provide parties 120 days in which to analyze and comment on the applications.

CMA continues to believe that, notwithstanding the agreement between CSX and Norfolk Southern to divide much of Conrail, there remain unique and potentially difficult issues for resolution in these proceedings. A number of issues arise from the proposal that Conrail remain in business and that CSX and Norfolk Southern operate by means of leases and operating

¹ Finance Docket No. 33220, CSX Corporation and CSX Transportation, Inc. -- Control and Merger -- Conrail Inc. and Consolidated Rail Corporation, Decision No. 3, published at 61 Fed. Reg. 58611 (Nov. 15, 1997); Finance Docket No. 33286, Norfolk Southern Corporation and Norfolk Southern Railway Company -- Control -- Conrail Inc. and Consolidated Rail Corporation, Decision No. 1, published at 61 Fed. Reg. 60317 (November 27, 1996).

agreements over lines retained by Conrail. Other issues include the extent of and operations within areas designated for joint service by CSX and Norfolk Southern.

Nonetheless, CMA notes that it and other interested parties would under the proposed schedule be afforded a 120-day period within which to analyze the application, take discovery, and prepare written comments. This is the same length of time proposed by CMA and others and granted by the Board in the previous proceedings involving a Conrail merger. Therefore, CMA does not believe it and its members will be prejudiced by the fact that the overall procedural schedule now envisaged by CSX and Norfolk Southern is compressed into 255 days rather than the 365-day schedule instituted in the prior Conrail proceedings.

CMA notes that it and its members were able to comment meaningfully in the Union Pacific/Southern Pacific merger proceedings in 120 days in large part because the Board provided clear signals that the applicants would be expected to put all of their cards on the table. Discovery in that case, while not free from disputes and controversy, proceeded in a generally cooperative fashion, and a key component of the UP/SP merger, the BNSF comprehensive trackage rights agreement, was provided to the public well before the merger application was filed. CMA will look to the applicants here to proceed in the same open and cooperative fashion, particularly as regards the details of the proposed leases and operating agreements.

In conclusion, CMA appreciates the opportunity to comment on Decision No. 2 and does not object to the proposed 255-day schedule, provided that interested parties be afforded at least 120 days for comment on the primary application. CMA notes that this schedule will require the good will and cooperation of the applicants in discovery if all parties and the Board are to have a full opportunity to analyze and judge the merits of the proposed transactions.

Respectfully submitted,

Thomas E. Schick / sds

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Scott N. Stone

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CERTIFICATE OF SERVICE

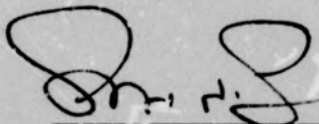
I hereby certify that I have, in accordance with the Board's Decision No. 2 in this proceeding, served copies of the foregoing Comments of the Chemical Manufacturers Association by first class mail upon the following:

Administrative Law Judge Jacob Leventhal
Federal Energy Regulatory Commission
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Scott N. Stone

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BRICKFIELD
BURCHETTE
RITTS, PC

WASHINGTON, D.C.
AUSTIN, TEXAS

May 1, 1997



HAND DELIVERED

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

Re: Finance Docket No. 33388

Dear Secretary Williams:

On behalf of Steel Dynamics, Inc. ("SDI"), please find enclosed for filing an original and twenty-five copies of:

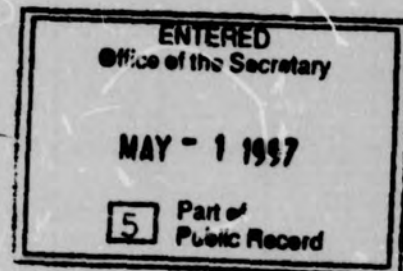
- Entry of Appearance of Steel Dynamics, Inc.
- Comments of Steel Dynamics, Inc. on the Proposed Procedural Schedule.

Copies of the pleadings are provided on the enclosed 3.5" diskette in WordPerfect 5.1 for DOS format. The documents have been served in accordance with Decision No. 2. Please do not hesitate to contact me if you have any questions or concerns.

Thank you for your cooperation in this matter.

Very truly yours,

Christopher C. O'Hara



BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35388



CSX Corporation and CSX Transportation, Inc.
Norfolk Southern Corporation and
Norfolk Southern Railway Company
-- Control and Operating Leases/Agreements --
Conrail Inc. and Consolidated Rail Corporation --
Transfer of Railroad Line by Norfolk Southern Railway Company
To CSX Transportation, Inc.

**ENTRY OF APPEARANCE
OF STEEL DYNAMICS, INC.**

Steel Dynamics, Inc.,¹ an Indiana corporation that owns and operates a flat rolled steel mini-mill located in DeKalb County, Indiana, and is a rail shipper, by its attorneys, files this entry of appearance in the above-referenced proceeding. SDI intends, at this time, to participate as a party of record in this proceeding.²

Please add the undersigned attorneys to the service list for the above-referenced proceeding and to the distribution list for all Surface Transportation Board decisions and/or orders.

¹ Pursuant to 49 C.F.R. § 1180.4 (a) (2), Steel Dynamics, Inc. adopts the acronym "SDI" to identify itself.

² SDI anticipates filing written comments and a formal notice of intent to participate pursuant to 49 C.F.R. § 1180.4 (d) at the appropriate time.

Respectfully submitted,

BRICKFIELD, BURCHETTE & RITTS, P.C.

Christopher C. O'Hara

Peter J.P. Brickfield

Peter J. Mattheis

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Brickfield, Burchette & Ritts, P.C.

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Date: May 1, 1997

Certificate of Service

Finance Docket No. 33388

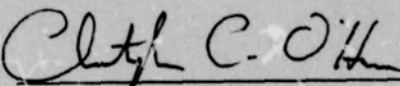
In accordance with Decision No. 2 in this docket, I hereby certify that on May 1, 1997, a copy of the attached document was sent by United States mail, first class, postage prepaid to:

The Hon. Jacob Leventhal
Administrative Law Judge
Federal Energy Regulatory Commission
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Christopher C. O'Hara

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 33388

**CSX Corporation and CSX Transportation, Inc.
Norfolk Southern Corporation and
Norfolk Southern Railway Company
-- Control and Operating Leases/Agreements --
Conrail Inc. and Consolidated Rail Corporation --
Transfer of Railroad Line by Norfolk Southern Railway Company
To CSX Transportation, Inc.**

**COMMENTS OF STEEL DYNAMICS, INC.
ON THE PROPOSED PROCEDURAL SCHEDULE
FILED BY CSX, NS AND CONRAIL**

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BEFORE THE
SURFACE TRANSPORTATION BOARD
FINANCE DOCKET NO. 33388

**COMMENTS OF STEEL DYNAMICS, INC.
ON THE PROPOSED PROCEDURAL SCHEDULE FILED BY CSX, NS AND CONRAIL**

Steel Dynamics, Inc. ("SDI"), by its attorneys, objects to the proposed procedural schedule submitted by CSX, NS and Conrail (hereinafter "the Applicants"), and for reasons states:

1. The Applicants have submitted a proposed procedural schedule that differs dramatically from the procedural schedules adopted by the Board in Docket Nos. 33220 and 33286. The Applicants characterize the proposed schedule as reflecting the Board's final schedules in prior dockets. The total amount of time, however, between the filing of the application and the date of the final decision has been reduced in the proposed schedule from 365 days to 255 days, a 30% reduction in the amount of time allotted for the Board to evaluate the application.

2. The Board addressed scheduling issues in Dockets Nos. 33220 and 33286 and issued a comprehensive procedural schedule. The Applicants are attempting to shorten many of the time periods in a systematic attempt to restrict the Board's ability to evaluate input from third parties. The Applicants' attempt to stifle the Board's ability to thoroughly consider comments from third parties is demonstrated by the following table:

	33220 and 33286 Schedules	33388 Proposed Schedule
Event	(Days since prior event).	
Filing of inconsistent and responsive applications and comments, protests, request for conditions, etc.		
Notice of acceptance of inconsistent and responsive applications.	30 days	15 days
Response to inconsistent and responsive applications and to comments, protests, request for conditions, etc. Applicants' rebuttal due.	30 days	15 days
Rebuttal in support of inconsistent and responsive applications due.	40 days	15 days
Briefs due	40 days	20 days
Oral Argument (close of record).	40 days	15 days
Total Time	180 days	80 days

The amount of time for the Board to consider and evaluate any third party input prior to oral argument, the closing of the record, has been reduced from 180 days to 80 days, a 56% reduction.

The Board's ability to thoroughly evaluate comments, protests, and requests for conditions filed by shippers is severely limited by the proposed schedule. Given the unique competitive issues discussed below, the Board should reject the proposed schedule.

3. In their motion, the Applicants state that the shortened amount of time is "appropriate for the less complicated proceeding associated with the currently proposed acquisition of Conrail." The current proposed transaction is, if anything, more complex than the previously proposed transactions. This is a major transaction involving the three largest eastern railroads. Although there have been large mergers before, there has never been a transaction of this scope involving three class I railroads acting in concert to divide a market. Furthermore, CSX and NS are not capable of foreclosing the possibility of inconsistent and responsive applications, and any attempt to do so would be speculative. Several impacted areas are currently served by three class

I carriers and duplicative lines will be created as a result of the acquisition and division of Conrail. Responsive applications are possible involving those areas.

4. The Board should utilize the full time period set forth in the procedural schedules in the prior dockets in order to analyze the impact of the current proposal, because the proposed joint acquisition and division of Conrail differs dramatically from merger proceedings previously addressed by the Board and from the originally proposed acquisition of Conrail by either CSX or NS. There are many additional unique issues related to competition that must be analyzed because three class I railroads are acting in concert. In addition to analyzing the anti-competitive effects of the proposed division of Conrail, the anti-competitive effects of the collusion between CSX and NS must be analyzed. Never before have two class I railroads divided another class I railroad. CSX and NS have, through confidential negotiations, split the market and allocated territories, minimizing competition in some areas. The extent of confidential information (of the kind not normally shared between competitors) exchanged between CSX and NS must be thoroughly probed. The Board must determine whether the alliance between CSX and NS has had, or will have, a detrimental impact on shippers' rate negotiations with those railroads. The Board must ensure that CSX and NS will not act to fix rates in areas where there will be dual service. The Board must carefully study the impact of the collaboration of CSX and NS and ensure that appropriate safeguards are established. SDI does not believe this sort of analysis can be thoroughly undertaken in the limited amount of time allotted under the Applicants' proposed schedule.

5. Shippers have not been afforded any significant amount of time to analyze the impact of the proposed acquisition. Some shippers have not been informed as to who will serve them post-acquisition. The structure of the currently proposed acquisition was not announced until

after the letter agreement between CSX and NS was executed on April 8, 1997. The letter agreement was not widely disseminated until it was filed with the Securities and Exchange Commission on April 10, 1997, as an exhibit to the amendments to Schedules 14D-1 and 13D. Furthermore, the acquisition by CSX of the NS line from Fort Wayne, Indiana to Chicago, Illinois, is a new development and was never proposed as part of a "merger" between CSX and Conrail or between NS and Conrail. Because of the enormous potential impact of the proposed transaction, shippers must carefully analyze the competitive effects of the proposed transaction and of any inconsistent and responsive applications. Shippers will need the full time periods set forth in the prior procedural schedules to conduct the required analyses.

6. In their motion, the Applicants stated that the Board set the procedural schedule in the prior dockets in order to address "the complexity and magnitude of issues that potentially may arise in an inconsistent or responsive application in this proceeding."¹ The Applicants neglected to note the Board's holding that the procedural schedule "will ensure that all parties are accorded due process and will allow us ample time to consider fully all of the issues in this proceeding."² The Applicants should not presume that the procedural schedule was set to accommodate solely the desires of CSX and NS. The merger review process is not established to safeguard the interests of class I railroads, but to protect the public interest and ensure that rail users are accorded due process.

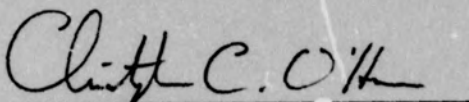
¹ See F.D. 33220, Decision No. 8 at 7; F.D. 33286, Decision No. 4 at 7.

² See F.D. 33220, Decision No. 8 at 4; F.D. 33286, Decision No. 4 at 4.

WHEREFORE, SDI respectfully requests that the Board reject the procedural schedule proposed by the Applicants and adopt the procedural schedule set forth in the Docket Nos. 33220 and 33286

Respectfully submitted,

BRICKFIELD, BURCHETTE & RITTS, P.C.

A handwritten signature in cursive script, appearing to read "Cliff C. O'Hara", is written over a horizontal line.

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Date: May 1, 1997

Certificate of Service

Finance Docket No. 33388

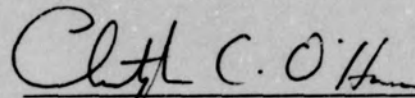
In accordance with Decision No. 2 in this docket, I hereby certify that on May 1, 1997, a copy of the attached document was sent by United States mail, first class, postage prepaid to:

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