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ALSO ADMITTED IN THE
DISTRICT OF COLUMBIA

December 10, 1997

Secretary Vernon A. Williams
Office of the Secretary
Surface Transportation Board
Case Control Branch
Attn: STB Finance Docket No. 33388
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
Our File No. 2312

Dear Secretary Williams:

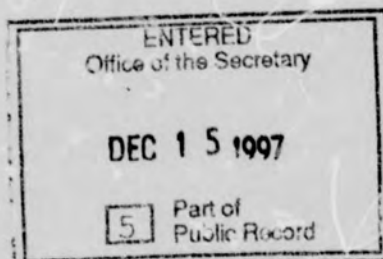
Enclosed for filing please find an original, ten (10) copies and a 3.5 diskette of The Rail Bridge Terminals (New Jersey) Corporation's Certificate of Service designated RBTC-10. The Certificate of Service is saved on the disk in WordPerfect 5.1 and Text Formats.

Please file the enclosed and return a conformed copy to our office in the enclosed self-addressed stamped envelope.

Regards,


Stephen M. Uthoff

SMU:lme2
Enclosures



Certificate of Service (RBTC-8) (dated October 13, 1997); and

Comments and Request for Conditions on Behalf of The Rail-Bridge Terminals (New Jersey) Corporation, and Verified Statement of Mark Schepp in Support Thereof (RBTC-9) (dated October 20, 1997).

DATED: December 10, 1997

Respectfully submitted,

By: 

STEPHEN M. UTHOFF
CONIGLIO & UTHOFF
A Professional Law Corporation
Attorneys for The Rail-Bridge
Terminals (New Jersey) Corporation
110 West Ocean Boulevard, Suite C
Long Beach, California 90802-4615
Telephone: (562) 491-4644

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that I have this day served the foregoing documents upon:

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

Administrative Law Judge
Jacob Leventhal
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888 First St., N.E.
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Samuel M. Sipe, Jr.
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Richard A. Allen
John V. Edwards
Patricia Bruce
Zuckert, Scoutt & Rasenberger
888 17th St., N.W.
Washington, D.C 20006

And all Parties of Record on the attached service list,
by mailing, first class, postage prepaid a copy to each such
person.

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

Dated at this 10th day of December, 1997 at Long Beach,
California.

By: L. M. Eliakeidis
LISA M. ELIAKEDIS

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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

RETC-2

NOTICE OF INCONSISTENT OR RESPONSIVE APPLICATION

In accordance with Decision 6 of the above referenced matter served by The Surface Transportation Board ("STB") on May 30, 1997 The Rail-Bridge Terminals (New Jersey) Corporation ("RETC") hereby submits its notice and description of the comments, protests, requests for conditions and other opposition evidence or in the alternative of inconsistent and responsive applications which it intends to file in the above-captioned matter.

RETC currently operates the E-Rail intermodal facility located in Elizabeth, New Jersey. E-Rail is located in what has been designated the North Jersey Shared Assets Area ("SAA"). Although geographically part of the SAA, E-Rail has been allocated solely to NS. Other intermodal terminals found in the SAA geographical boundary have been allocated on an "equal access" basis to both CSX and NS.

The application is ambiguous as to the effect of this allocation of facilities on RETC or its customer's ability to move its intermodal cargo pursuant to its current agreements with

Conrail, and it offers no explanation as to why other intermodal yards found in the SAA have been given equal access to CSX/NS, which is a distinct competitive advantage over the E-Rail facility operated by RETC. Also, the application needs further clarification as to the intended operations of the E-Rail facility, (post approval), which apparently will be serviced by trackage that is part of the SAA but will function as a dedicated NS facility.

At present, RETC contemplates only filing, comments, evidence and requests for conditions. However, it reserves its right to file responsive or inconsistent applications to address the subjects aforementioned.

DATED: August 13, 1997

Respectfully submitted,

By: 

TERRY J. CONIGLIO
STEPHEN M. UTHOFF
CONIGLIO & UTHOFF

A Professional Law Corporation
Attorneys for The Rail-Bridge
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Telephone: (562) 491-4644

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that I have this day served the foregoing document upon:

Secretary Vernon A. Williams
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Attn: STE Finance Docket No. 33388
1925 "K" St., N.W.
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Larry Willis, Esq.
Transportation Trades Department
ALF-CIO
400 N. Capitol St., N.W.
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Washington, D.C. 20001

by mailing, first class, postage prepaid a copy to each such person.

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

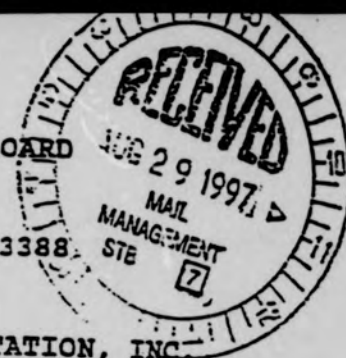
Dated at this 13th day of August, 1997 at Long Beach, California.

By: 

LISA M. ELIAKEDIS

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

RETC-3

CERTIFICATE OF SERVICE

Pursuant to Decision No. 21 of The Surface Transportation Board, I hereby certify that on August 27, 1997, all Parties of Record listed in Decision No. 21 were served (to the extent not previously served), by first-class U.S. mail, postage prepaid, with the following filings of The Rail-Bridge Terminals (New Jersey) Corporation submitted thus far in this proceeding:

Notice of Intent to Participate (RETC-1) (dated July 21, 1997)

Notice of Inconsistent or Responsive Application (RETC-2)
(dated August 13, 1997)

DATED: August 27, 1997

Respectfully submitted,

By: 

TERRY J. CONIGLIO
STEPHEN M. UTHOFF
CONIGLIO & UTHOFF
A Professional Law Corporation
Attorneys for The Rail-Bridge
Terminals (New Jersey) Corporation
110 West Ocean Boulevard, Suite C
Long Beach, California 90802-4615
Telephone: (562) 491-4644

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that I have this day served the foregoing document upon:

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

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

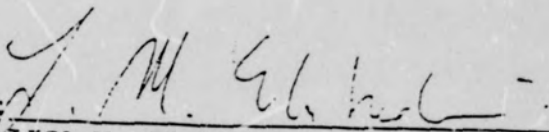
For all Parties of Record - see attached service list

by mailing, first class, postage prepaid a copy to each such person.

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

Dated at this 27th day of August, 1997 at Long Beach, California.

BY:



LISA M. ELIAKEDIS

BEFORE THE
SURFACE TRANSPORTATION BOARD

RBTC-5

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

RBTC-5

CERTIFICATE OF SERVICE

Pursuant to Decision No. 27 of The Surface Transportation Board, I hereby certify that on September 12, 1997, Robert J. Cooper, a Party of Record listed in Decision No. 27 was served (to the extent not previously served), by first-class U.S. mail, postage prepaid, with the following filings of The Rail-Bridge Terminals (New Jersey) Corporation submitted thus far in this proceeding:

Notice of Intent to Participate (RBTC-1) (dated July 21, 1997);

Notice of Inconsistent or Responsive Application (RBTC-2) (dated August 13, 1997); and

Certificate of Service (RBTC-3) (dated August 27, 1997).

DATED: September 12, 1997

Respectfully submitted,

By: 

TERRY J. CONIGLIO

STEPHEN M. UTHOFF

CONIGLIO & UTHOFF

A Professional Law Corporation

Attorneys for The Rail-Bridge

Terminals (New Jersey) Corporation

110 West Ocean Boulevard, Suite C

Long Beach, California 90802-4615

Telephone: (562) 491-4644

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that I have this day served the foregoing document upon:

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

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

Robert J. Cooper, General Chairperson
United Transportation Union
General Committee of Adjustment, GO-348
1238 Cass Road
Maumee, OH 43537

by mailing, first class, postage prepaid a copy to each such person.

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

Dated at this 12th day of September, 1997 at Long Beach, California.

By: L. M. Eliakedis
LISA M. ELIAKEDIS

BEFORE THE
SURFACE TRANSPORTATION BOARD

RBTC-8

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

RBTC-8

CERTIFICATE OF SERVICE

Pursuant to Decision No. 43 of The Surface Transportation Board, I hereby certify that on October 13, 1997, all Parties of Record listed in Decision No. 43 were served (to the extent not previously served), by first-class U.S. mail, postage prepaid, with the following filings of The Rail-Bridge Terminals (New Jersey) Corporation submitted thus far in this proceeding:

Notice of Intent to Participate (RBTC-1) (dated July 21, 1997);

Notice of Inconsistent or Responsive Application (RBTC-2) (dated August 13, 1997);

Certificate of Service (RBTC-3) (dated August 27, 1997); and

Certificate of Service (RBTC-5) (dated September 12, 1997).

DATED: October 13, 1997

Respectfully submitted,

By: 

TERRY J. CONIGLIO

STEPHEN M. UTHOFF

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Terminals (New Jersey) Corporation

110 West Ocean Boulevard, Suite C

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CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that I have this day served the foregoing document upon:

Secretary Vernon A. Williams
Office of the Secretary
Surface Transportation Board
Case Control Branch
Attn: STB Finance Docket No. 33388
1925 "K" St., N.W.
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Administrative Law Judge
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Zuckert, Scoutt & Rasenberger
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Washington, D.C 20006

And all Parties of Record on the attached service list,
by mailing, first class, postage prepaid a copy to each such
person.

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

Dated at this 13th day of October, 1997 at Long Beach,
California.

By: 

LISA M. ELIAKEDIS

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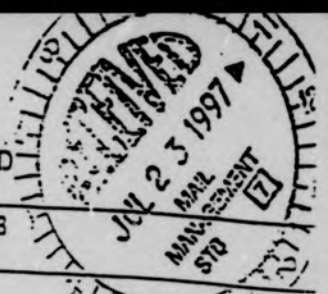
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BEFORE THE
SURFACE TRANSPORTATION BOARD

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 The Rail-Bridge Terminals (New Jersey) Corporation hereby intends to participate in STB Finance Docket No. 33388, including, but not limited the application of CSX Corporation, CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company under 49 U.S.C. §11323-25 seeking the Service Transportation Board's authorization for, among other things, the acquisition and control of Conrail, Inc. and Consolidated Rail Corporation.

The Rail-Bridge Terminals (New Jersey) Corporation may be contacted through their counsel, Stephen M. Uthoff, Coniglio & Uthoff, a Professional Law Corporation, 110 West Ocean Boulevard, Suite C, Long Beach, California 90802-4615, (562) 491-4644.

DATED: July 21, 1997

Respectfully submitted,

By: 

TERRY J. CONIGLIO
STEPHEN M. UTHOFF
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110 West Ocean Boulevard, Suite C
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Telephone: (562) 491-4644

DECLARATION RE: REPRESENTATION

I, Stephen M. Uthoff declare:

1. That I am an attorney at law duly licensed to practice before all of the Courts of the State of California and the Surface Transportation Board.

2. Terry J. Coniglio, Stephen M. Uthoff and the firm of Coniglio & Uthoff, a Professional Law Corporation have been retained to represent The Rail-Bridge Terminals (New Jersey) Corporation in the above-captioned matter.

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

Executed this 21st day of July, 1997 at Long Beach, California.

By: 

STEPHEN M. UTHOFF, Declarant

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that I have this day served the foregoing document upon: Administrative Law Judge, Jacob Leventhal, Federal Energy Regulatory Commission, 888 First Street, N.E., Suite 11F, Washington, D.C. 20426; Dennis G. Lyons, Esq., Arnold & Porter, 555 12th Street, N.W., Washington, D.C. 20004-1202; Richard A. Allen, Esq., Zuckert, Scoutt & Rasenberger, L.L.P., Suite 600, 888 Seventeenth Street, N.W., Washington, D.C. 20006-3939 and Paul A. Cunningham, Esq., Harkins, Cunningham, 1300 Nineteenth Street, N.W. Suite 600, Washington, D.C. 20036 by mailing, first class, postage prepaid a copy to each such person.

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

Dated at this 21st day of July, 1997 at Long Beach, California.

By: 

LISA M. ELIAKEDIS

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that I have this day served the foregoing document upon:

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

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

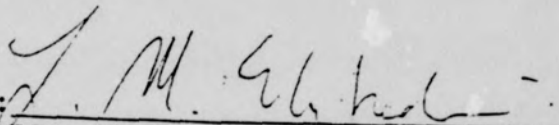
For all Parties of Record - see attached service list

by mailing, first class, postage prepaid a copy to each such person.

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

Dated at this 27th day of August, 1997 at Long Beach, California.

By:


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Laroe, Winn, et al.
3506 Idaho Ave., N.W.
Washington, DC, 20016

Kelvin J. Dowd
Slover & Loftus
1224 17th St., N.W.
Washington, DC, 20036

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Finance Docket No. 33386

**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**

RBTC-9

**COMMENTS AND REQUEST FOR CONDITIONS
ON BEHALF OF THE RAIL-BRIDGE TERMINALS
(NEW JERSEY) CORPORATION, AND
VERIFIED STATEMENT OF MARK SCHEPP
IN SUPPORT THEREOF**

**TERRY J. CONIGLIO
STEPHEN M. UTHOFF
CONIGLIO & UTHOFF
A Professional Law Corporation
110 West Ocean Boulevard
Suite C
Long Beach, California 90802-4615
Telephone: (562) 491-4644**

**Attorneys for The Rail-Bridge
Terminals (New Jersey) Corporation**

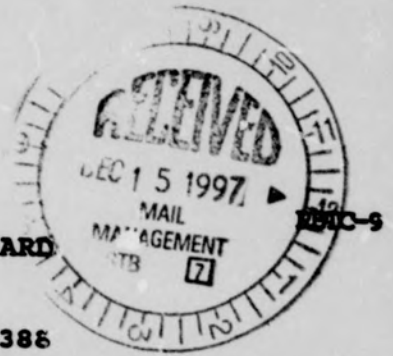


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ADDENDA

Verified Statement of Mark Schepp

Excerpts from the Deposition of James W. McClellan

Comes now, The Rail-Bridge Terminals (New Jersey) Corporation ("RBTC") and submits its comments and request for conditions in the above-captioned proceeding:

I. BACKGROUND

RBTC currently holds a long term lease for 90% of Conrail's E-Rail facility located in Elizabeth, New Jersey. RBTC, through its Lease and related contracts with Conrail is charged with operating all of the E-Rail facility including that portion which is retained by Conrail. (Schepp Statement, attached, para. 4).

The North Jersey Shared Assets Area comprises twenty Conrail rail yards and approximately one hundred and eighty nine miles of track (CSX/NS-18, Vol. 1 pp. 46 - 47; CSX/NS-20, Vol. 3A, p. 217). The New York/New Jersey area which is found in the North Jersey Shared Assets Area is the single largest market in this transaction and was given top priority during the negotiation of this deal. (see McClellan Deposition, p. 297, ll. 15 - p. 298, l. 2). CSX/NS' self proclaimed purpose for the North Jersey Shared Assets Area is to allow direct delivery to customers and to allow equal "physical access" by CSX and NS to those customers (see McClellan Deposition, p. 232, ll. 1 - 3, and p. 233, ll. 10 - 17; see also Mohan Statement CSX/NS-20, Vol. 3A, p. 14).

The North Jersey Shared Assets Area is the largest of the Shared Assets Areas. It was intended to provide to customers and shippers direct competitive service from two Class I railroads, (see Coode Statement CSX/NS-18, Vol. 1, pp. 330 - 331), and is especially important to this transaction considering the tremendous

increase in business that is anticipated in intermodal business and competition that the transaction will bring (see Goode Statement CSX/NS-18, Vol. 1, p. 333; McClellan Deposition p. 249, l. 21 - p. 250, l. 12). RBTC, as the lessor of the E-Rail facility, is in a unique position in the scheme of the intermodal market in the North Jersey Shared Assets Area. E-Rail, as a rail terminal, is one of the "four essential operating elements" of any intermodal system (Finkbinner Statement CSX/NS-19, Vol. 2B, p. 233) and is currently one of the four "current discrete intermodal yards" owned by Conrail in the North Jersey Shared Assets Area (see Finkbinner Statement CSX/NS-19, Vol. 2B, p. 236). Conrail also has direct access to the port of New York/New Jersey.

RBTC is also in a unique position in that, among the intermodal yards found in the North Jersey Shared Assets Area that were not allowed equal access, E-Rail is the only one that is independently leased from Conrail. The intermodal yards which are leased or controlled by third parties, South Kearny (APL Portion), Dockside (Expressrail), and Port Newark, etc., have all been given equal access under the contemplated transaction (see Letter Agreement, CSX/NS-25, Vol. 8A, p. 370; CSX Operating Plan, CSX/NS-20, Vol. 3A, p. 227; NS Operating Plan, CSX/NS-20, Vol. 3E, p. 194). For unknown reasons, only RBTC (E-Rail) has been disallowed this preference. Such haphazard allocation of the assets in the North Jersey Shared Assets Area will cause irreparable harm to RBTC.

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At the inception of the lease with Conrail, RBTC was charged with developing the E-Rail facility (see Schepp Statement, para. 3). After investing millions of dollars, RBTC began actual operations at the E-Rail facility in late 1988. Now, after RBTC has made E-Rail a first-class intermodal facility, this CSX/NS, transaction seeks to destroy what it has built.

II. CONDITIONS REQUESTED

To preserve the competition among the intermodal rail yards located in the North Jersey Shared Assets Area, RBTC requests that in any approval of this transaction, the Board impose conditions which require the following:

1. That RBTC at E-Rail be granted "equal access" to both NS and CSX.

Or, in the alternative,

2. That South Kearny (APL portion), Port Newark and Dockside (Expressrail) not be allowed equal access to both CSX and NS, but rather Kearny be maintained as a sole CSX facility and Dockside and Port Newark to be either given access to CSX or NS.

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III. ARGUMENT

A. The Applicable Board Standards Require the Imposition of the Requested Conditions.

When the Board determines whether or not to approve this Application, the Board must decide whether the proposed split of Conrail is consistent with the public interest, 49 U.S.C. §11344(c) Missouri-Kansas-Texas R. Co. v. United States, 632 F.2d 392, 395 (5th Cir. 1980), cert. denied 451 U.S. 1017 1981, see also, Penn-Central Merger and N & W Inclusions cases, 39 U.S. 486, 498-99 (1968).

To determine the public interest, the Board is charged with balancing the benefits of the proposed transaction against any competitive harm that cannot be mitigated by conditions. See 49 U.S.C. §11344(b)(1).

The effect of a transaction on competition is a critical factor in the Board's consideration in determining the public interest of the transaction. Santa Fe Southern Pacific Corp.-Control-SPT Co., 2 I.C.C. 2d 709, 726 (1986). The Board has unlimited authority to impose conditions on any approval of this Application in order to reduce or ameliorate any competitive harm caused by the proposed transaction and to insure that the public interest is protected. 49 C.F.R. §1180.1(d)(1). See also, Milwaukee Reorganization-Acquisition by GTC, 2 I.C.C. 2d 161, 263-264 (1984).

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If a proposed transaction eliminates competitive alternatives to the public, conditions may be imposed to eliminate such harm provided that the conditions are of greater benefit to the public than detrimental to the transaction. Union Pacific Corp.-Control-Missouri Pacific Corporation, 366 I.C.C. 462, 562, 484 (1982). Imposition of this type of conditions addresses the statutory requirement in rail merger proceedings that the Board consider the "adequacy of transportation to the public." Lamoille Valley R. Co. v. I.C.C., 71 F.2d 295, 309 (D.C. Cir. 1983). See also, 49 U.S.C. 11344(b)(1)(A).

The public will lose E-Rail as an effective competitor if the Board approves this transaction without the requested conditions. Only by imposing the conditions that RBTC seek can the Board insure that competition is maintained to provide the public with the benefits of a competitive marketplace in the North Jersey Shared Assets Area for intermodal cargo. Indeed, the granting of the RBTC conditions will only complete the intent of the Applicants, i.e., to give all customers in the North Jersey Shared Assets Area a direct choice of rail services where none now exists. (See Mohan Statement, CSX/NS-20, Vol. 3B, p. 20).

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B. The Conditions Seek to Preserve Competition
which the Applicants Intended to Create within
the North Jersey Shared Assets Area.

At present, virtually all intermodal terminals located in the North Jersey Shared Assets Area are solely serviced by Conrail. Thus, in competing for intermodal cargo, E-Rail is on equal footing with other intermodal yards such as APL's South Kearny, The Port of New York/New Jersey's Dockside (Expressrail), and to a certain extent Conrail's own Croxton facility. The fact E-Rail is now serviced by a single rail carrier does not alone define the parameters of providing competitive service. Indeed, other factors such as operational ability and efficiencies at the terminal, space availability, and strategic agreements with customers all are factors when considering the relative competition between intermodal yards in the North Jersey Shared Assets Area.

On its face, the creation of the North Jersey Shared Assets Area should have the effect of increasing intermodal competition by giving customers the ability to negotiate for the best rates among two rail carriers instead of one. However, it is acknowledged that Conrail controlled intermodal space is in short supply (see generally Finkbiner Statement, CSX/NS-19, Vol 2B pp. 217 et. seq.; Schepp Statement, para. 4) and, stacktrain operators such as K-Line (an RBTC customer), in particular are the intermodal customers that provide cargo to Conrail in trainload quantities, (Finkbiner Statement, CSX/NS-19, Vol. 2B, p. 232). Admittedly, a stacktrain operator is the "most efficient" shipper of intermodal cargo, and

thus, is in a better market position to negotiate rates than other types of shippers that must move intermodal containers by rail. (Finkbiner Statement, CSX/NS-19, Vol. 2B, p. 232). The choke points, however, are the intermodal yards which must handle this intermodal cargo.

While many shippers will obtain the benefit of the Shared Assets Area in being able to chose between NS and CSX as their rail carrier, E-Rail will not have the ability to equally compete with the intermodal terminals. Instead, E-Rail will be captive to intermodal cargo moving on NS trains and not be able to compete with the other terminals for such business, especially those serviced by CSX.

It is the creation of the North Jersey Shared Assets Area which provides the vehicle for potential increased competition. Indeed, all of the trackage located in the geographic region surrounding and leading up to the intermodal terminals in question, including E-Rail, will be shared between NS and CSX pursuant to the North Jersey Shared Assets Agreement. (See generally, Conrail System map, showing proposed allocation of Conrail Lines and rights, Metro New York and New Jersey blow-up, found in CSX/NS-25, Vol. 8B). However, in their wisdom, NS and CSX decided to exempt certain terminals from the North Jersey Shared Assets Agreement, those being E-Rail and Croxton which will be allocated to NS and North Bergen and portions of Kearny which will be allocated to CSX. However, Kearny which is the home base for one of E-Rail's customer's competitors, APL, has been given equal access to both

CSX and NS. RBTC understands the necessity of having dedicated facilities in the North Jersey Shared Assets Area for both CSX and NS. However, the problem lies in that RBTC has leased the E-Rail terminal for a long term from Conrail and other terminals similarly situated such as those found in the Port of New York/New Jersey, Dockside (Expressrail) and Port Newark as well as the South Kearny portion which has been leased by APL have been given equal access. RBTC only seeks equal treatment for E-Rail when compared to those terminals which are being leased or controlled by third parties.

CSX and NS has not presented to the Board or RBTC any reasonable explanation of this disparity. It is clear that providing APL and other competitors such as Dockside and Port Newark with equal access to both CSX and NS will create a competitive disadvantage to E-Rail now and in the future. RBTC has a vested interest in the E-Rail facility by way of the development costs, equipment purchases and a long term lease but now risks losing the ability to keep the customers which it has, and the ability to solicit new customers because of the haphazard way in which the assets found in the North Jersey Shared Assets Area were given or exempted from equal access.

- C. The shipping public. also loses the ability to have an equal alternative to RBTC's E-Rail.

The North Jersey Shared Assets Area market was determined to one of the most important aspects of this transaction (McClellan Deposition, p. 297, ll. 15 - p. 298, ll. 2).

Furthermore, both CSX and NS felt that their intermodal

prospects in this area were one of the most advantageous aspects of this Application and opportunities for growth (McClellan Deposition, p. 249, ll. 21 - p. 250, l. 12; Goode Statement, CSX/NS-18, Vol. 1, p. 326).

While intermodal business in the North Jersey Shared Assets Area was identified as one of the most important aspects of this transaction, both CSX and NS have apparently chosen certain terminals which will obtain the competitive benefits therefrom.

As stated above, of the intermodal terminals which are controlled or leased by third parties, namely the Ports of New York/New Jersey or APL and RBTC, only RBTC was disallowed equal access. The customers that will suffer prejudice because of this disparaging treatment potentially encompass anyone shipping intermodal cargo. While indeed, RBTC's current primary customer is a "stacktrain operator" it does have the ability to obtain other business which could be virtually any intermodal movement which NS or CSX may handle. For example, RBTC now handles Conrail intermodal cargo at E-Rail. Keeping in mind, that one of the primary problems with the North Jersey Shared Assets Area is that intermodal space is at a premium (see generally, Finkbiner Statement, CSX/NS-19, Vol. 2B, pp. 217, et seq.; Schepp Statement, p. 4), RBTC through E-Rail will be captive to those customers which move their cargo with NS. To the extent CSX has intermodal shipments which RBTC could conceivably handle at E-Rail, RBTC is precluded from doing so because of a lack of equal access.

The conditions which RBTC seeks are minor. Simply, it

requests the ability to have equal access to CSX and NS at the E-Rail facility. A cursory review of the Shared Assets Area maps indicate the trackage leading to the E-Rail facility is slated to have equal access. RBTC simply requests that CSX be allowed to travel those few additional steps and have access to the E-Rail facility.

CSX's use of the E-Rail facility would depend on shippers choosing CSX over NS as their railroad to haul their intermodal cargo and choosing RBTC as the facility to serve their interests. Indeed, CSX and NS individually are also potential RBTC/E-Rail customers as Conrail is now. However, given the limitations of the planned transaction, CSX is no longer in that equation. If the conditions are granted, however, any individual or company which ships goods intermodally will have the opportunity to have meaningful competition in the North Jersey Shared Assets Area.

D. The Conditions Requested Should Not be Disallowed on the Basis that RBTC at E-Rail is a "1 to 1" Terminal.

The current transaction before the Board is unique. The most unique part, is the institution of broad geographic areas which will be known as "Shared Assets Areas" for North Jersey, South Jersey/Philadelphia and Detroit.

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Prior to this transaction, Conrail essentially had a monopoly on shippers in Northern New Jersey. Because, North Jersey, South Jersey and Detroit were determined to be important markets for both CSX and NS, the Shared Assets Area concept was designed and developed to allow both NS and CSX the opportunity to serve all shippers in these areas. (CSX/NS-18, Vol. 1, p. 45; McClellan Deposition, p. 230, ll. 21 - p. 231, ll. 18). Thus, the current situation is not akin to traditional railroad mergers. For example, in a traditional railroad merger where there were two Class I railroads competing for the same business which combined into one railroad, certain shippers would be declared "2 to 1". Ameliorating these "2 to 1" shippers is always an important point of review for the Board, and indeed, CSX and NS have indicated to the Board their plans for curing any potential "2 to 1" harmful effects (Goode Statement, CSX/NS-18, Vol. 1, p. 334).

The Shared Assets Areas are a prime "selling point" for both CSX and NS in this transaction. Both CSX and NS go to great lengths explaining the history of the New York/New Jersey areas being served only by Conrail as a result of the bankruptcies, mergers, etc., of its predecessors and how, after decades of being locked into one Class I railroad, (Conrail), shippers and customers in the Shared Assets Area will now have the benefit of having the ability to chose between NS and CSX. (See generally, Hoppe Statement, CSX/NS-18, Vol. 1, pp. 342 - 361; McClellan Statement, CSX/NS-18, Vol. 1, p. 503 - 553).

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There are certain geographic areas encompassed by this Application where "2 to 1" shippers have been identified and addressed in the traditional sense. (See Goode Statement Id.).

However, the North Jersey Shared Assets Area which admittedly is the most important geographic region to the success of this transaction, (McClellan Deposition, p. 297, ll. 15, pg. 298, l. 2) has created entirely new precedent in railroad transactions.

Where all shippers and rail terminals in the Shared Assets Areas previously had only access to Conrail, now, virtually all will have access to NS and CSX (with the exception of the terminals identified herein). Thus, RBTC will experience the same competitive disadvantages of a "2 to 1" shipper. In effect, by making every other terminal/shipper in its geographic region, i.e., the North Jersey Shared Assets Area, a "1 to 2" entity, RBTC has effectively become a "2 to 1" entity.

IV. CONCLUSION

The Applicants, in order to white wash the problematic details of the Shared Assets Areas, have described them as the great panacea for all of the businesses located in the Shared Assets Areas. However, upon closer review, RBTC for one, is being left out in the cold. The disparity between the treatment RBTC is receiving in this transaction and virtually every other independent intermodal rail yard and shipper located in the North Jersey Shared Assets Area must be remedied. The minor condition which RBTC seeks will preserve competition as it existed before the anticipated divestiture of Conrail with minimal impact to this transaction and

would give the shipping public a great additional benefit of having a choice for handling intermodal cargo in what was touted to be the most important marketplace for this transaction.

DATED: October 17, 1997

Respectfully submitted,

By: 

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CONIGLIO & UTHOFF

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Attorneys for The Rail-Bridge
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Telephone: (562) 491-4644

VERIFIED STATEMENT
OF
MARK SCHEPP

I, MARK SCHEPP declare:

1. That since the inception of The Rail-Bridge Terminals (New Jersey) Corporation ("RBTC"), I have been Terminal Manager of E-Rail and am currently Assistant Director of the E-Rail facility located in Elizabeth, New Jersey. I have personal knowledge as to the matters stated herein, and if called upon as a witness, I could and would competently testify thereto.

2. As an assignee, RBTC became a lessor of the entire E-Rail facility in 1987. As that time, E-Rail was not a viable intermodal facility. Instead, it had been leased out by Conrail to various tenants.

3. At that time, RBTC was charged with the development of E-Rail as an intermodal facility. RBTC invested millions of dollars in terminal improvements, construction and equipment to make E-Rail a viable intermodal facility.

4. At that time, RBTC leased the entire E-Rail facility. However, because of Conrail's lack of intermodal capacity in the North Jersey area, in 1984 an agreement was reached with Conrail whereby the RBTC leased portion of E-Rail was reduced by approximately 10%, and the remaining portion reverted back to Conrail. However, because RBTC had proved its operational ability, the entire E-Rail facility is completely operated by RBTC as its subcontractors.

5. E-Rail's primary competitors are the other intermodal yards located in the North Jersey area. These include Croxton, North Bergen, Kearny, Dockside (Expressrail) and Port Newark. It is my understanding that portions of the South Kearny yard are leased exclusively to APL, and the Dockside (Expressrail) and Port Newark terminals are owned and operated by the Port of New York/New Jersey. At this time, Croxton and North Bergen are dedicated Conrail facilities.

6. One of E-Rail's primary customers at this time is K-Line. K-Line is a stacktrain operator and E-Rail handles its transcontinental double-stack intermodal trains. One of K-Line's chief competitors is APL which operates its own stacktrains through the South Kearny yard.

7. It is our understanding from the Application that CSX and NS intend to give equal access to the South Kearny (APL portion) intermodal yard as well as the intermodal yards controlled by the Port of New York and New Jersey. E-Rail, thus remains the only independently leased intermodal yard in the entire geographic region which will not benefit from equal access under this transaction. Clearly, it places RBTC and E-Rail at a competitive disadvantage since it will not have the ability to compete with those yards with equal access.

8. At present, RBTC/E-Rail is on an equal footing with the remaining intermodal yards in the area in the ability to negotiate for potential customers that can be served at E-Rail. However, if E-Rail is saddled with only one rail line as an option, that being

NS, it will be put in a competitive disadvantage with other independently leased and managed intermodal yards. Furthermore, it will not be able to seek out any business which CSX handles. Instead, RBTC would only be able to service potential customers using NS trains.

9. If E-Rail had access to both CSX/NS, it would be able to compete with the other independently leased intermodal yards as well as the dedicated NS and CSX facilities by maintaining its superior operations abilities and efficiency and flexibility with regards to space among other factors.

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

Date: 10/18/57


MARK SCHEPP

James W. McClellan **HIGHLY CONFIDENTIAL** September 26, 1997

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- (1) Q. Are you aware of whether this
(2) interchange can take place today at Tift Yard?
(3) A. I think we go to CN, they don't come to
(4) us, that's my understanding.
(5) Q. Do you have an understanding as to
(6) whether it could be done the opposite way today,
(7) with CN coming to you at Tift Yard?
(8) A. My understanding of -- my understanding
(9) of what the CN can or cannot do in Buffalo is
(10) derived directly from conversations with senior
(11) CN management.
(12) Q. What is your understanding?
(13) A. That they don't come to Tift Yard
(14) today, but they'd like to.
(15) Q. Do you have an understanding as to
(16) whether CN has the right to come to Tift Yard
(17) today?
(18) A. I don't know.
(19) Q. If they did have that right to
(20) interchange with NS at not only the Black Rock
(21) area but also at Tift Yard, would that strike
(22) you as useful flexibility?
(23) A. I have no opinion on that at this
(24) point. The facts I've gotten on that are from
(25) Canadian National. I don't have any independent

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- (1) assessment from my own people. Norfolk Southern
(2) officials.
(3) Q. Is it correct that, as part of the
(4) proposed transaction, NS will obtain the right to
(5) interchange traffic with the South Buffalo
(6) Railway at Seneca Yard?
(7) A. We interchange with South Buffalo
(8) today. But that's -- I think the arrangement is
(9) not operationally as good as we would like so we
(10) got more direct access to the South Buffalo.
(11) Q. Do you know whether the precise
(12) trackage over which NS would operate in order to
(13) reach Seneca Yard has been determined?
(14) A. Exact trackage I think is specified.
(15) There is a question about designation of yard
(16) tracks within Seneca Yard in terms of where we're
(17) going to pick up and deliver.
(18) Q. What is your understanding of the
(19) trackage over which NS would operate?
(20) A. I would have to look at the map.
(21) That's the key document. We always go back to
(22) the map.
(23) I see a little blip of orange where I
(24) think Seneca Yard -- it says Seneca Yard. Lead.
(25) right here. I believe that is the piece we're

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- (1) talking about right here.
(2) Q. So can you describe for me which track
(3) NS would operate over to reach the yard?
(4) A. We would come down the Buffalo line it
(5) says right here. You see the Buffalo line? And
(6) reach into Seneca Yard that way.
(7) Q. Are you familiar with NS's Bison Yard
(8) at Buffalo?
(9) A. As I testified yesterday, the last time
(10) I was there it was before really the new facility
(11) was built.
(12) Q. What is your understanding of the
(13) future use NS proposes to make of that yard if
(14) this transaction is approved?
(15) A. The use of Bison Yard will continue as
(16) I understand it from the operating plan to be
(17) essentially as it is today.
(18) Q. Will Bison Yard at any point in the
(19) future be used for interchange of traffic with
(20) other carriers?
(21) A. I don't think that's in the operating
(22) plan. And, in fact, Bison Yard has been
(23) essentially, except for the portion that we've
(24) rebuilt, it's gone.
(25) Q. Gone, do you mean in the sense that

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- (1) it's not a functional yard as it originally was?
(2) A. Gone in the sense it doesn't have any
(3) tracks.
(4) Q. Is it possible that at any point in the
(5) future NS would use Bison for interchange with
(6) other carriers?
(7) A. Certainly it's possible. Only I would
(8) add, though, it requires -- we have a yard that
(9) functions there for delivery of autos and
(10) intermodal, it has a specific function. I don't
(11) think there are any plans or I can't conceive of
(12) anything where we would change it, we're not set
(13) up to run interchange, we would have to build
(14) additional tracks there to do a different
(15) function.
(16) Q. Do the principles of balanced
(17) competition, balanced rail competition as
(18) espoused by NS apply to shared asset areas?
(19) A. I don't follow the question. I'm
(20) sorry.
(21) Q. Let me rephrase it. Is it your
(22) understanding that shared asset areas as utilized
(23) under the proposed transaction are intended to
(24) accomplish balanced rail competition?
(25) A. The shared asset area was one of the

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- (1) techniques we used to meet the principles, yes.
(2) Q. Is it the intent of the proposal that
(3) CSX and NS will be balanced competitors within a
(4) shared asset area?
(5) A. No. That will be determined by the
(6) marketplace. What the shared asset area does is
(7) give each carrier an equal shot at the traffic.
(8) But how all that is sorted out, that's going to
(9) be -- the customers are going to decide that.
(10) Q. Well, of course, the customers always
(11) decide. But is it your intent that each of CSX
(12) and NS would have an equal shot at the traffic
(13) moving to and from points within the shared asset
(14) area?
(15) A. The way the shared asset areas are set
(16) up essentially guarantees a neutral service to
(17) the customers inside the asset area for
(18) connectivity to the line haul carriers.
(19) Q. Is it your intent that, within a shared
(20) asset area, neither NS nor CSX would enjoy an
(21) operating advantage over the other with respect
(22) to reaching particular customers within a shared
(23) asset area?
(24) A. No. Under the arrangement it would be
(25) possible for either CSX or NS to gain an

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- (1) operating advantage. For example, we have the
(2) right -- each carrier has the right to make
(3) direct deliveries to customers. That is the
(4) practice today by Conrail crews and it's
(5) something we want to continue in the future.
(6) So, if Norfolk Southern, for example,
(7) won a major contract with company A and that
(8) permitted us to avoid running the cars through
(9) Oak Island but rather delivering direct to the
(10) customer, we could do that. And vice versa
(11) obviously.
(12) Q. So how would that result in an
(13) operating advantage for one over the other?
(14) A. The carrier that was able to make
(15) direct delivery would have a shorter service
(16) schedule than the carrier that had to switch the
(17) cars through Oak Island through the processing --
(18) through the shared asset processing.
(19) Q. But, if I understand your hypothetical,
(20) the direct delivery you posit is based on having
(21) won the traffic. But, from an operating
(22) standpoint, each of CSX and NS would have the
(23) ability to make a direct delivery, the same
(24) direct delivery, would they not?
(25) A. Yes, that would be their choice.

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- (1) Q. And isn't it the intent of the shared
(2) asset area concept that, from an operating
(3) standpoint, CSX and NS would be more or less on
(4) an equal footing within the shared asset area?
(5) A. They're at an equal footing when the
(6) gun goes off. But there will be dynamics after
(7) that. Again, if you win the and deliver 20 cars
(8) and the other guy can direct deliver one car,
(9) that's what competition is about.
(10) Q. I understand. My questions are geared
(11) toward physical access. And I'm just seeking to
(12) determine whether it's your intent that, as to
(13) physical access, CSX and NS would be on an equal
(14) footing in reaching customers located within a
(15) shared asset area; is that your intent?
(16) A. That's I think the intent of the
(17) parties, yes.
(18) Q. Turning your attention to Detroit,
(19) there were some questions yesterday with respect
(20) to how the limits of the shared asset area were
(21) defined. And I believe you made a reference to
(22) access over Conrail's Utica branch I believe you
(23) called it on the north was a driving
(24) consideration; is that correct?
(25) A. That access to - joint access to the

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- (1) Utica line was a part and parcel of the map that
(2) we put out to CSX in the very beginning, yes.
(3) Q. And I believe yesterday you made a
(4) reference to commercial and operating reasons
(5) that led to the definition of the south boundary
(6) of the shared asset area. Could you explain
(7) those commercial and operating reasons?
(8) A. I think they were more commercial than
(9) operating. In the course of the negotiations,
(10) CSX requested access as far south as Trenton;
(11) and, in the course of those negotiations, they
(12) were granted. We extended the parameters of the
(13) shared asset area to include Trenton.
(14) Q. So the intent was that CSX and NS would
(15) be balanced competitors as far south as Trenton;
(16) is that correct?
(17) A. The intent was that both carriers would
(18) have access to the customers along that line,
(19) yes.
(20) Q. Would you agree that the Detroit
(21) terminal area is rather complex in terms of the
(22) existing railroad operations?
(23) A. The railroad network in most urban
(24) areas is complex and Detroit is complex, it's a
(25) large urban area, yes.

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- (1) Q. Are you aware that there are many
(2) crossings and control points in Detroit?
(3) A. Not of my own knowledge. I mean I've
(4) looked and maps and I've been there, but I
(5) haven't spent any time observing operations in
(6) Detroit.
(7) Q. I believe you, in answering a question
(8) yesterday, made a reference to the mechanism by
(9) which one railroad sometimes applies pressure in
(10) one place and the other railroad can apply
(11) pressure in a different place and I believe you
(12) said that's how it works. Do you recall that
(13) response?
(14) A. I don't recall the response yesterday,
(15) but I know that's - that is how it works.
(16) Q. Do you think it's a useful thing for a
(17) railroad operating in a congested terminal area
(18) to have control over at least one line crossing
(19) within the terminal area?
(20) A. I think, as a general rule, that every
(21) railroad operating man would want to control
(22) every crossing for his own account. That's what
(23) makes negotiations.
(24) Q. If you in a terminal area where
(25) other railroads controlled multiple crossings

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- (1) through which your own operations had to pass,
(2) would you want on behalf of your company to have
(3) control of at least one reciprocal crossing
(4) within the same terminal area?
(5) A. I think we face those circumstances
(6) many places. And sure, the operating guys would
(7) love to have them. They rarely get them, but
(8) they would love to have them.
(9) Q. Do you think that's a healthy thing,
(10) when control is dispersed, at least to the extent
(11) that each major railroad operating through a
(12) terminal area has control over at least one
(13) control point?
(14) A. You're asking me to put on my public
(15) policy hat. And I really - as between CSX and
(16) NS, as we went forward, we certainly tried to
(17) develop a pattern where there was some sort of
(18) balance in terms of one guy controls A, one guy
(19) controls B.
(20) I don't know at the end of the day
(21) whether - I suspect CSX still controls a lot
(22) more interlockings than we do at the end of the
(23) day. We did try to fix some things in terms of
(24) the new system. We didn't go back and try to fix
(25) everything in terms of the rest of the system.

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- (1) that wasn't what we were trying to do.
(2) Q. But, if you did put on your public
(3) policy hat, would you feel some dispersion of
(4) control would create balance and would be a
(5) healthy thing for the overall operation of a
(6) congested and complex terminal area?
(7) A. Well, it would partly depend on who the
(8) players were and it would partly depend on how
(9) important the particular junction was to the
(10) individual players. I don't think I would want
(11) to make a categorical statement without knowing
(12) that.
(13) I mean you could give control to a
(14) shortline over a crossing point or a guy that had
(15) one train a day. And, if I had 20 trains a day,
(16) that would not be a good deal from a public
(17) policy standpoint. So you better give me some
(18) specific facts.
(19) Q. Is it your suggestion that the volume
(20) of traffic should be an important consideration
(21) in determining who controls a particular control
(22) point?
(23) A. That would be a factor. I mean now
(24) we're playing public policy, you understand.
(25) we're putting me back at U.S. Railway. But that

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- (1) would be one of the things I would look at.
(2) Q. And, if you were wearing your corporate
(3) hat, on behalf of your own company, you would
(4) argue for the volume of traffic that you were
(5) moving through a particular control point, would
(6) you not?
(7) A. If I was wearing my corporate hat, I
(8) would argue for control. That's what my
(9) operating people like.
(10) Q. Are you familiar with the proposal that
(11) CN has made for the creation of the paired track
(12) arrangement in Detroit?
(13) A. My knowledge of what CN wants in
(14) Detroit very directly has come from senior
(15) Canadian National officials with whom we are
(16) negotiating. They represented their needs. A
(17) month ago I guess I read the CN filing. But
(18) basically the explanation of the issues was made
(19) to me by senior Canadian National people. And
(20) then I went to Europe. So I haven't checked with
(21) my own people.
(22) Q. Is there any view you'd like to express
(23) on that subject and that proposal at this point?
(24) A. I'm very reluctant to express opinions
(25) on something where the information is coming from

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- (1) the Staten Island Railroad, the freight portions
(2) thereof, which extend from Cranford Junction
(3) across a very large bridge into Staten Island.
(4) The bidding had been closed. Its
(5) bidders included Canadian Pacific, Delaware and
(6) Otsego, and New York and Atlantic which has the
(7) freight operations of the Long Island Railroad.
(8) The bidding was closed, but we were
(9) requested orally by members of the Port Authority
(10) staff to consider making a bid of our own, a
(11) joint bid with CSX, the theory being that, with
(12) the creation of a shared asset area in Northern
(13) New Jersey, it might be more efficient just to
(14) extend that operation over to Staten Island as
(15) opposed to having yet another operator in the
(16) food chain.
(17) So that's where it stands. We were
(18) asked to do that. We have submitted a proposal,
(19) it was jointly developed obviously with CSX. I
(20) signed the letter. So the Port Authority has
(21) it. And I don't know who I sent it to, but I
(22) signed the letter.
(23) Q. Could you explain a bit more what you
(24) just said relating to more efficient to do that
(25) than to continue on the food chain?

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- (1) A. That was the Port Authority - the Port
(2) Authority's characterization of their thoughts on
(3) the matter.
(4) Q. Characterization to Norfolk Southern?
(5) A. Norfolk Southern, that, rather than
(6) have operator A at Staten Island handing off
(7) traffic to a shared asset operator, that it might
(8) be more efficient for the shared asset operator
(9) simply go across the bridge to Staten Island.
(10) I obviously we have not seen the other bids and
(11) I have no clue whether our proposal would be -
(12) our proposal would wind up being more efficient
(13) or not.
(14) Q. And is CSX also bidding on this
(15) operation?
(16) A. Because it's in the shared asset area,
(17) it's a joint proposal by CSX and Norfolk
(18) Southern.
(19) Q. It was the Port Authority of New York
(20) and New Jersey that initiated this proposal, this
(21) arrangement?
(22) A. Yes.
(23) Q. Why didn't CSX and Norfolk Southern
(24) initiate this arrangement or try to negotiate
(25) such an arrangement?

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- (1) A. Because, at the time the bidding on
(2) this operation was going on, we were at war with
(3) CSX, we didn't have an agreement. So we
(4) didn't - Norfolk Southern had a lot of other
(5) stuff going on and so did CSX.
(6) Q. As far as the application, though, and
(7) the transaction agreement with CSX, why does that
(8) not address the Howland Hook area?
(9) A. Because it's not Conrail property.
(10) It's Port Authority property. And the bidding
(11) process had been closed. So it was a moot issue
(12) as far as either CSX or NS were concerned.
(13) Q. In arriving at the application in this
(14) transaction, did Norfolk Southern and/or CSX look
(15) at Howland Hook and try to devise a method of
(16) incorporating that into postacquisition
(17) operations?
(18) A. No. Our concern in developing the plan
(19) was the disposition of Conrail properties. We
(20) couldn't obviously legally reach out for
(21) disposition of properties owned by the Port
(22) Authority or the Long Island Railroad or
(23) whoever.
(24) I mean, for example, the New York and
(25) Atlantic has the freight franchise of the Long

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- (1) Island, there's a float operation that connects
(2) them. We assumed, in our planning for the
(3) Conrail properties, that we would both reach the
(4) float operations at Greenville. And somehow we
(5) both reached the junction at Cranford to reach
(6) Staten Island.
(7) But they weren't Conrail properties so
(8) there's nothing we could do. It would be a
(9) little presumptuous of us to take in properties
(10) that weren't Conrail properties.
(11) Q. Was there any discussion or
(12) consideration by Norfolk Southern or CSX in
(13) arriving at the transaction or since then to
(14) acquire or to finance the acquisition of Staten
(15) Island Railway?
(16) A. No.
(17) Q. Why was that never considered?
(18) A. It was not considered - I mean we -
(19) our focus was Conrail.
(20) Q. I understand.
(21) A. Okay. And that's the answer, our focus
(22) was Conrail. You know, there are hundreds and
(23) hundreds of connecting properties to Conrail. We
(24) didn't look at buying any of those.
(25) Q. If the transaction is approved, it is

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- (1) true, is it not, that CSX will operate former
(2) Conrail lines on the east side of the Hudson
(3) River south of Albany into the New York City
(4) Metropolitan Area?
(5) A. Yes, they will.
(6) Q. Does Norfolk Southern plan to compete
(7) for traffic that originates or terminates east of
(8) the Hudson River south of Albany, for example, in
(9) New York City and Long Island?
(10) A. There are - yes, we'll compete and
(11) we'll compete in two ways. As I discussed the
(12) New York and Atlantic serves Long Island freight
(13) carload business. And there's a float operation
(14) from Long Island to Greenville, Greenville, New
(15) Jersey.
(16) And Greenville will be accessed by the
(17) shared asset company. So both NS and CSX will
(18) have a shot at handling carload traffic that's
(19) floated to and from Long Island, point number
(20) one.
(21) Point number two, New York has a huge
(22) intermodal complex. And we will reach - we have
(23) a number of plans for reaching those markets,
(24) both from Northern New Jersey and from other
(25) terminals we may construct in the future.

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- (1) intermodal terminals we may construct in the
(2) future.
(3) Q. If I could just go back to what you
(4) just said, I didn't catch what you said about the
(5) huge intermodal facility?
(6) A. It's a huge intermodal market. And we
(7) will reach that from Croxton, we'll reach -
(8) well, E-Rail, we'll reach it from perhaps other
(9) terminals we may construct years in the future
(10) But we plan to compete vigorously for the
(11) intermodal traffic and for the carload traffic in
(12) conjunction with float operations.
(13) Q. When you talk about Greenville, you're
(14) talking about the Cross Harbor Railroad
(15) operation; is that correct?
(16) A. I believe they are the current
(17) operator, yes.
(18) Q. And is that the method that Norfolk
(19) Southern would use to compete for that traffic on
(20) the east side of the Hudson River?
(21) A. For carload traffic, yes, for railcar
(22) traffic.
(23) Q. Is there another method or another link
(24) that Norfolk Southern plans to use other than the
(25) Cross Harbor to link the east side of the Hudson

- (7) Q. Mr. Finkbinder testified I think that
 (8) there was rather limited physical expansion space
 (9) at Croxton. Is that consistent with your
 (10) understanding?
 (11) A. Sure.
 (12) Q. And he also testified that he believed
 (13) there was room for internal efficiency
 (14) improvements to enhance capacity. Is that also
 (15) your understanding?
 (16) A. I read his statement, his deposition,
 (17) yes.
 (18) Q. And you agree with that?
 (19) A. Yes.
 (20) Q. Is there any money budgeted in the plan
 (21) for expansion at Croxton?
 (22) A. I believe we have \$35 million, 25 or 35
 (23) million in for North Jersey terminals which
 (24) includes Croxton and F-Rail.
 (25) Q. Are you aware of anything in the plan

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- (1) which indicates how much of that 25 million would
 (2) be specifically for Croxton?
 (3) A. No.
 (4) MR. ALLEN: I believe he said 35
 (5) million.
 (6) THE WITNESS: He said specifically for
 (7) Croxton. And the answer is I don't know.
 (8) MR. ALLEN: But I thought you said 35
 (9) and then you said 25.
 (10) MR. LAURENZA: I believe he said 35 and
 (11) then corrected it to 25 which I believe is the
 (12) figure that's referenced at various places in the
 (13) application.
 (14) BY MR. LAURENZA:
 (15) Q. Mr. McClellan, I realize that probably
 (16) all of geographic markets or areas discussed in
 (17) the application are very important. But if you
 (18) had to rank or prioritize geographic markets or
 (19) areas in terms of their importance to this
 (20) transaction, where would you rank the greater New
 (21) York City/North Jersey area?
 (22) A. Probably first.
 (23) Q. And what are your reasons for saying
 (24) that?
 (25) A. It's the largest single market other

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- (1) than perhaps the Monongahela coal fields that
 (2) come as part of this Conrail acquisition.
 (3) Q. You testified at some length yesterday
 (4) regarding the situation with NS and North
 (5) Carolina Railroad. I have no interest in that
 (6) particular issue, but I do want to refer you to
 (7) the discussion in your verified statement in
 (8) which you refer to the possibility of rerouting
 (9) the traffic over the Shenandoah route. And I
 (10) believe that's discussed at pages 536 and 538
 (11) which is 34 and 36 of your statement.
 (12) A. Okay.
 (13) Q. At the top of page 538, you talk about
 (14) the possibility of rerouting trains using the
 (15) Shenandoah route. What would be the volume of
 (16) traffic that would be potentially diverted to the
 (17) Shenandoah route if the North Carolina situation
 (18) isn't resolved?
 (19) A. I suspect it's, you know, no more than
 (20) two trains in each direction a day.
 (21) Q. Would any portion of this rerouted
 (22) traffic be routed over the NS line between the
 (23) Riverton Junction and Alexandria?
 (24) A. No. The traffic flows - the NCRR
 (25) wouldn't influence that particular - well, let

CERTIFICATE OF TRANSMITTAL AND SERVICE

I hereby certify that I have this day served the foregoing document upon:

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

Administrative Law Judge
Jacob Leventhal
Federal Energy Regulatory Commission
888 First St., N.E.
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Washington, D.C. 20426;

Samuel Sipe
David H. Coburn
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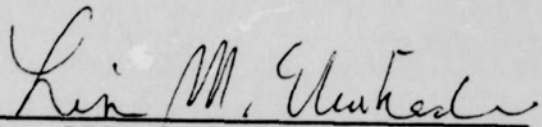
Richard A. Allen
John V. Edwards
Patricia Bruce
Zuckert, Scoutt & Rasenberger
888 17th St., N.W.
Washington, D.C 20006

And all Parties of Record, by mailing, first class, postage prepaid a copy to each such person.

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

Dated at this 20th day of October, 1997 at Long Beach, California.

By: _____



LISA M. ELIAKEDIS

STB

FD

33388

12-15-97

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Vernon A. Williams, Secretary

Surface Transportation Board

1925 K Street, N.W., Room 715

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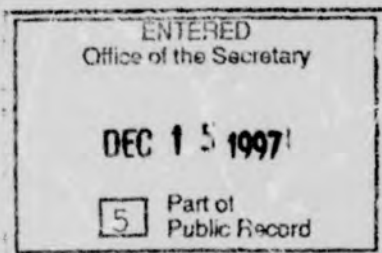
December 11, 1997



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 - STB Finance Docket No. 33388
REPLY COMMENTS OF THE PENNSYLVANIA HOUSE AND SENATE TRANSPORTATION COMMITTEES

Dear Secretary Williams:

On October 21, 1997 the Pennsylvania House and Senate Transportation Committees filed Comments and Request for Conditions in the above captioned proceeding based on testimony presented before the Committees at a series of public hearings conducted throughout the Commonwealth of Pennsylvania. One aspect of this transaction which received strong support, particularly in southwestern Pennsylvania, was the reintroduction of competitive rail service for coal traffic originating on the Monongahela Railway Company. Unfortunately, however, there is an unintended discriminatory affect of this proposal on the Eighty-Four Mining Company in Washington County, Pennsylvania. As more fully set forth in the Comments and Request for Conditions of Eighty-Four Mining Company, Mine 84 on Conrail's Ellsworth Industrial Track (which competes directly with coal originated on the Monongahela Railway Company) will be seriously prejudiced and competitively disadvantaged by the failure of Norfolk Southern and CSX to extend competitive rail service to mines located on the Ellsworth Industrial Track. Accordingly, the Pennsylvania House and Senate Transportation Committees in this Reply Statement support the Comments and Request for Conditions of Eighty-Four Mining Company and request that the Board grant the relief sought by that company in its Comments and Request for Conditions.



Respectfully submitted,

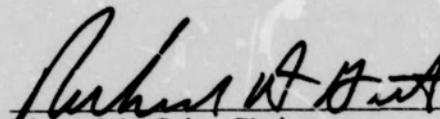
Richard R. Wilson
Special Rail Counsel
Pennsylvania House and Senate
Transportation Committees

xc: Eighty-Four Mining Company
Martin W. Bercovici, Esq.
All Parties of Record

VERIFICATION

I, the undersigned, declare under penalty of perjury, that the foregoing is true and correct. Further, I certify that we are qualified and authorized to file these comments on behalf of the Pennsylvania House Transportation Committee, of which I am Chairman.

Executed on December 11, 1997.

A handwritten signature in dark ink, appearing to read "Richard A. Geist", is written over a horizontal line.

Richard A. Geist, Chairman
House Transportation Committee

STB

FD

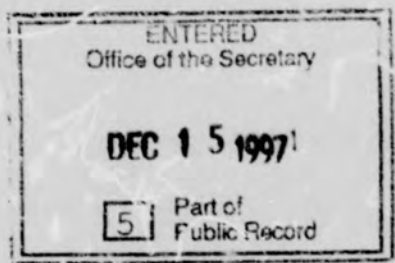
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WILLIAM P. JACKSON JR

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December 12, 1997

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
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 Corp.
STB Finance Docket No. 33388

Dear Mr. Williams:

An order served on December 5, 1997, requires that copies of pleadings previously filed be served on a number of new parties of record within five days of the date of service of that order.

Apparently due to delay or loss in the mail, a copy of the order that should have been mailed to me has not yet been received in this office. I happened to see a copy of the subject order late yesterday, in connection with another matter that I was researching.

Under the circumstances, service is being made today, December 12, 1997, as required by the order of December 5, 1997. A certificate of service is attached hereto. Enclosed is a 3.5 inch computer disk containing the contents of this letter and the certificate of service, in WordPerfect 5.1, convertible to WordPerfect 7 format. If there are any questions regarding this matter, please let me know at once.

Very truly yours,

William P. Jackson, Jr.

WPJ/jmb

cc: James L. Gardner, Esquire
New Parties of Record

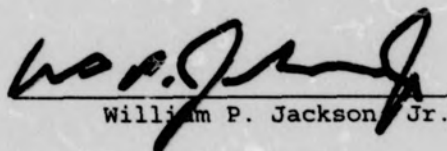
Enclosures

CERTIFICATE OF SERVICE

I, William P. Jackson, Jr., do hereby certify that on this 12th day of December, 1997, a copy of all pleadings heretofore filed on behalf of the following named entities has been served on each new party of record in Finance Docket No. 33388, as listed in Decision No. 57 therein, served December 5, 1997:

Bandytown Coal Company
Central West Virginia Energy
Company
Eagle Energy, Inc.
Elk Run Coal Company, Inc.
Goals Coal Company
Green Valley Coal Company
Hillsboro Coal Company
Independence Coal Company,
Inc.
Knox Creek Coal Corporation
Long Fork Coal Company
Marfork Coal Company, Inc.
Martin County Coal Corporation
A.T. Massey Coal Company, Inc.

Massey Coal Sales Company,
Inc.
New Ridge Mining Company
Omar Mining Company
Peerless Eagle Coal Co.
Performance Coal Company
Rawl Sales & Processing Co.
Sidney Coal Company, Inc.
Stirrat Coal Company
Stone Mining Company
Tennessee Consolidated Coal
Company
United Coal Company
Vantage Mining Company
Vesta Mining Company
Wellmore Coal Corporation


William P. Jackson Jr.

STB

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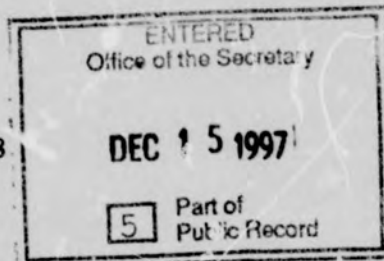
CHICAGO OFFICE THREE FIRST NATIONAL PLAZA 60602-4205

DETROIT OFFICE 2800 LIVERNOIS SUITE 220 TROY, MI 48063-1220

CHARLES A. SPITULNIK
(202) 835-8196

December 15, 1997

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

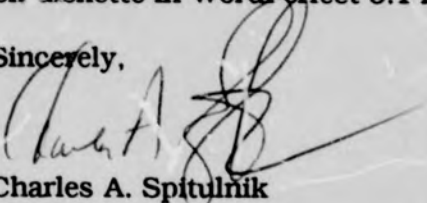


Re: CSX Corporation and CSX Transportation Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company -- Control and Operating Leases/Agreements -- Conrail Inc. and Consolidated Rail Corporation, Finance Docket No. 33388

Dear Sir:

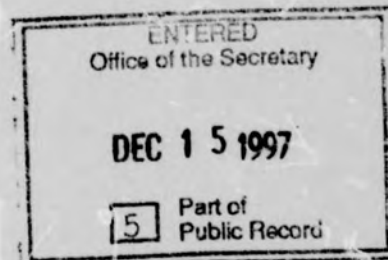
Enclosed are an original and twenty-five (25) copies of the Comments of Philadelphia Belt Line Railroad Company With Respect To Comments And Requests For Conditions (PBL-16) for filing in the above referenced proceeding. An additional copy is enclosed for file stamp and return with our messenger. Please note that a copy of this filing is also enclosed on a 3.5-inch diskette in WordPerfect 5.1 format.

Sincerely,


Charles A. Spitulnik

Enclosure

cc: The Honorable Jacob Leventhal
All Parties of Record



Before the
SURFACE TRANSPORTATION BOARD
Washington, D.C. 20423

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 PHILADELPHIA BELT LINE RAILROAD COMPANY WITH
RESPECT TO COMMENTS AND REQUESTS FOR CONDITIONS**

The Philadelphia Belt Line Railroad Company ("PBL"), pursuant to 49 C.F.R. § 1180.4(d) and Decision No. 12 in this proceeding, hereby responds to: (1) Comments and Requests for Conditions by the Pennsylvania House Transportation Committee (PAHTC-2) with attached Comments and Requests for Conditions of the Transportation Committee of the Pennsylvania Senate; (2) Philadelphia Regional Port Authority, South Jersey Port Corporation, Delaware River Port Authority, and The Port of Philadelphia and Camden, Inc. Comments in Support of Acquisition (PRPA-2, SJPC-2, DRPA-2, PPC-2); (3) Comments of the Commonwealth of Pennsylvania, Governor Thomas J. Ridge and the Pennsylvania Department of Transportation (PA-8); (4) Joint Comments of the City of Philadelphia and the Philadelphia Industrial Development Corporation in Support of Approval of the Proposed Control Application ("Joint Comments")(all collectively, "the Comments"); and (5) Letter dated October 22, 1997 from George Mayo

to the Honorable Vernon Williams advising that the Canadian Pacific Parties¹ reached a settlement with Applicants² ("the CP Settlement").

The Comments and the CP Settlement all indicate that the parties support the proposed merger transaction.³ The parties cite generally as the basis for their support the benefits anticipated for the Commonwealth of Pennsylvania as a whole and/or the City of Philadelphia as a result of the transaction.

However, neither the CP Settlement, nor the Comments address the concerns raised by PBL in its Comments and Requests for Conditions (PBL-10). Specifically, the parties offer nothing to ensure that following the transaction the Applicants will comply with their obligations pursuant to the Belt Line Principle, which is the concept that all carriers are provided equal access to the Belt Line facilities under neutral, non-discriminatory conditions. (PBL-10 at p. 3).⁴

Violations of the Belt Line Principle pose an imminent threat to neutral, non-discriminatory operation of the Belt Line. Indeed, Conrail is presently negotiating a

¹ "The Canadian Pacific Parties" refers collectively to Canadian Pacific Railway Company ("CP"), Delaware and Hudson Railway Company, Inc. ("D&H"), the St. Lawrence & Hudson Railway Company, Ltd. ("S&H") and Soo Line Railroad Company ("SL").

² "Applicants" refers collectively to CSX Corporation and CSX Transportation, Inc. (collectively, "CSX"), Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "NS") and Conrail Inc. and Consolidated Rail Corporation (collectively "Conrail").

³ The House and Senate Transportation Committees request that the Board impose specific conditions if it approves the transaction; the Applicants have already committed to many of these conditions.

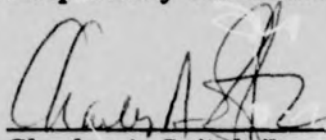
⁴ In its Comments, the City of Philadelphia/PIDC notes that PIDC's subsidiary, the Philadelphia Food Distribution Center is served according to the Belt Line Principle by the three railroads currently having access to South Philadelphia (Conrail, CSX and Canadian Pacific). See Joint Comments at 2.

Sidetrack Agreement ("the Agreement") with the Philadelphia Regional Port Authority ("PRPA") that violates the Belt Line Principle by limiting access to the sidetrack to the parties, Conrail and PRPA, unless they consent otherwise. PBL has requested modifications to the Agreement to bring it into compliance with the Belt Line Principle and is presently negotiating this term with Conrail. Conrail continues to refuse to include language in the Agreement acknowledging that the Belt Line Principle mandates access to facilities within the Belt Line service territory without any requirement of consent by any other carrier.

In light of the foregoing, and in response to both the Comments and the CF Settlement, PBL renews its request for the imposition of the conditions requested in PBL's Comments (PBL-10). Unless approval of the transaction is conditioned upon adherence to the Belt Line Principle, the proposed CSX and NS access to the Belt Line North through the surviving Conrail carrier will result in a discriminatory arrangement contrary to the public interest.

Dated: December 15, 1997

Respectfully submitted,



Charles A. Spitulnik
Rachel Danish Campbell
Jerome P. Rennert
HOPKINS & SUTTER
888 Sixteenth Street, NW
Washington, D.C. 20006
(202) 835-8000

Counsel for Philadelphia Belt Line
Railroad Company

Verification

Commonwealth of Pennsylvania)
)
City of Philadelphia) as.

Charles E. Mather III, being duly sworn, deposes and says that he is qualified and authorized to verify the facts in the foregoing Comments, other than the facts relating to the settlement agreements between Canadian Pacific Railway and CSX Transportation, Inc. and Norfolk Southern Railway Company, respectively, and that he has read the foregoing Comments, knows the contents thereof (except with respect to the aforementioned agreements), and that the same are true as stated to the best of his knowledge, information and belief.

Charles E. Mather III
Charles E. Mather III

Subscribed and sworn to
before me this 15th
day of December, 1997.

Doranne H. Case
Notary Public
My commission expires:

Notarial Seal
Doranne H. Case, Notary Public
Philadelphia, Philadelphia County
My Commission Expires May 16, 2000
Member, Pennsylvania Association of Notaries

CERTIFICATE OF SERVICE

I hereby certify that on December 15, 1997, a copy of the foregoing Comments of Philadelphia Belt Line Railroad Company With Respect To Comments And Requests For Conditions (PBL-16) was served by hand delivery 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

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

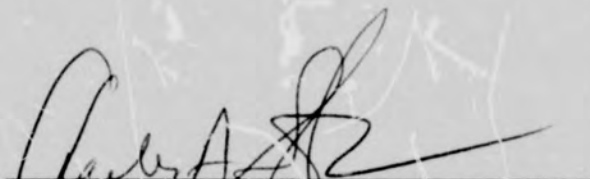
Samuel M. Sipe, Jr.
Steptoe & Johnson L.L.P.
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795

Richard A. Allen
John V. Edwards
Zuckert, Scoutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W.
Suite 600
Washington, D.C. 20006-3939

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

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

and by first class mail, postage pre-paid upon all other Parties of Record in this Proceeding.



Charles A. Spitulnik

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OPPENHEIMER WOLFF & DONNELLY

1020 Nineteenth Street N.W.
Suite 400
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(202) 293-6300
FAX (202) 293-6200

184818
Brussels
Chicago
Detroit
Geneva
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Los Angeles
Minneapolis
New York
Paris
Saint Paul
San Jose
Washington, D.C.



December 15, 1997

BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
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 -- Transfer of Railroad Line by Norfolk Southern Railway
Company to CSX Transportation, Inc.**

Dear Secretary Williams:

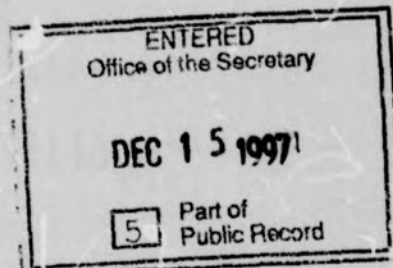
Enclosed you will find the original and 25 copies of the Response of New Jersey
Department of Transportation and New Jersey Transit Corporation in Support of Comments and
Request for Conditions of Metro-North Commuter Railroad Company (NJT - 13), together with a
3.5-inch diskette containing the filing in WordPerfect 5.1.

Please stamp the extra copy of the foregoing and return it to our messenger.

Respectfully submitted,

Kevin M. Sheys

Enclosures



**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**

**RESPONSE OF NEW JERSEY DEPARTMENT OF TRANSPORTATION
AND NEW JERSEY TRANSIT CORPORATION IN SUPPORT OF
COMMENTS AND REQUEST FOR CONDITIONS OF
METRO-NORTH COMMUTER RAILROAD COMPANY**

Robert Shire
Deputy Attorney General
State of New Jersey
Department of Law and Public Safety
Division of Law
One Penn Plaza East
Newark, NJ 07105-2246
(201) 491-7037

Kevin M. Sheys
Paul M. Laurenza
Edward J. Fishman
Oppenheimer Wolff & Donnelly
1020 Nineteenth Street, N.W.
Suite 400
Washington, D.C. 20036
(202) 293-6300

**Counsel for New Jersey Department of Transportation
and New Jersey Transit Corporation**

Dated: December 15, 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

**RESPONSE OF NEW JERSEY DEPARTMENT OF TRANSPORTATION
AND NEW JERSEY TRANSIT CORPORATION IN SUPPORT OF
COMMENTS AND REQUEST FOR CONDITIONS OF
METRO-NORTH COMMUTER RAILROAD COMPANY**

I. INTRODUCTION

Pursuant to Decision Nos. 6 and 12 herein, served on May 30, 1997 and July 23, 1997, respectively, New Jersey Department of Transportation ("NJDOT") and New Jersey Transit Corporation ("NJTC") hereby submit their Response in Support of the Comments and Request for Conditions of Metro-North Commuter Railroad Company (the "MNCR Comments").¹

II. METRO NORTH'S SUBMISSION

On October 21, 1997, Metro-North Commuter Railroad Company ("Metro-North") filed its Comments and Request for Conditions regarding the proposed control of Consolidated Rail Corporation ("Conrail") by CSX Corporation and CSX Transportation, Inc. ("CSXT")

¹ For convenience, NJDOT and NJTC are sometimes collectively referred to herein as NJT. References herein to NJTC also include NJTC's rail operating subsidiary, New Jersey Transit Rail Operations, Inc., which is sometimes separately referred to as "NJTRO."

(collectively "CSX") and Norfolk Southern Corporation and Norfolk Southern Railway Company ("NSR") (collectively "NS"); the division of Conrail's assets between CSX and NS; and the proposed joint operations of CSXT and NSR.²

Metro-North seeks a Board condition requiring Applicants to convey to Metro-North the Conrail-owned rail line between the Division Post at Suffern, NY (M.P. 31.3) and CP Sparrow at Port Jervis (M.P. 89.9)(herein, the "Suffern-Port Jervis Line" and also known as the Southern Tier Line), subject to the reservation of trackage rights for freight operations.³ MNCR Comments at 3. Alternatively, Metro-North seeks a Board-ordered long-term extension of its current trackage rights agreement with Conrail, which is terminable on one year's notice after December 31, 1997. MNCR Comments at 9-10.

Metro-North seeks imposition of the sale condition so that it can justify making the multi-million dollar public investment for capital improvements to the Suffern-Port Jervis Line necessary to sustain and maintain the growth of commuter rail ridership on the Line and the NJTC line between Suffern and Hoboken. Besides the paramount need for capital improvements on the Suffern-Port Jervis Line, funded with public monies, Metro-North is concerned that NS's takeover of the Line could lead to a change in dispatching arrangements on the Line, which are currently handled by NJTC. MNCR Comments at 5-6. Verified Statement of Donald N. Nelson ("Nelson V.S.") at 6.

Metro-North commuter rail service on the Port Jervis Line is operated by NJTC under a recently renewed contract with Metro-North. NJTC owns the line between Suffern and Hoboken.

² Metro-North Commuter Railroad Company's Comments and Request for Conditions (MNCR-2).

³ Metro-North's proposed terms are based on those negotiated with Conrail before the transactions contemplated by the Application were announced. MNCR Comments at 3, 7-8.

NJTC dispatches this segment, as well as the Conrail-owned Suffern-Port Jervis Line. MNCR Comments at 2. NJTC dispatches the Suffern-Port Jervis Line pursuant to NJTC's Trackage Rights Agreement (effective October 1, 1984) with Conrail, rather than any agreement between Metro-North and Conrail. NJTC dispatchers are located in NJTC's dispatching center in Hoboken Terminal, NJ. Conrail employees working east of Port Jervis are required to carry NJTC Timetable, TR-03 (electrical instructions for the Hoboken Terminal catenary), the Employee's Passenger Train Schedule and Bulletin Orders (a publication used to notify employees of changes to rules, procedures or other instructions affecting the movement of trains.) These documents are required to be carried by employees whose duties are affected by the movement of trains, engines or other on-track equipment.

As is explained in the MNCR Comments, NJTC currently provides dispatching on the entire line between Port Jervis and Hoboken, which is a single unit from an operational standpoint, even though ownership is split. NJTC dispatching is proximate to the Line, at NJTC's Hoboken Terminal. MNCR Comments at 5-6; Nelson V.S. at 6. As Metro-North explains, NJTC's transfer station at Secaucus, which will come on line in less than three years, is expected to boost Port Jervis Line ridership because it will offer riders faster and more reliable service to Penn Station in New York City than presently offered by transfer to PATH at Hoboken. MNCR Comments at 4; Verified Statement of Howard Permut ("Permut V.S.") at 2.

In addition to the Metro-North-sponsored commuter service described in the MNCR Comments, NJTC trains also operate to/from Hoboken on the Suffern-Port Jervis Line to/from Suffern, NY and Waldwick, NJ (M.P. 23.4). NJTC commuter rail trains originating and terminating at Spring Valley, NY enter and exit the Suffern-Port Jervis Line at Pascack Junction (M.P. 7.6) "HX" Interlocking, where NSR through and local freight trains will enter and exit the

Port Jervis Line is located just to the east of Pascack Junction, at milepost 5.4. The total number of weekday commuter trains operated over the Suffern-Port Jervis Line is shown in the table below.

Weekday Revenue Trains

<u>M.P. Location</u>	<u>Originate/Terminate</u>	<u>Cumulative⁴</u>
87.5	Port Jervis 17	---
30.4	Suffern 43	60
23.4	Waldwick 31	91
7.6	Spring Valley 16	82 (by Pascack Jct.)
5.4	"HX" Interlocking	82
0.0	Hoboken Terminal	107+ (to & from other lines)

As can be seen from the table, the number of trains increases as the passenger traffic on the Suffern-Port Jervis Line approaches Hoboken Terminal, until 82 weekday trains pass "HX" Interlocking, the point at which NSR trains originating or terminating at Croxton Yard enter or exit the Line.

As stated above, NJ Transit presently dispatches all trains, freight and passenger, which operate between Hoboken, NJ and Port Jervis, NY. As the Suffern-Port Jervis Line approaches Hoboken Terminal, the level of commuter train activity increases as does the potential for train

⁴ Some Suffern and Waldwick trains operate via the Main Line, east between Ridgewood Junction and Hoboken.

conflicts requiring dispatching alternatives; i.e., holding trains, using sidings, changing routes and tracks, etc. By dispatching the entire line between Port Jervis and Hoboken, NJTC dispatchers are afforded the greatest flexibility in controlling the movement of trains and clearing problems. Even after the takeover of Conrail, NJTC will continue to dispatch the movement of all trains over NJTC lines between Suffern and Hoboken, including all freight trains entering and exiting Croxton Yard at "HX" Interlocking.

NS proposes to operate six to ten through-freight trains per day on the Suffern-Port Jervis Line. Railroad Control Application, Vol. 3B at 36, 39 and 136. By retaining dispatching responsibility to Port Jervis, NJT retains the greatest dispatching flexibility and the "hand-off" between dispatchers would be six to ten freight trains per day. If that dispatching responsibility were terminated at Suffern, flexibility would be substantially reduced, total train operation reliability (both freight and passenger) reduced accordingly and the "hand-off" between dispatchers would be twenty-three to twenty-seven (freight plus passenger) trains per day.

Metro-North ridership on the Port Jervis Line has experienced steady growth over the past two decades and particularly robust growth in recent years. MNCR Comments at 3-4; Permut V.S. at 1-2. Continued population growth in Orange County and NJTC's construction of the Secaucus Transfer Station means commuter ridership will continue to grow at a dramatic pace. MNCR Comments at 4-5; Permut V.S. at 2-3; Nelson V.S. at 4.

III. NJT SUPPORTS THE CONDITIONS SOUGHT BY METRO-NORTH

NJT strongly supports Metro-North's requested sale condition. Imposition of the sale condition is the best way for the Board to ensure that the adverse impacts of the Conrail takeover on Metro-North's Suffern-Port Jervis service are ameliorated.

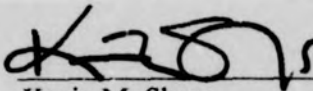
NJT also supports Metro-North's alternative trackage rights extension condition.

However, in the event that the Board does not grant the sale condition, the Board should grant NJTC the right to dispatch the Suffern-Port Jervis Line for a period of at least ten (10) years after consummation of the transactions contemplated by the Application.

Train dispatching services on the Suffern-Port Jervis Line are provided by NJTC pursuant to the NJTC/Conrail Trackage Rights Agreement, rather than the Metro-North/Conrail trackage rights agreement. The NJTC/Conrail Trackage Rights Agreement is subject to renegotiation upon six month's prior notice by either party. Thus, for Metro-North's requested sale condition or its alternative trackage rights extension condition to have the desirable effect of maintaining seamless dispatching service between Port Jervis and Hoboken, it is necessary for the Board to order that NJTC be left in place to dispatch the entire Suffern-Port Jervis Line.

WHEREFORE, NJT respectfully submits its Response in Support of the Comments and Request for Conditions of Metro-North Commuter Railroad Company.

Respectfully submitted,



Robert Shire
Deputy Attorney General
State of New Jersey
Department of Law and Public Safety
Division of Law
One Penn Plaza East
Newark, NJ 07105-2246
(201) 491-7037

Kevin M. Sheys
Paul M. Laurenza
Edward J. Fishman
Oppenheimer Wolff & Donnelly
1020 Nineteenth Street, N.W.
Suite 400
Washington, D.C. 20036
(202) 293-6300

Counsel for New Jersey Department of Transportation
and New Jersey Transit Corporation

Dated: December 15, 1997

. . . .

CERTIFICATE OF SERVICE

I certify that I have served a conformed copy of the foregoing **Response of New Jersey Department of Transportation and New Jersey Transit Corporation in Support of Comments and Request for Conditions of Metro-North Commuter Railroad Company (NJT-13)** in Finance Docket No. 33388, by first class mail properly addressed, with postage prepaid or by more expeditious manner of delivery upon Administrative Law Judge Jacob Leventhal and all Parties of Record on the Service List.

A handwritten signature in black ink, appearing to read 'K. Sheys', is written over a horizontal line.

Kevin M. Sheys

Dated: December 15, 1997

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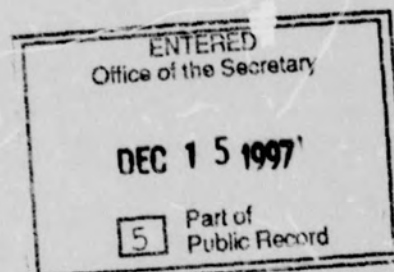
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on December 12, 1997, he caused a copy of the Department of Agriculture's "Notice of Intent to Participate" (dated August 5, 1997) and a copy of "Comments of the Department of Agriculture (dated October 21, 1997) in STB Finance Docket No. 33388 upon each new Party of Record added to the service list as instructed by the Surface Transportation Board's Decision No. 57, served December 5, 1997.

Keith A. Klindworth
Program Manager
Marketing and Transportation Analysis
Agricultural Marketing Service



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BALL JANIK LLP
ATTORNEYS

1455 F STREET, NW, SUITE 225
WASHINGTON, D.C. 20005

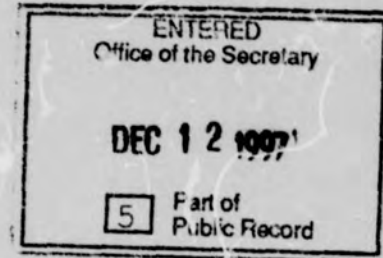
TELEPHONE 202-638-3307
FACSIMILE 202-783-6947

KARL MORELL



kmorrell@bjllp.com

December 9, 1997



The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Suite 600
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 Secretary Williams:

Pursuant to Decision No. 57 in the above-referenced proceeding, enclosed please find an original and 10 copies of the Certificate of Service of Pittsburgh Industrial Railroad, Inc., New England Central Railroad, Inc., Indiana and Ohio Railroad, Inc., Indiana Southern Railroad, Inc., Indiana & Ohio Railway Company, Connecticut Southern Railroad, Inc., Northern Ohio & Western Railway, L.L.C., Newburgh & South Shore Railroad, Ltd., Manufacturers' Junction Railway, L.L.C., Georgia Woodlands Railroad, L.L.C., Chicago Rail Link, L.L.C., and Ann Arbor Railroad.

Please contact the undersigned if you have any questions regarding this matter.

Sincerely,

Karl Morell

Enclosures

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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB FINANCE DOCKET NO. 33388

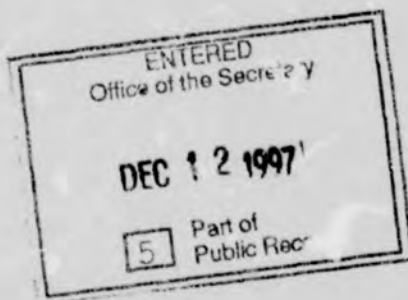


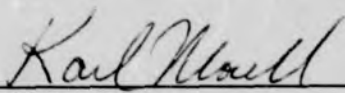
CSX CORPORATION AND CSX TRANSPORTATION INC.,
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY
--CONTROL AND OPERATING LEASES/AGREEMENTS--
CONRAIL INC. AND CONSOLIDATED RAIL CORPORATION

NORTHERN OHIO & WESTERN RAILWAY, L.L.C. NEWBURGH & SOUTH SHORE
RAILROAD, LTD., MANUFACTURERS' JUNCTION RAILWAY, L.L.C., GEORGIA
WOODLANDS RAILROAD, L.L.C., CHICAGO RAIL LINK, L.L.C., PITTSBURGH
INDUSTRIAL RAILROAD, INC., NEW ENGLAND CENTRAL RAILROAD, INC.,
INDIANA AND OHIO RAILROAD, INC., INDIANA SOUTHERN RAILROAD, INC.,
INDIANA & OHIO RAILWAY COMPANY ANN ARBOR RAILROAD,
AND CONNECTICUT SOUTHERN RAILROAD, INC.'S
CERTIFICATE OF SERVICE

In accordance with Decision No. 57, served December 5, 1997, in the above-captioned matter, Pittsburgh Industrial Railroad, Inc., New England Central Railroad, Inc., Indiana and Ohio Railroad, Inc., Indiana Southern Railroad, Inc., Indiana & Ohio Railway Company, Connecticut Southern Railroad, Inc., Northern Ohio & Western Railway, L.L.C., Newburgh & South Shore Railroad, Ltd., Manufacturers' Junction Railway, L.L.C., Georgia Woodlands Railroad, L.L.C., Chicago Rail Link, L.L.C., and Ann Arbor Railroad hereby certify that on December 9, 1997, they served on all Parties of Record added to the service list copies of all filings they have submitted so far in this proceeding by first-class mail, postage prepaid.

Respectfully submitted,




Karl Morell
BALL JANIK LLP
1455 F Street, N.W., Suite 225
Washington, D.C. 20005
202-638-3307

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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB 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

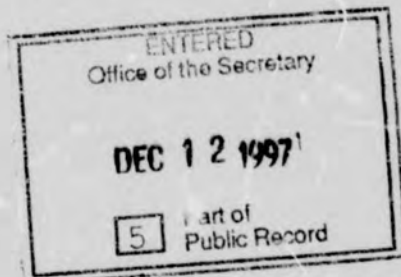
DELAWARE VALLEY RAILWAY COMPANY, INC.
HURON AND EASTERN RAILWAY COMPANY, INC.
SAGINAW VALLEY RAILWAY COMPANY, INC.
RAILAMERICA, INC.
CERTIFICATE OF SERVICE



In accordance with the Decision No. 57, served December 5, 1997, in the above-captioned matter, Delaware Valley Railway Company, Inc., Huron and Eastern Railway Company, Inc., Saginaw Valley Railway Company, and RailAmerica, Inc. hereby certify that on December 9, 1997, they have served on John M. Cutler, Jr., Clark Evans Downs, Richard F. Friedman, John F. McLaugh, The Honorable Jerrold Nadler, and Kevin M. Sheys copies of all filings they have submitted so far in this proceeding by first-class mail, postage prepaid.

Respectfully submitted,

Louis E. Gitomer
BALL JANIK LLP
1455 F Street, N.W., Suite 225
Washington, D.C. 20005
202-638-3307



Attorney for Delaware Valley Railway Company, Inc., Huron and Eastern Railway Company, Inc., Saginaw Valley Railway Company, Inc., and RailAmerica, Inc.

December 9, 1997

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12-11-97

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BEFORE THE
SURFACE TRANSPORTATION BOARD

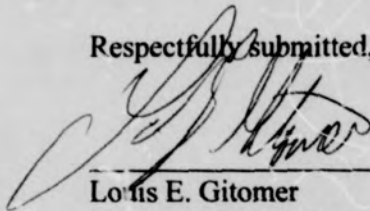
STB Docket No. 33388

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

APL LIMITED'S CERTIFICATE OF SERVICE

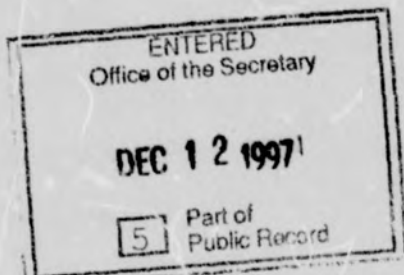
In accordance with the Decision No. 57, served December 5, 1997, in the above-captioned matter, APL Limited hereby certifies that on December 9, 1997, it has served on John M. Cutler, Jr., Clark Evans Downs, Richard F. Friedman, John F. McHugh, The Honorable Jerrold Nadler, and Kevin M. Sheys copies of all filings it has submitted so far in this proceeding by first-class mail, postage prepaid.

Respectfully submitted,



Louis E. Gitomer
BALL JANIK LLP
1455 F Street, N.W., Suite 205
Washington, D.C. 20005
202-638-3307

Attorney for APL Limited



December 9, 1997

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AMTRAK • LONG ISLAND R.R. • METRO NORTH R.R. • CONRAIL • DELAWARE & HUDSON CANADIAN PACIFIC • B & M R.R. • NORFOLK SOUTHERN • SOUTH BUFFALO R.R. • R & S R.R. • NATIONAL SCHOOL BUS • TRAILWAYS • CSX R.R.
AIRPORT GROUP INTERNATIONAL • BUFFALO • PITTSBURGH • STATEN ISLAND RAPID TRANSIT OPERATING AUTHORITY • SPRINGFIELD TERMINAL R.R.
AIRPORT GROUP INTERNATIONAL

united transportation union



NEW YORK STATE LEGISLATIVE BOARD

Vice Chairpersons

Samuel J. Nasca
State Legislative Director/
Chairperson
35 Fuller Road, Suite 205
Albany, New York 12205
Telephone (518) 438-8403
Fax (518) 438-8404



AFL-CIO



J.T. Cannon (Commuter) 95
R.J. Vincent (Bus) 1908
A. Pascarella (Yard) 292
D.M. Murphy (C&T) 1968
W.E. Boardman (C&T) 256
J.M. Mercurio (Bus Ops) 1978

Vaughn Becker
Secretary-Treasurer

December 8, 1997



Hon. Vernon A. Williams, Secretary
Surface Transportation Board
Suite 700
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 In Finance Docket No. 33388 before the STB

Dear Secretary Williams:

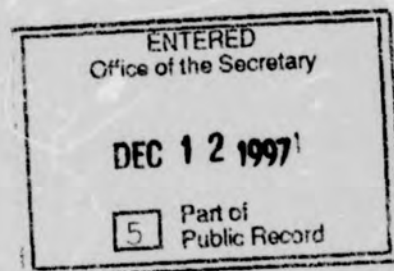
Enclosed are an original and ten (10) copies of a Certificate of Service, indicating that we have served all previous filings to the Surface Transportation Board, on all new Parties of Record, identified in Decision No. 57, decided December 3, 1997.

Very truly yours,

Samuel J. Nasca

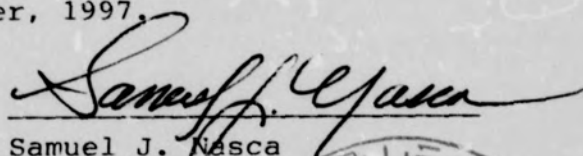
Samuel J. Nasca
Director/Chairperson

Enclosures



CERTIFICATE OF SERVICE

I hereby certify that pursuant to Decision No. 57, decided December 3, 1997, in STB Finance Docket No. 33388, CSX Corporation and CSX Transportation Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company-Control and Operating Leases/Agreements-Corral Inc., and Consolidated Rail Corporation, all additional Parties of Record, added to the list, have been served with a copy of all previous filings, submitted by the New York State Legislative Board of the United Transportation Union, by first class U.S. mail, postage pre-paid, this 8th day of December, 1997.


Samuel J. Nasca
Director



STB

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12-11-97

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ORIGINAL

LAW OFFICES
GORDON P. MACDONALD
1005 CONNECTICUT AVE., N.W.
WASHINGTON, D.C. 20005

184-778

TELEPHONE
AREA CODE 202
223-9784

December 10, 1997

Vernon A. Williams
Secretary
Surface Transp. Board
Washington DC 20423



Re: F.D. No. 33388
CSX Corp. & Norfolk Southern Corp.-Control
& Operating Leases/Agreements-Conrail, Inc.

Dear Mr. Williams:

This is to certify, in accordance with Decision No. 57, that I have served copies of all pleadings by the following upon all the additional designated parties of record named in said decision served December 5, 1997. by first class mail postage prepaid, as follows:

Joseph C. Szabo, United Transportation
Union-Illinois Legislative Board; and
John H. Burner

Village of Riverdale

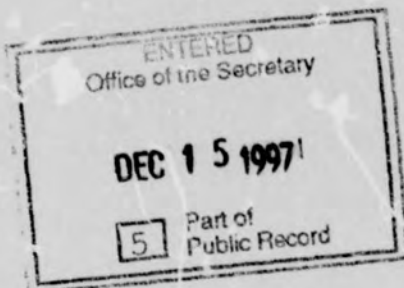
Charles D. Bolam, United Transportation
Union-General Committee of Adjustment (ALS)

John D. Fitzgerald, United Transportation
Union-General Committee of Adjustment (GO 386)

Frank R. Pickell, United Transportation Union-
General Committee of Adjustment-Conrail West
& South/Norfolk Southern Railway Co. (GO 777).

Very truly yours,

Gordon P. Macdonald



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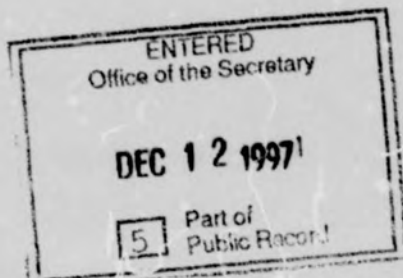
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**VaniNess
Feldman**
ATTORNEYS AT LAW

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Washington, D.C. 20007-3377
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Seattle, Washington
(206) 623-9372

December 11, 1997



Robert G. Szabo
(202) 298-1920



VIA HAND DELIVERY

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
1025 K Street, NW Seventh Floor
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; Finance Docket No. 33388

Dear Secretary Williams:

Pursuant to Decision 57 in the above referenced proceeding, Consumers United for Rail Equity (C.U.R.E.) has hereby served a copy of all filings submitted so far in this proceeding on each Party of Record added to the service list.

Please date stamp and return the enclosed five additional copies via our messenger.
Please contact me if you have any questions regarding this matter.

Respectfully submitted,

Robert G. Szabo

Executive Director and Counsel
Consumers United for Rail Equity

Enclosure



CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of all filings submitted so far in this proceeding by the Consumers United for Rail Equity upon each person added to the official service list compiled by the Secretary in this proceeding by first-class mail, postage pre-paid.

Dated at Washington, D.C. this 11th day of December, 1997.

A handwritten signature in black ink, appearing to read "Robert G. Szabo", written over a horizontal line.

Robert G. Szabo
Van Ness Feldman
A Professional Corporation
1050 Thomas Jefferson Street, N.W.
Washington, D.C. 20007
(202) 298-1800

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182837

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WILLIAM P. JACKSON, JR.

October 21, 1997

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20420-0001



Dear Mr. Williams:

Enclosed for filing are the original and ten copies of ATMC-2, Argument of A. T. Massey Coal Company, Inc., in Support of Request for Imposition of Conditions, and the original and ten copies of ATMC-3, Verified Statement of A. T. Massey Coal Company, Inc., in Support of Request for Imposition of Conditions. Also enclosed is a computer disk in WordPerfect 5.1, which can be converted to WordPerfect 7, containing both documents.

You will note from the certificate of service appended to each document that a copy of each of the foregoing documents has been served upon all parties of record in the referenced proceeding. Also, a copy of each document has been served upon Judge Jacob Leventhal.

Please acknowledge receipt and filing of the above by file-stamping a copy of this letter and the documents and returning them to the person hand-delivering the documents and disk.

Very truly yours,

William P. Jackson, Jr.

WPJ/jmb

Enclosures

cc: James L. Gardner, Esquire
Mr. Jerry M. Eyster



GERALD E. JESSUP
(1911-1994)

5/1/97 04161/1/97
182837
ATMC-3

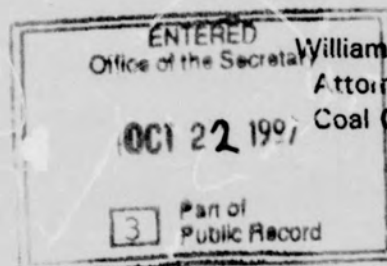
BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

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

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STB Finance Docket No. 33388

VERIFIED STATEMENT OF
A. T. MASSEY COAL COMPANY, INC.,
IN SUPPORT OF REQUEST FOR
IMPOSITION OF CONDITIONS



William P. Jackson, Jr.
Attorney for A. T. Massey
Coal Company, Inc., et al.

OF COUNSEL:

JACKSON & JESSUP, P.C.
Post Office Box 1240
Arlington, VA 22210
(703) 525-4050

Due and Dated: October 21, 1997

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

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)

STB Finance Docket No. 33388

**VERIFIED STATEMENT OF
A. T. MASSEY COAL COMPANY, INC.,
IN SUPPORT OF REQUEST FOR
IMPOSITION OF CONDITIONS**

My name is Jerry M. Eyster, and I am Vice President - Corporate Development of A. T. Massey Coal Company, Inc. ("Massey"). I am a graduate of Yale University, where I received a B.A. in Political Science and Economics, and of Stanford Graduate School of Business, where I received an M.B.A.

From 1978 until 1982, I was with the United States Department of Energy, in its Energy Information Administration. In 1982, I went to work for Scallop Coal Company, a subsidiary of Royal Dutch Shell (Shell), working for a year in New York, NY, and for two years in London, England. During this time I had oversight responsibility for Massey, in which Shell had a partnership interest. In 1985, I started working at Massey as Director of Business Development, although I continued on the payroll of Shell until 1987, when I became an employee of Massey as a result of Shell disposing of its interest in Massey. Since 1987, Massey has been a wholly-owned subsidiary of the Fluor Corporation. In 1989, I became Massey's Vice President - Business Development. I have been in my current position as Vice President - Corporate Development since 1990.

As Massey's Vice President - Corporate Development, I am authorized to give this verified statement. This statement supports Massey's request for the imposition of conditions in STB Finance Docket No. 33388, in which approval is sought for dividing the

assets of Conrail, Inc., and its subsidiaries, including Consolidated Rail Corporation. I will refer to this group of companies collectively as "Conrail." It is proposed in the application that the Conrail assets be divided between Norfolk Southern Corporation and its subsidiaries including Norfolk Southern Railway Company, which will be collectively referred to as "NS," and CSX Corporation and its subsidiaries including CSX Transportation, Inc., which will be collectively referred to as "CSX."

This statement is being given on behalf of Massey and its subsidiaries, which are currently the following:

Bandytown Coal Company
Central West Virginia Energy Company
Eagle Energy, Inc.
Elk Run Coal Company, Inc.
Goals Coal Company
Green Valley Coal Company
Hillsboro Coal Company
Independence Coal Company, Inc.
Knox Creek Coal Corporation
Long Fork Coal Company
Marfork Coal Company, Inc.
Martin County Coal Corporation
A.T. Massey Coal Company, Inc.
Massey Coal Sales Company, Inc.
New Ridge Mining Company
Omar Mining Company
Peerless Eagle Coal Co.
Performance Coal Company
Power Mountain Coal Company
Rawl Sales & Processing Co.
Sidney Coal Company, Inc.
Stirrat Coal Company
Spartan Mining Company
Stone Mining Company
Tennessee Consolidated Coal Company
United Coal Company
Vantage Mining Company
Vesta Mining Company
Wellmore Coal Corporation

All of the foregoing companies were listed in Massey's Notice of Intent to Participate, with the exception of Power Mountain Coal Company and Spartan Mining Company, which are related to properties acquired earlier this month. When in this statement I refer to Massey, that reference also includes all of the subsidiaries of Massey unless otherwise indicated.

In my capacity as Vice President - Corporate Development, I have, in the ordinary and normal course of business, learned about the matters contained in this verified statement. My duties require that I be familiar with the transportation services needed by and provided for Massey. The cost of getting Massey's coal to its customers is a major determining factor in whether we can sell it or not. If transportation costs get to be too high, it becomes necessary to stop using a particular coal source, even though the cost of production at such a source is comparable with that of other sources in the same geographical area which have better transportation rates.

From the outset, let me make it clear that Massey is pretty much in favor of the proposed division of Conrail assets between NS and CSX. We think this will generally promote rail competition, and will lead to certain benefits which the Applicants have tried to set forth in detail in their joint application. But as the old saying goes, "The Devil is in the details." Massey is greatly concerned that, because of specific factors applicable to its operations, the competitive position of Massey may be adversely affected by the proposed division.

Massey is one of the five largest marketers of coal in the United States. The coal market is a mature market with many strong competitors. Competition is primarily dependent upon coal price, transportation cost, producer reliability and characteristics of coal available for sale. The management of Massey considers Massey at present to be generally well-positioned with respect to these factors in comparison to its principal competitors. However, there are concerns about the impact on Massey of the division of Conrail assets between NS and CSX.

Massey is headquartered in Richmond, VA. Massey produces, processes and sells bituminous, low sulfur coal of steam and metallurgical grades from 19 mining complexes (17 of which include preparation plants) located in West Virginia, Tennessee, Kentucky and Virginia. A map showing the Massey coal facilities is attached as Appendix A to my statement. Additional properties were recently acquired in West Virginia.

Operations at certain of the facilities are conducted in part through the use of independent contract miners. Massey also purchases and resells coal produced by unrelated companies. Steam coal is used primarily by utilities as fuel for power plants. Metallurgical coal is used primarily to make coke for use in the manufacture of steel.

Massey's fiscal year ends on October 31. To confirm that Massey is a major producer and shipper of coal, following is a table listing Massey's coal production for the last three fiscal years. Data provided are in thousands of short tons, with the last three zeros omitted. Figures are given for steam coal, metallurgical coal, and total for each year.

<u>Year</u>	<u>Steam Coal</u>	<u>Metallurgical Coal</u>	<u>Total</u>
1994	17,120	7,333	24,453
1995	15,790	11,634	27,424
1996	17,578	13,616	31,194

Massey expects its production and sales to continue to rise in the future, provided we are able to get the transportation service we need from NS and CSX at a price that will move our product.

A large portion of the steam coal produced by Massey is sold to domestic utilities under long-term contracts. Metallurgical coal is sold to both foreign and domestic steel producers. Approximately 64 percent of Massey's fiscal 1996 coal production was sold under long-term contracts. 60 percent of coal contracted to be sold under these long-term contracts is steam coal and 40 percent is metallurgical coal. Approximately 12 percent of the coal tonnage sold by Massey in fiscal 1996 was sold outside of North America. Because of our long-term contracts, the full impact of changes following the dismemberment of Conrail will not become apparent for quite some time.

Acid rain legislation enacted in 1990 is generally anticipated to benefit prices for low sulfur coal. Massey intends to continue to evaluate and pursue, in appropriate circumstances, the acquisition of additional low sulfur coal reserves. However, such acquisitions will be impacted by how competitively NS and CSX price their services in the future.

Massey is currently served by NS, Conrail and CSX. Until merger of two Massey competitors earlier this year, Massey shipped more coal tonnage on NS and on CSX than any other shipper. Massey has very limited operations that are served by Conrail. The attached map (Appendix A) shows which carrier serves each Massey facility. Major competitors of Massey are located on the Conrail lines in Pennsylvania that will be open to both NS and CSX. Currently those competitors only have rail service from one carrier - Conrail.

The NS and CSX division of Conrail will produce railroad competition for many coal producers where little or no such competition has existed for years. Especially fortunate are those producers located on the old Monongahela Railroad ("MGA"), now a part of Conrail. Under the proposed plan for the division of assets, both NS and CSX will be able

to serve all producers on the MGA. Many of Massey's direct competitors are on the MGA. But despite originating more coal on NS as well as on CSX than any other shipper save one, Massey has no facilities that are served by the Conrail MGA lines, and so will not directly enjoy the benefits of lower rates that Massey expects its MGA competitors will be accorded.

Market based solutions to coal freight rate issues in the railroad industry are great, if there is rail-rail or rail-barge competition for the involved traffic. If there is not, then differential pricing becomes a favored solution by railroads for maximizing revenue, and inevitably rates for shippers whose traffic is differentially priced are higher than those whose rates are driven by competition. In considering coal transportation problems, Massey is concerned that a basic economic fact of life for a coal producer not be overlooked: It doesn't make any difference how good our product is if we cannot get it to our customers at a delivered price that will sell. That is, without the instrumentality of transportation, talk about the marketplace becomes meaningless. You just can't get there from here.

If the price of transportation is too high, Massey cannot compete regardless of what we charge for our coal F.O.B. our production facilities. While there are many coal producers, there are very few railroads. If there is no rail competition from a given production point, rates almost invariably are higher than if two rail carriers serve that point, absent a realistic threat of regulatory intervention to redress an unfair situation.

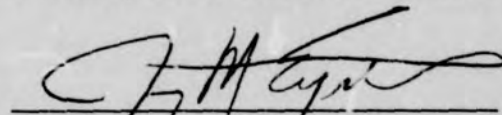
Because of the many origin points for Massey's coal traffic, it is quite difficult to presently determine with any degree of specificity how the proposed division of Conrail assets will affect Massey's ability to compete with other producers, particularly those located on the MGA. Once the division of assets takes place and many of our competitors start receiving service from both NS and CSX, then it will become apparent how much of a bind Massey may be in. How that situation plays out is dependent upon the pricing policies of the respective railroads, and how they are implemented following the division of Conrail assets. But if competition drives down the net freight costs of Massey's competitors on the MGA, Massey's relative position could be harmed, and that harm could be substantial. Since the application predicts competitive freight rates for shippers on the old MGA, Massey's concern is not misplaced.

Although Massey is in favor of the application being granted, it should be granted with safeguards attached in the form of certain conditions. The conditions should embody the following principles:

1. In view of the massive problems that could develop following the division of Conrail assets, oversight proceedings should be conducted following consummation.
2. Oversight proceedings should be conducted over a ten year period, no less often than annually for the first several years and then at such intervals as experience warrants.
3. Because of the long tail of events that will occur following consummation, the Board should reserve continuing jurisdiction to impose such conditions as future facts and circumstances may warrant. Quite frankly, the realignment in the rail industry proposed in this proceeding will not be undone once it takes place, but there may be need for fine tuning at the margins.
4. Should it become apparent post-consummation that Massey's competitive position has suffered vis-a-vis its competitors who will have competitive rail service following consummation, then Massey requests leave to seek the imposition of competitive access or other conditions in the oversight proceedings to remedy the harm to Massey's relative competitive position. Imposition of a condition based on this principle will encourage fair treatment of Massey. The mere existence of such a condition would militate against its ever being used. But without such a condition, railroad pricing practices may adversely affect Massey's competitive position in the future.

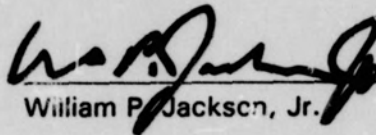
Massey has discussed its concerns with the railroads that presently serve our facilities, but nothing has been offered that would allay our concerns. If those railroads would agree to actions that would lay Massey's concerns to rest, then Massey's further participation in this proceeding would not be needed. That would please Massey greatly, since we are in the coal business, not the litigation industry.

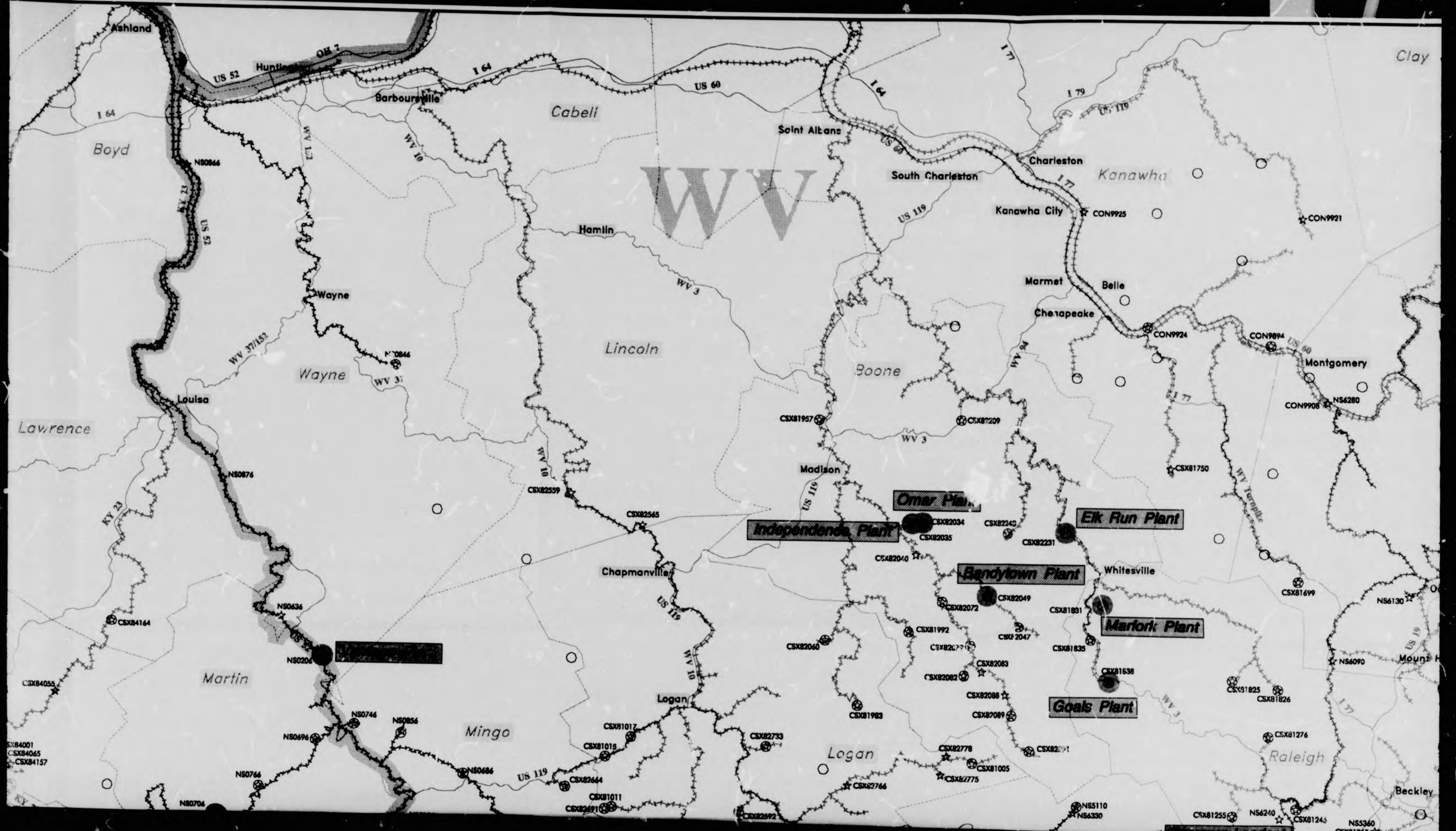
I certify under penalties of perjury on this 16th day of October, 1997, that the foregoing is true and correct to the best of my knowledge, information and belief, and that I am authorized to give this statement on behalf of Massey and its named subsidiaries.

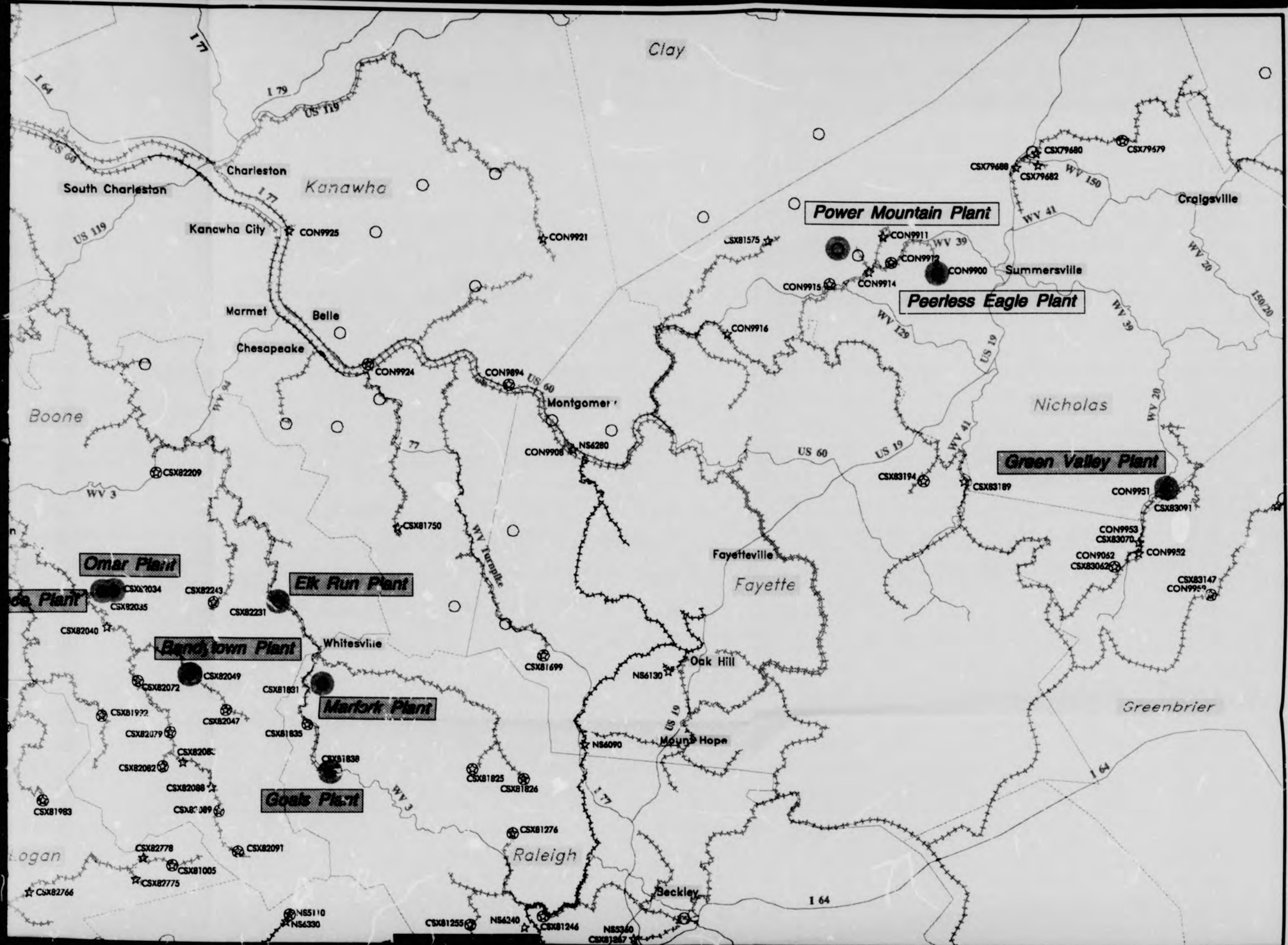

Jerry M. Eyster

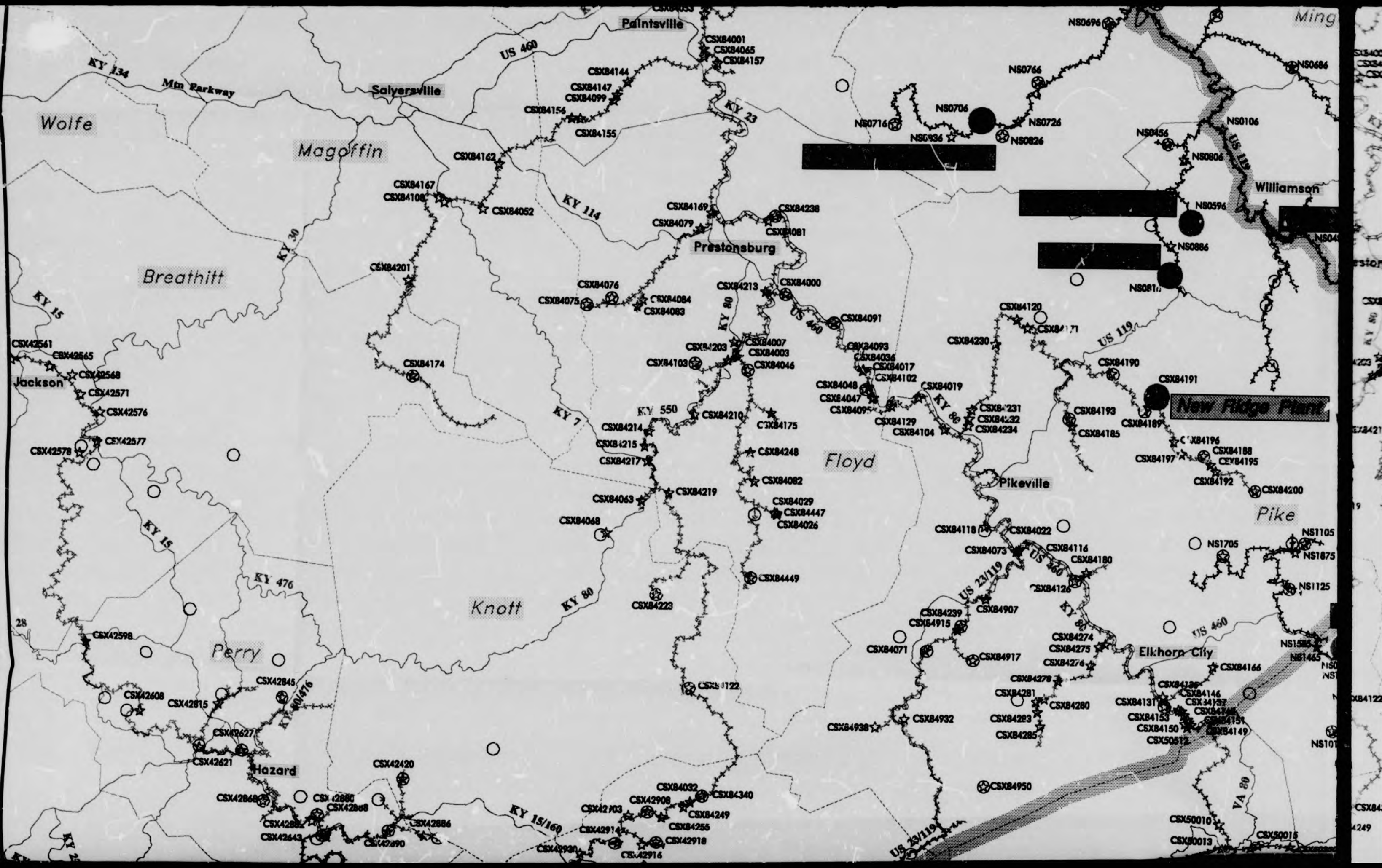
CERTIFICATE OF SERVICE

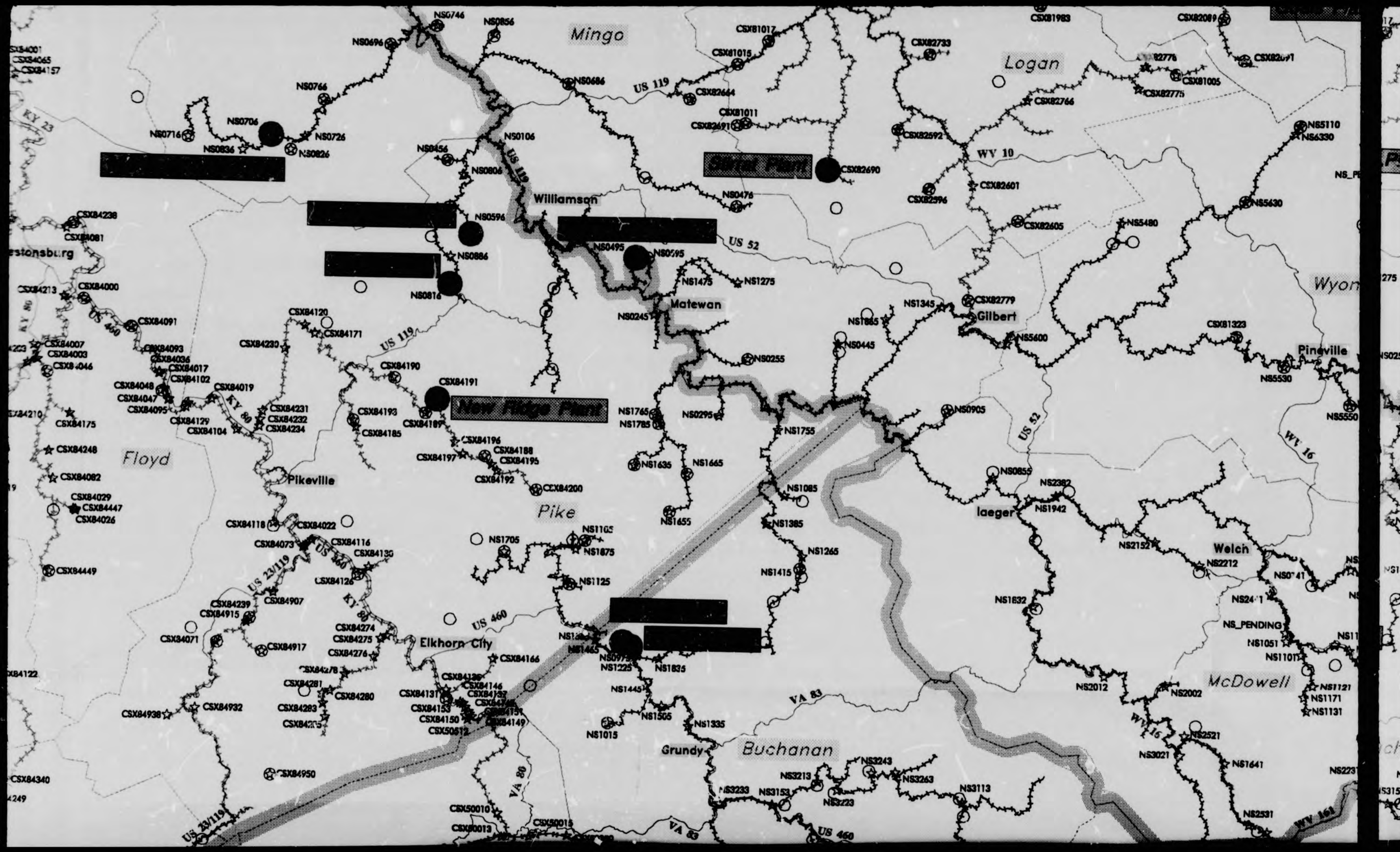
I, William P. Jackson, Jr., hereby certify that on this 21st day of October, 1997, I have served a copy of the foregoing Verified Statement of A. T. Massey, Inc., in Support of Request for Imposition of Conditions upon all parties of record in this proceeding, by first class mail, postage prepaid.

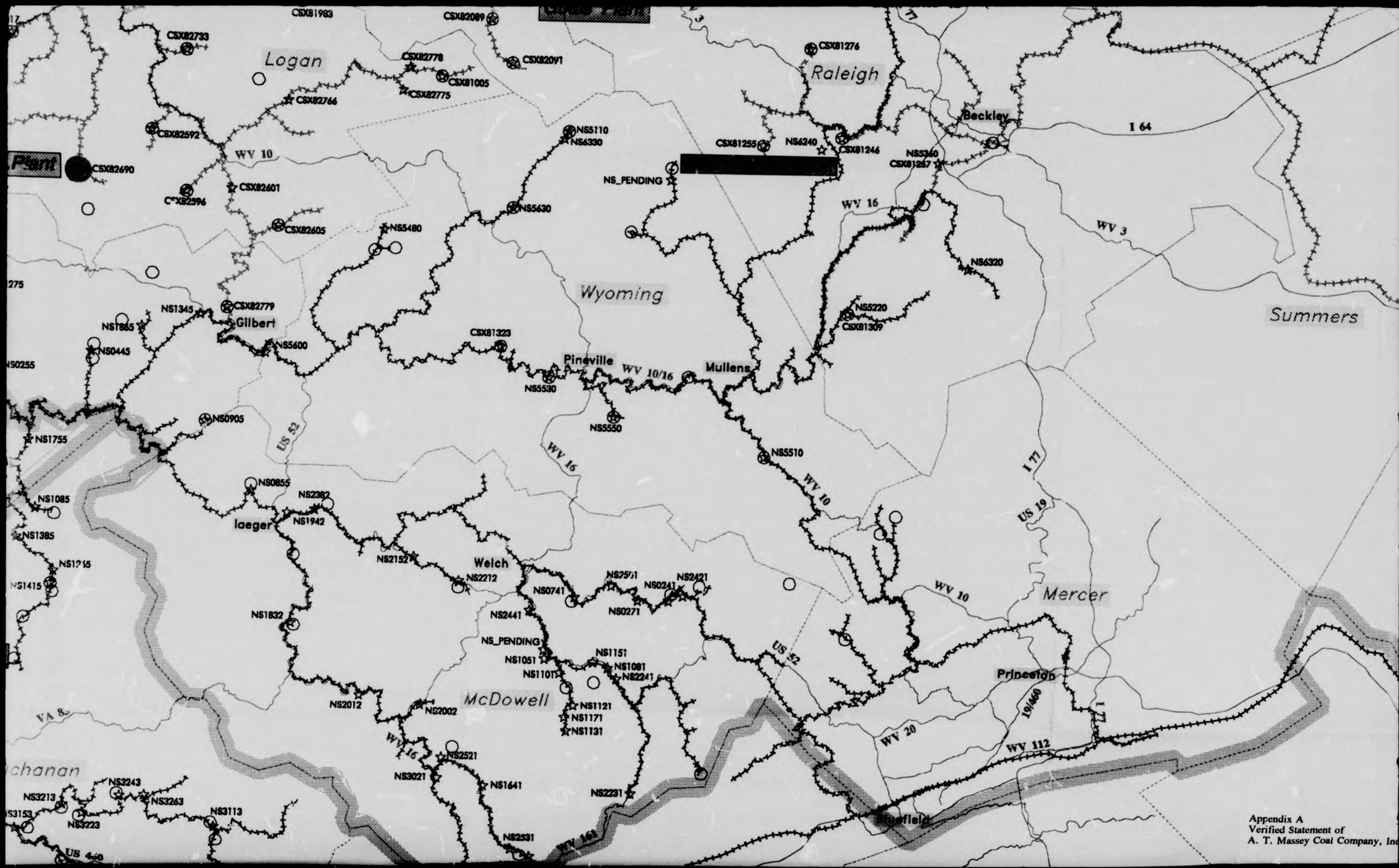

William P. Jackson, Jr.

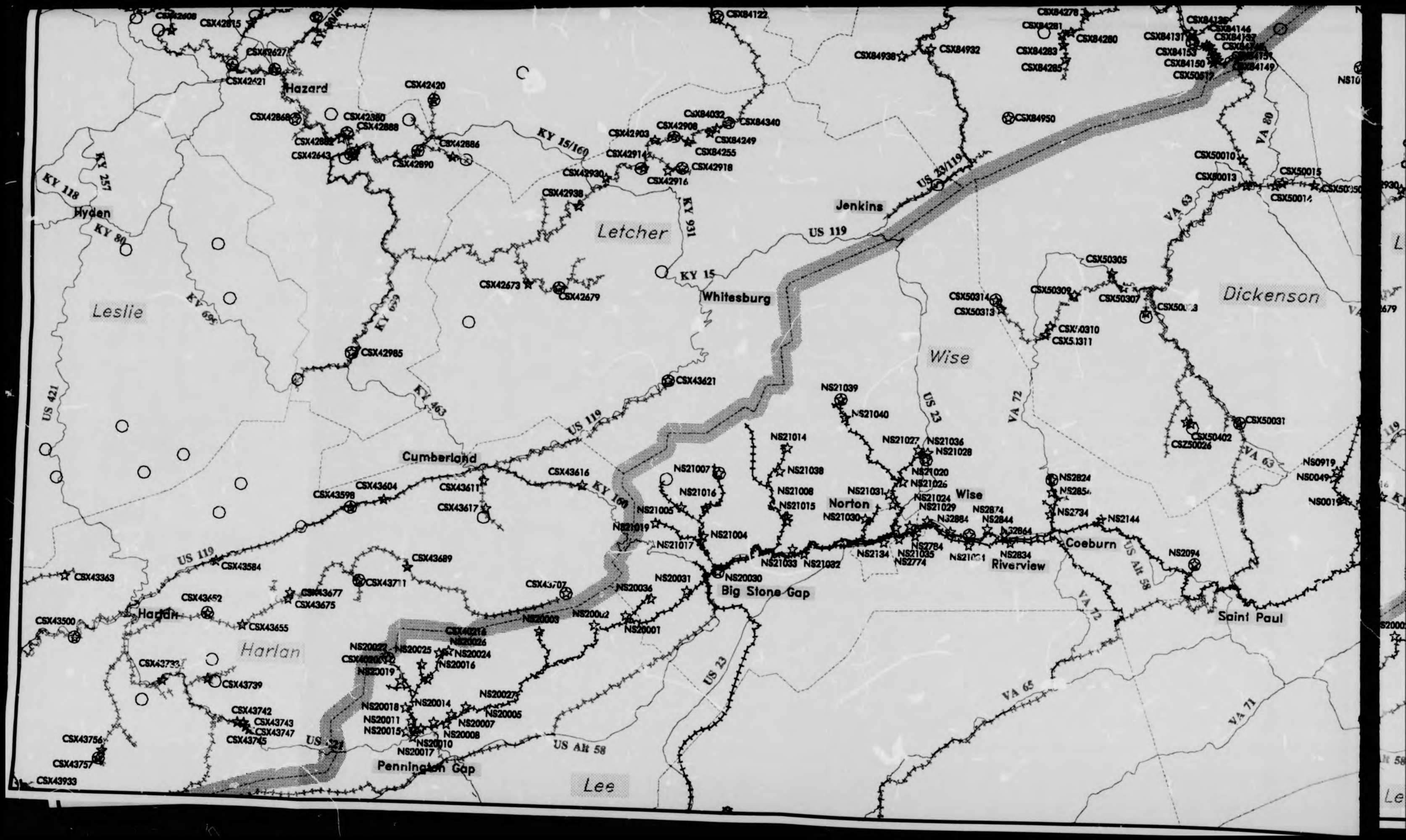


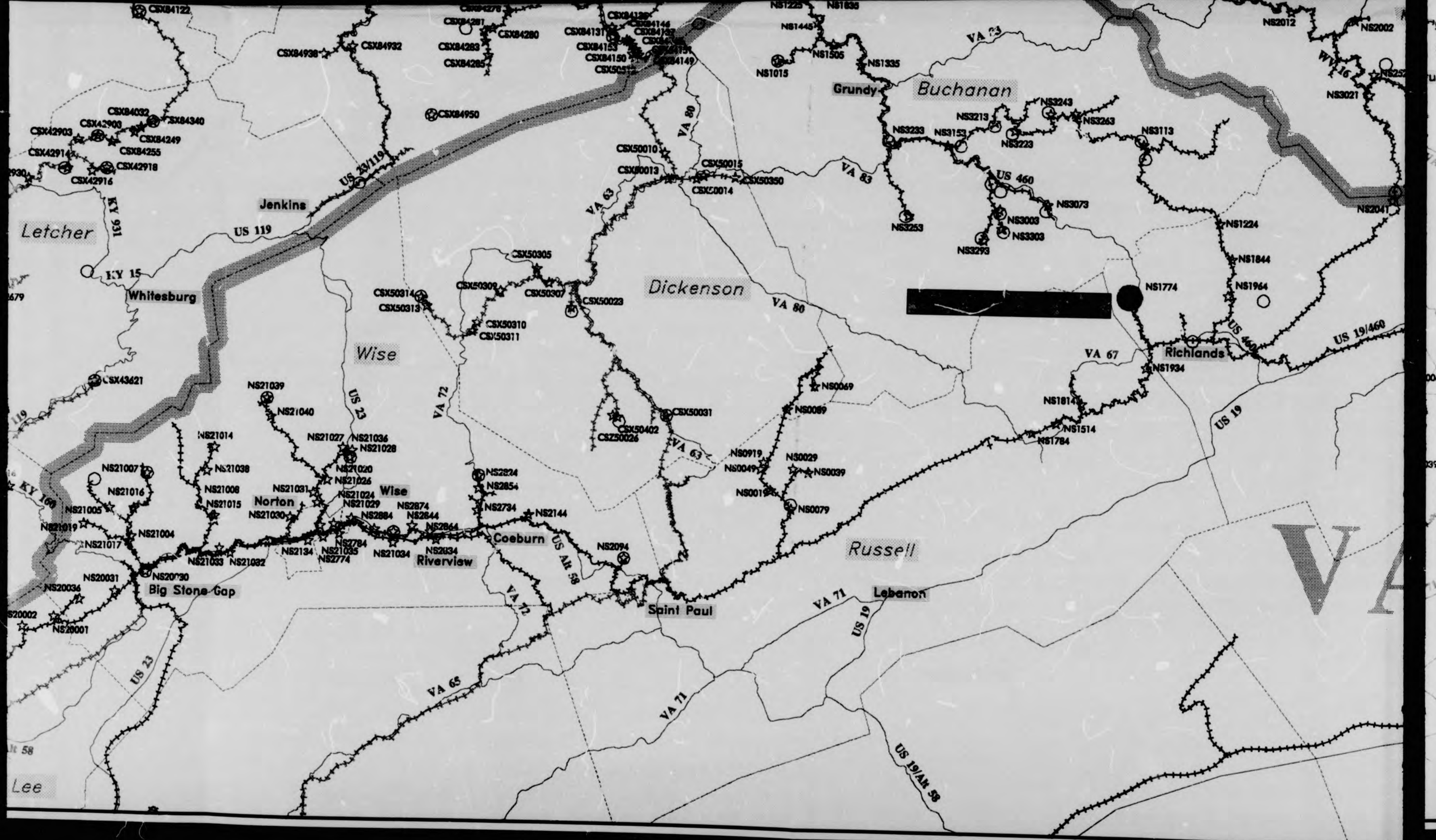


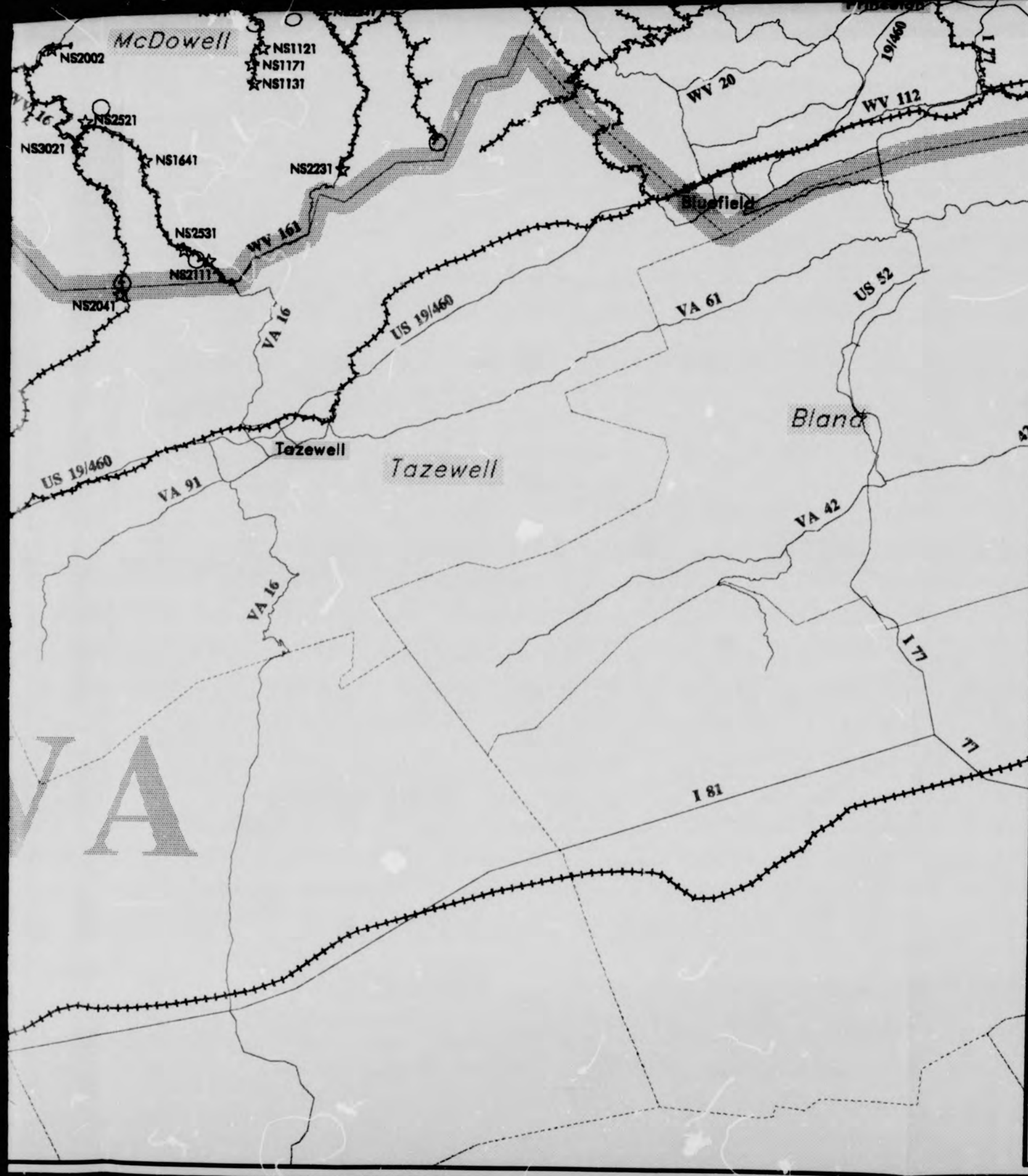












Appendix A
Verified Statement of
A. T. Massey Coal Company, Inc.

A.T. MASSEY CENTRAL APPALACHIAN COAL FACILITIES

OCTOBER 16, 1997

- Conrail Served
- ▨ CSX Served
- Conrail RR
- CSX Railroad
- NS Railroad
- Preparation Plants
- ☆ Railroad Sidings

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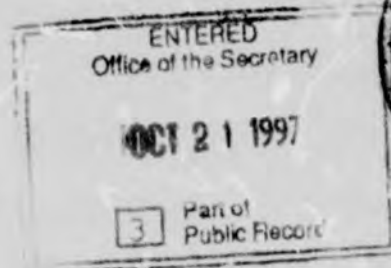
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October 17, 1997


Vernon Williams
Secretary - Office of the Secretary
Surface Transportation Board
1925 K Street, N.W., Room 711
Washington, D.C. 20423



RE: Finance Docket No. 33388
CSX/Norfolk Southern Acquisition and Control of Conrail ("Application")

Dear Secretary Williams:

This letter is to reiterate Providence and Worcester Railroad Company's ("P&W") full support for the above referenced Application as expressed in my letter dated August 28, 1997. P&W draws your attention to our understanding that the Application if approved does not obviate pre-existing agreements and judicial orders relating to Conrail. For example, the Order of the Special Court created by the Regional Rail Reorganization Act of 1973 dated April 13, 1982, Approving and Directing the Consummation of Expedited Supplemental Transactions in the Matter of Expedited Supplemental Transactions Pursuant to Section 305(f) of the Regional Rail Reorganization Act of 1973 provides in Section 21 a right to P&W to acquire, inter alia the terminal properties known as New Haven Station defined in Exhibit D in the Order, "if Conrail elects to withdraw from or abandon or discontinue freight service obligations" thereon. A copy of the Order is enclosed as Exhibit 1. Certain aspects of the Order were discussed in a letter dated March 31, 1982 requested by Conrail from Robert W. Blanchette, then FRA Administrator. In his letter, Mr. Blanchette confirms that the Order would be construed and applied by the Special Court. This letter is attached as Exhibit 2. P&W has initiated steps to effect the implementation of the Order by notifying Conrail (Exhibit 3) and requesting the determination required by the Order from the Federal Railroad Administration (Exhibit 4). Conrail has recently responded by declining to enter into the requested negotiations over reasonable price and reasonable terms and conditions.

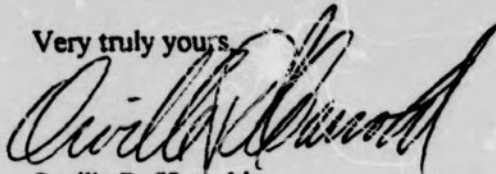


V. Williams
Secretary - Office of the Secretary
Surface Transportation Board
October 17, 1997

The Special Court, established pursuant to Section 209 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. § 719) was abolished pursuant to Pub. L. 104-317, Title VI, Section 605(a), 110 Stat. 3858 (Codified at 45 U.S.C. § 719 (b)(2)). After January 18, 1997, all jurisdiction and other functions of the Special Court were assumed by the United States District Court for the District of Columbia. P&W intends to seek enforcement of the provisions of the Order of the Special Court.

Your attention is also drawn to the August 22, 1997 filing of Connecticut Southern Railroad (CSO) describing anticipated inconsistent or responsive applications. CSO stated its intention to file a responsive application seeking 75 miles of local trackage rights between New Haven and Fresh Pond Junction, NY. CSO defines local trackage rights to include providing service to customers located on the territory involved. Obviously, more information regarding CSO's application will be available upon the filing of same. As described, however, CSO's requests would appear to include rights in New Haven Station and therefore would be violative of the Order since the Order plainly provides that P&W will acquire New Haven Station in the event Conrail elects to withdraw from or abandon or discontinue freight service obligations.

Very truly yours,



Orville R. Harrold
President

cc: Administrator Jolene Molitoris, FRA

FILED ✓

APR 13 1982 A.M.

SPECIAL COURT

JAMES F. DAVEY, Clerk

REGIONAL RAIL REORGANIZATION ACT OF 1973

In the Matter of
EXPEDITED SUPPLEMENTAL TRANSACTIONS
PURSUANT TO SECTION 305(f) OF THE
REGIONAL RAIL REORGANIZATION ACT
OF 1973

Misc. No. 61-1

ORDER APPROVING AND DIRECTING THE
CONFIRMATION OF EXPEDITED SUPPLEMENTAL TRANSACTIONS

This matter having come before the Court on the Petition Of The Federal Railroad Administrator For An Order Directing The Conveyance Of Consolidated Rail Corporation (Conrail) Rail Properties In Connecticut And Rhode Island Under Section 305(f) of The Regional Rail Reorganization Act of 1973, as Amended (Rail Act), (Petition), due notice having been afforded all interested parties, the Court having considered the Determination of the Administrator as delegate of the Secretary of Transportation, the documents filed with the Petition, and other relevant materials brought to its attention, and having heard the arguments of the parties on Conrail's objections to the transactions and incidental matters, it is hereby found:

23.

Findings and Determinations

1. On December 11, 1981, the Federal Railroad Administrator (Administrator) filed the instant Petition pursuant to section 305(f) of the Rail Act, seeking an order to transfer all of the rail properties and freight service obligations of the Consolidated Rail Corporation (Conrail) in the States of Connecticut and Rhode Island (the States) to one or more railroads in the Region, as defined in Section 102 of the Rail Act.

2. On December 18, 1981, the Administrator lodged with the Court the record made before the Federal Railroad Administration with respect to the Petition.

3. The Court has determined (a) that the proposed transferees of the rail properties which are the subject of the Petition, the Providence and Worcester Railroad Company (P&W), and the Boston and Maine Corporation, Debtor (B&M), have agreed to the transfer proposal advanced by the Administrator, and (b) that Conrail will by Order of this Court make the transfers set forth in the proposal, and is willing to retain designated properties and guarantee rail service thereon for four years from the date established hereunder for conveyance of properties and transfer of freight service obligations (Conveyance Date), as permitted by section 305(f)(2)(B) of the Rail Act.

4. Conrail, P&W, and B&M are railroads in the Region. Conrail and B&M are Class I railroads and P&W is a Class II railroad.

5. The Court determines that the Administrator's proposal as embodied herein is (i) fair and equitable; (ii) meets the requirements of subsection 305(f), and (iii) is in the public interest.

6. The Court determines that the price terms of the several transactions described herein are fair and equitable.

7. The Court determines that the parties have agreed on divisions of joint rates for through routes over such properties.

NOW, THEREFORE, it is hereby ORDERED that Conrail, P&W and B&M shall consummate the transactions proposed by the Administrator and shall fulfill the following terms and conditions:

1. At and after Conveyance Date, B&M's divisions of revenue between Conrail and B&M for traffic to, from and over the rail properties conveyed to B&M pursuant to this Order shall be the same divisions as those previously received by B&M for traffic to or from Greenville, New Hampshire, interchanged between Conrail and B&M (except that on Potomac Yard traffic the New England Terminal Arbitrary will not apply) unless or until divisions of joint rates on such traffic are changed or cancelled pursuant to applicable law.

2. (a) At and after Conveyance Date, divisions of revenue between Conrail and P&W for traffic originating, terminating or moving over Conrail to, from or over the rail properties conveyed to P&W pursuant to this Order shall be 70 percent of Conrail revenue to Conrail, 30 percent of Conrail revenue to P&W. This division will be applied solely against the former Conrail portion of the rate with all other carriers participating in the through movement receiving their normal division of the charges.

(b) All traffic originating or terminating at new P&W stations (those acquired by P&W pursuant to this Order) in Rhode Island and Connecticut will be interchanged at Worcester, Massachusetts or at another location as may be agreed to by

Conrail and P&W, except that traffic moving overhead on P&W properties acquired pursuant to this Order will be interchanged at Worcester, Massachusetts on the one hand; and on the other, the point most consistent with the normal flow of traffic.

(c) Prior to Conveyance Date, or within 15 days after Conveyance Date, Conrail shall identify and notify P&W of all movements to, from and over the rail properties conveyed to P&W which after Conveyance Date will result in revenues to Conrail which are below 110 percent of unadjusted ICC Rail Form A costs, or costs as computed under any successor cost system thereto. Within 90 days after Conveyance Date, Conrail and P&W shall negotiate upon new proportional rates to a designated junction with respect to such movements.

(d) Conrail and P&W shall, prior to one year from Conveyance Date, negotiate upon proportional rates to a designated junction with respect to all traffic to and from the rail properties conveyed to P&W pursuant to this Order.

(e) Proportional rates in effect as to grain and grain products and recyclables on Conveyance Date shall be applied to the newly established junction points between P&W and Conrail after Conveyance Date. P&W shall not adopt

5
existing Conrail local or proportional rates on grain and grain products and recyclables as to traffic moving from, to or via properties or stations conveyed to P&W pursuant to this Order. However, P&W may publish any level of its own local or proportional rates on such traffic to or from the junction point.

(f) Proportional rates applied or instituted pursuant to this Paragraph over a junction point shall divide as made.

(g) On and after the 91st day after Conveyance Date, all of the provisions of subparagraphs (a) through (f) of this Paragraph shall be subject to Paragraph 14 of this Order.

3. At Conveyance Date, B&M and P&W shall, in writing, assume, and Conrail shall, in writing, assign that portion of the exclusive rights and obligations of Conrail under the Northeast Corridor Freight Operating Agreement (Corridor Agreement) between Conrail and the National Railroad Passenger Corporation (Amtrak), dated April 1, 1976, which applies to B&M's or P&W's operation over the following portions of the Northeast Corridor track, subject to the retention of appropriate rights by Conrail. Such operations shall be solely for the following purposes:

(a) Springfield, Massachusetts, to New Haven, Connecticut: to B&M for the purpose of transporting all traffic originating or terminating on properties or interests in Connecticut conveyed or transferred to B&M;

(b) Springfield, Massachusetts, to New Haven, Connecticut: to B&M for the purpose of transporting TOFC/COFC traffic to or from Cedar Hill Yard, Connecticut; and all traffic to or from Hartford Yard, Connecticut, and Cedar Hill Yard, Connecticut, pursuant to the reciprocal switching arrangements specified in Paragraph 5 of this Order which originates or terminates on (i) points in Canada which are east of the border between the Provinces of Ontario and Manitoba; (ii) all New England and B&M points; and (iii) points on the Delaware and Hudson Railroad (D&H) north of Delanson, New York;

(c) Springfield, Massachusetts, to New Haven, Connecticut: to B&M for the purpose of transporting traffic to and from (i) points in Canada which are east of the border between the Provinces of Ontario and Manitoba; (ii) all New England and B&M points; and (iii) points on the D&H north of Delanson, New York, originating or terminating on the Long Island Railroad (excluding shipments of newsprint consigned for

final delivery in the Boroughs of Bronx and Manhattan, New York, New York) in conjunction with contract operations by Conrail from Cedar Hill Yard, Connecticut, to Fresh Pond Junction, New York, as agreed to in Paragraph 6 of this Order; and

(d) Westbrook, Connecticut (MP 100.9) to Rhode Island/Massachusetts State line (MP 190.8): to P&W, restricted trackage rights between MP 100.9 and MP 101.2; ^{*}/_{MP 101.2 to MP 190.8, to P&W all of the exclusive rights and obligations of Conrail under the Corridor Agreement subject to the rights of Amtrak under such Agreement, except that Conrail shall retain the right to operate trains carrying stone (STCC 14 and 32) from East Wallingford, Connecticut and Branford/Pine Orchard, Connecticut to Old Saybrook, Connecticut and to Millstone, Connecticut (MP 118.0), subject to the payment by Conrail to Amtrak of charges to be agreed upon between Conrail and Amtrak in accordance with determinations by the Interstate Commerce Commission.}

Conrail shall relinquish, in writing, its rights under paragraph 2.2(a) of the Corridor Agreement or elsewhere to disapprove B&M's or P&W's above-described use of portions of the Northeast Corridor in the States.

^{*}/_{P&W shall not be permitted to perform any local freight service at any point at or between MP 100.9 and MP 101.2.}

4. At Conveyance Date, B&M shall, in writing, assume, and Conrail shall, in writing, assign those rights and obligations of Conrail under applicable agreements between Conrail and the Connecticut Department of Transportation ("CDOT"), which apply to B&M's operation over the portion of CDOT-leased track from Derby Junction, Connecticut, to Waterbury, Connecticut.

5. For traffic originating and terminating on (a) points in Canada which are east of the border between the Provinces of Ontario and Manitoba; (b) all New England and B&M points; and (c) points on the D&H north of Delanson, New York, Conrail shall provide reciprocal switching with the B&M at Hartford, Connecticut, to, and from the following stations in Connecticut: Newington, Hartford, Windsor, Windsor Locks, East Hartford and Suffield; and reciprocal switching at New Haven, Connecticut to and from the following stations in Connecticut: New Haven, North Haven, and Wallingford. B&M shall pay Conrail the following charge for such switching: \$275 per carload or as otherwise mutually agreed upon by Conrail and B&M. B&M shall pay per diem costs, and such charge shall be exclusive of those per diem costs, up to the level specified in the reciprocal switching agreement concluded pursuant to this Order.

6. Conrail shall transport between New Haven and Fresh Pond Junction, New York, or between such alternative Conrail/B&M points and Fresh Pond Junction, New York as Conrail shall designate, under contract to B&M, B&M traffic to and from (a) points in Canada which are east of the border between the Provinces of Ontario and Manitoba; (b) all New England and B&M points; and (c) points on the D&E north of Delanson, New York, which terminates or originates on the Long Island Railroad (excluding newsprint consigned for final delivery in the Boroughs of Bronx and Manhattan, New York, New York) subject to the following contract charge to be paid by B&M: \$275 per carload or as otherwise mutually agreed upon by Conrail and B&M. B&M shall pay per diem costs, up to the level specified in the contract concluded pursuant to this Order.

7. For as long as Conrail shall choose to operate a TOFC/COFC ramp in the New Haven, Connecticut, area, Conrail shall provide B&M, under a joint operating agreement with Conrail, access to the use of such ramp, subject to the payment of charges by B&M to Conrail which correspond to B&M's proportion of the total operating expenses of the ramp based on the proportion of B&M's lifts at the ramp to the total lifts at the ramp.

Conrail shall have no obligation to maintain service or personnel at such ramp or provide any service to B&M or to perform any maintenance on such ramp. Conrail may at any time cease operations at such ramp and sell such ramp except that B&M shall have a right of first refusal to purchase such ramp.

8. For traffic originating or terminating on points on Conrail, B&M shall initially provide reciprocal switching for Conrail at Stanley Works, New Britain, Connecticut to and from New Britain, Connecticut, at the following charge: \$275 per carload, or as otherwise mutually agreed by Conrail and B&M. Conrail shall pay per diem costs, and such charge shall be exclusive of those per diem costs, up to the level specified in the reciprocal switching agreement concluded pursuant to this Order.

9. As of Conveyance Date, Conrail shall convey, by quit-claim deed, all rights, title and interest of Conrail in and to the rail properties listed (i) in Appendix A to this Order to B&M, and (ii) in Appendix B to this Order to P&W, and B&M and P&W shall take such property as is and where is. Except as otherwise provided in this Order, at or as soon as is practicable after Conveyance Date, Conrail and B&M and Conrail

and P&W shall execute all documents, in addition to necessary deeds, which may be required to perfect in B&M and P&W title to all rail properties listed in such Appendices A and B (such documents hereinafter referred to as the "Conveyance Documents"). At or before Conveyance Date, Conrail and B&M and Conrail and P&W shall also execute any Operating, Trackage Rights, Reciprocal Switching, Interchange and other agreements (including assignment of all Conrail rights pertaining to the property conveyed and release of all appropriate Conrail obligations) necessary to the implementation of this Order. If Conrail and B&M or Conrail and P&W shall have failed to agree on the terms and conditions of such agreements as of 10 days prior to Conveyance Date, the Administrator will provide final and binding arbitration of any dispute concerning terms and conditions within five days of notice by any party of such failure to agree.

10. Conrail shall have no obligation with respect to labor protection benefits to any and all Conrail employees who may be adversely affected or deprived of employment as a result of the consummation of this Order.

11. Neither this Order nor its implementation shall create any new Conrail liability under the Providence Terminal Agreement between the New York, New Haven and Hartford Railroad

Company, the Boston and Providence Railroad Company and the P&W dated September 13, 1935 ("PTA"). As between the P&W and Conrail, Conrail shall be relieved of any and all claims or obligations of any kind under or related to the PTA arising in connection with rail freight operations conducted on or after Conveyance Date; and P&W shall be deemed to have assumed liability for such claims or obligations.

12. On Conveyance Date, B&M and P&W shall each separately succeed to the common carrier obligations of Conrail to provide rail freight service over rail properties conveyed to B&M and P&W, respectively, and Conrail shall thereupon be relieved of such obligations, except that a limited obligation shall continue solely to the extent Conrail retains the right to provide rail service over such properties.* Conrail, B&M and P&W each separately shall assure, solely with respect to those rail properties and freight service obligations conveyed to or retained by each of them, and not with respect to the rail properties and freight service obligations conveyed to or retained by any other of them, that rail service is operated on such properties for four years from Conveyance Date and shall not seek to abandon or discontinue rail service on such rail properties for such four-year period.

* B&M may provide the rail freight service required of it under this Order, in whole or in part, through a wholly owned subsidiary.

13. In order to permit P&W to serve the Newport Secondary Track in Rhode Island, as of Conveyance Date, Conrail shall grant overhead trackage rights to P&W as follows:

(a) On the Attleboro Secondary Track, from Attleboro, Massachusetts (MP 0.0) to Whit Interlocking, Massachusetts (MP 9.4);

(b) On the New Bedford Branch, from Whit Interlocking, Massachusetts (MP 9.4) to Cotley Interlocking, Massachusetts (MP 13.3);

(c) On the New Bedford Secondary Track, from Cotley Interlocking, Massachusetts (MP 13.3) to Myricks, Massachusetts (MP 16.9); and

(d) On the Newport Secondary Track, from Myricks, Massachusetts (MP 0.0) to the Massachusetts/Rhode Island State line (MP 14.2).

P&W shall pay Conrail trackage rights fees of 15 cents per car mile for operations on the above described Conrail lines.

Conrail shall, as necessary, agree to the granting of overhead trackage rights to P&W from the Rhode Island/Massachusetts State line (MP 190.8) to Attleboro, Massachusetts (MP 197.5) on the Shore Line. Such grants shall be subject to the rights of any other party in the rail properties involved, including the Massachusetts Bay Transportation Authority as owner of said properties.

14. Nothing in the Order shall bar or in any way otherwise limit (a) the right of Conrail, B&M or P&W to seek to obtain or compete for any traffic or any portion of a traffic movement which is or may become accessible to service by Conrail, B&M or P&W, or (b) the right of Conrail, B&M or P&W to take any action with respect to rates, routes or divisions, which Conrail, B&M or P&W is or may be permitted to take under the Interstate Commerce Act (49 U.S.C. Subtitle IV), as amended, or under the Staggers Rail Act of 1980 or other applicable law, except as specifically provided herein.

15. Conrail and B&M and Conrail and P&W, shall make all payments of divisions due to each other in accordance with the AAR Railway Accounting Rules, and within the time periods specified in the AAR Railway Accounting Rules, with no offset or contrasettlement permitted except the contrasettlement of

one interline balance against another interline balance with respect to divisions as provided for in General Mandatory Rule One of the AAR Railway Accounting Rules. If Conrail, B&M or P&W, as the case may be, shall fail to make any payment of divisions, within such time periods, and shall further fail or refuse to make such payment within 10 days of notice that payment is due by the carrier demanding payment, all such future divisions may be paid to and collected by such demanding carrier on the basis of a junction settlement, which shall, if necessary, include restrictions requiring prepayment of freight charges by the shipper and/or rebilling from the interchange point to destination. Prior to any institution of payment by junction settlement the carrier which has failed or refused to make payment shall be entitled to demand final and binding arbitration respecting the failure or refusal to make payment within 15 days of the notice that payment is due by the carrier demanding payment. Such arbitration shall be instituted and decided within a reasonable period not to exceed 60 days. Compliance with the award of the arbitrator shall restore the parties to their respective status before notice of non payment, for all purposes with respect to the failure or refusal to make payment that is the subject of such award. By participation in these transactions, Conrail, B&M and P&W shall be deemed to have waived all remedies, legal or otherwise,

which may be available to Conrail, B&M or P&W with respect to the institution of such junction settlement by Conrail, B&M or P&W and to have expressly confessed judgment before the Special Court or any other court of competent jurisdiction, with respect to liability for any failure to pay divisions, in accordance with this paragraph and this Order. This paragraph shall apply only to divisions respecting traffic originating, terminating or moving over rail properties conveyed or retained pursuant to this Order.

16. As between Conrail and B&M and Conrail and P&W, with respect to property and interests conveyed pursuant to the Order on Conveyance Date, the obligation, if any, for payment of:

(a) any tax, assessment, license fee or other charge imposed by a government authority on or with respect to any such property or interest or any use thereof or thereon for any period of time within which the Conveyance Date falls; or

(b) any rent, license fee, user fee or other charge imposed under or by virtue of any lease, license, easement, encumbrance or other agreement that continues to attach to the property after the Conveyance Date, shall be adjusted on a Pro rata basis to, and paid in cash or settled on, the Conveyance

Date so that

(i) Conrail is obligated for any such payment as is attributable to that portion of such period or term preceding the Conveyance Date; and

(ii) B&M and P&W, as the case may be, are obligated to pay Conrail that portion of any tax, assessment, rent, license fee, user charge or other charge paid in advance by Conrail which is attributable to the period or terms subsequent to the Conveyance Date, within 90 days of notification of the amount of such charges by Conrail.

17. B&M and P&W, as the case may be, shall assume, perform and observe each of the obligations and conditions on the part of Conrail to be performed or observed that arise or accrue after the Conveyance Date under all licenses, easements, leases and operating, trackage rights, joint facility or other agreements that pertain to the properties and interests subject to this Order, including any obligations under any agreement with a State or instrumentality thereof for the operation of light density rail properties, except to the extent such obligations and conditions represent mortgages, licenses, encumbrances or other indebtedness under section 18 hereof.

B&M and P&W, as the case may be, shall indemnify and hold Conrail harmless against any and all losses, claims or damages which Conrail may suffer or be required to pay by reason of B&M's or P&W's failure to pay and discharge, as and when required, the obligations assumed under this Order. This paragraph shall not apply to the assumption of any obligations or conditions respecting the PTA, which shall be governed by paragraph 11 of this Order.

18. The transfers and conveyances to be made pursuant to this Order shall be free and clear of all mortgages, licenses, encumbrances or other indebtedness, and the same shall be deemed to be made without limitation, covenants or warranties of title, except that (a) Conrail shall covenant and warrant that it was conveyed the rail properties subject to transfer under this Order pursuant to section 303(b)(2) of the Rail Act, and (b) B&M shall pay to Conrail that portion of the proceeds of any sale or other disposition for value of rail properties or interests transferred or conveyed to B&M pursuant to this Order as is specified in Appendix C to this Order. With respect to Conrail, no transfer or conveyance pursuant to this Order shall create any liability of any kind from and after the Conveyance Date except to the extent expressly provided in this Order, or in a Conveyance Document executed pursuant to the Order.

19. At Conveyance Date, B&M shall pay Conrail \$500,000 in the form of cash or a cashier's check. At Conveyance Date, P&W shall pay Conrail \$75,000 in the form of cash or a cashier's check.

20. All charges to be paid to Conrail, B&M or P&W of any kind described in this Order shall be subject to adjustment as provided herein, as subsequently agreed by the parties, or annual adjustment by the party to be paid. Unless provided herein, or otherwise agreed to by the parties, any annual increase in such charges may not exceed the total annual increase in railroad costs as measured by the aggregated annual total of the AAR quarterly cost index or any other cost index approved by the Interstate Commerce Commission under the procedures of Docket Ex Parte No. 290 (Sub. No. 2), Railroad Cost Recovery Procedures.

21. If Conrail elects to withdraw from or abandon or discontinue freight service obligations on the "Shore Line" between Westbrook, Connecticut (MP 101.2) and New Haven, Connecticut (MP 70.2) or on the terminal properties known as "New Haven Station" (which properties are more precisely defined in Appendix D) and if the Administrator shall find, on

application of P&W, that P&W is continuing to operate as a self-sustaining railroad capable of undertaking additional common carrier responsibilities without Federal financial assistance, Conrail shall sell said rail properties at a reasonable price and on reasonable terms and conditions to be agreed upon by Conrail and P&W or, in the absence of agreement in accordance with the procedures of the American Arbitration Association, and P&W shall succeed to Conrail's service obligations upon the following conditions:

(a) P&W's acquisition of the aforementioned rail properties shall be without prejudice to any application of the B&M to acquire other Conrail properties;

(b) B&M shall have access, upon reasonable terms, to its own rail properties, located on or adjacent to the properties acquired by P&W;

(c) B&M shall enjoy, under reasonable terms, overhead trackage rights through New Haven to and from the portion of the Shore Line presently leased by the Connecticut Department of Transportation from the Penn Central Corporation; and

(d) In the event Conrail conveys the terminal properties known as "New Haven Station" under the provisions of this section to P&W, B&M shall retain the same reciprocal switching rights for all traffic at New Haven Station, without regard to the origin or destination of such traffic, upon the same terms in effect between Conrail and B&M on the date of such conveyance to P&W.

(e) This paragraph shall not affect Conrail's right to convey, the title conveyed, or B&M's acquisition of such title to the TOFC/COFC ramp at New Haven, Connecticut, pursuant to paragraph 7 of this Order.

Consummation of such a transaction shall be in accordance with otherwise applicable law.

22. B&M shall refrain from imposing any surcharge specific to the Torrington Branch, in the State of Connecticut, for a period of 18 months after Conveyance Date, and thereafter if traffic shall be restored to 1979 levels. B&M shall provide daily service (on demand) on the Torrington Branch.

23. The properties conveyed to P&W by Conrail pursuant to this Order which are subject to the terms of the PTA may be alienated or encumbered by P&W only after it has been determined that from and after Conveyance Date, Conrail has continuing liability under or with respect to the PTA, other than that assumed by P&W under paragraph 11 of this Order.

24. The date established for conveyance of rail properties and transfer of freight service obligations (Conveyance Date) shall be--

(a) with respect to conveyance and transfers to the P&W, and Conrail's guarantee of service on properties that it retains, 12:01 a.m. on May 1, 1982; and

(b) with respect to conveyances and transfers to the B&M, 12:01 a.m. on June 1, 1982.

25. This Court retains exclusive jurisdiction under sections 209(e) and 305 of the Rail Act and section 1152 of the Northeast Rail Service Act of 1981 over this Order and the implementation of this Order.

A TRUE COPY

JAMES F. DAVEY, Clerk,

By Ronna Callas
Deputy Clerk

Henry J. Friendly
Henry J. Friendly
Presiding Judge

John Minor Wisdom
John Minor Wisdom
Judge

Roszel C. Thomsen
Roszel C. Thomsen
Judge

Date: April 13, 1982

FILED

APR 13 1982 *AM*

JAMES F. DAVEY, Clerk

Connecticut and Massachusetts Rail
Properties and Freight Service
Obligations of Consolidated Rail
Corporation (Conrail) To Be Conveyed
To Boston and Maine (B&M) By Type
of Transfer

CONNECTICUT

Conrail Owned Lines which Ownership and Freight Service Obligations shall
be transferred to B&M.

<u>Line Name</u>	<u>CR Code</u>	<u>Between 1/</u>	<u>M.P. to M.P. 1/</u>	<u>Total Miles</u>
Avon Secondary	41-4248	Plainville and Avon	0.0 to 9.7	9.7
Berlin Secondary	41-4261	Berlin and New Britain	0.0 to 2.6	2.6
Canal Secondary	41-4247	New Haven (Fair St.) and Plainville	0.0 to 1.1 ^{2/} 1.1 to 27.8	1.1 26.7
Dublin Street Industrial Track	41-4276	Waterbury and Silver Street	17.29 to 17.45 ^{2/} 17.45 to 20.05	.16 2.60
Griffins Industrial Track	41-4259	Hartford	0.0 to 2.0	2.0
New Britain Secondary	41-4244	Plainville and New Britain	0.0 to 4.5	4.5
Terryville Secondary	41-4222	Waterbury and Plainville	0.0 to 17.2	17.2
Torrington Secondary	41-4243	Highland Junction and Torrington	0.0 to 20.7	20.7
Watertown Secondary	41-4258	Highland Junction and Watertown	0.0 to 1.6	1.6
Waterbury Industrial Track	41-4204	Bank Street and Highland Avenue	0.0 to 1.9	1.9
Wethersfield Secondary	41-4263	Airport Road and Spring Brook	3.0 to 7.0	4.0

Lines owned by Penn Central Company and leased by the Connecticut Department of Transportation which Conrail shall transfer Freight Service Obligations to B&M.

<u>Line Name</u>	<u>CR Code</u>	<u>Between 1/</u>	<u>M.P. to M.P. 1/</u>	<u>Total Miles</u>
Waterbury Branch	91-9121	Derby Junction and Waterbury	8.8 to 26.9 -	18.1

Lines owned by Amtrak over which B&M shall receive Limited Trackage Rights.

<u>Line Name</u>	<u>CR Code</u>	<u>Between 1/</u>	<u>M.P. to M.P. 1/</u>	<u>Total Miles</u>
Hartford Line	41-4217	New Haven and State Line (MA)	0.0 to 55.8	55.8

Lines owned by Conrail over which B&M shall receive Limited Trackage Rights.

<u>Line Name</u>	<u>CR Code</u>	<u>Between 1/</u>	<u>M.P. to M.P. 1/</u>	<u>Total Miles</u>
Wethersfield Secondary	41-4263	Hartford and Airport Road	0.0 to 3.0	3.0

Massachusetts

Lines owned by Amtrak over which B&M shall receive Limited Trackage Rights.

<u>Line Name</u>	<u>CR Code</u>	<u>Between 1/</u>	<u>M.P. to M.P. 1/</u>	<u>Total Miles</u>
Hartford Line	41-4217	State Line (CT) and Springfield	55.8 to 62.0	6.2

1/ Approximate stations and mileposts defining property and trackage rights transferred.

2/ Out of service.

Connecticut, Rhode Island, and Massachusetts
Rail Properties and Freight Service Obligations
of Consolidated Rail Corporation (Conrail)
To Be Conveyed To
Providence and Worcester Railroad Company (P&W)
By Type of Transfer

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APR 13 1982 A.1

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CONNECTICUT

Non-Conrail Owned Lines which Conrail shall Transfer Freight Service Obligation to P&W*

	<u>RDBR</u>	<u>MP From</u>	<u>MP To</u>	<u>Total Miles</u>
Shore Line	41-4209/4215	101.2 -	141.1	39.9

Note 1. Mileposts are approximate. Conrail to convey to P&W any real estate, including yards and sidings, with the tracks, platforms, shops, and other structures contained thereon owned by Conrail immediately adjoining the Shore Line which are or have been used by Conrail in connection with the provision of freight transportation service.

Note 2. Conrail to retain Limited Trackage Rights between MP 101.2 and MP 118.0 for the movement of stone (STCC 14 and 32) from East Wallingford and Branford/Old Pine Orchard, CT to Old Saybrook and Millstone, CT (MP 118.0).

Non-Conrail Owned Lines over which P&W shall receive restricted trackage rights*

	<u>RDBR</u>	<u>MP From</u>	<u>MP To</u>	<u>Total Miles</u>
Shore Line	41-4209	100.9 -	101.2	0.3

Note 1. P&W shall not be permitted to perform any local freight service at any point on this segment.

RHODE ISLAND

Conrail Owned Lines which Ownership and Freight Service Obligation shall be Transferred to P&W

	<u>RDBR</u>	<u>MP From</u>	<u>MP To</u>	<u>Total Miles</u>
Bristol Secondary	41-4165	1.7 -	1.9	0.2
East Jct. Secondary	41-4164	3.7 -	6.9	3.2
Harbor Jct. Ind.	41-4168	3.0 -	3.4	3.4
Newport Secondary	41-4192	14.2 -	21.5	7.3

	<u>RDBR</u>	<u>MP From</u>	<u>MP To</u>	<u>Total Miles</u>
Slatersville Secondary	41-4170	0.0 -	3.4	3.4
Valley Falls Ind.	41-4128	0.0 -	0.8	0.8
Washington Secondary	41-4166	2.4 -	16.9	14.5

Note 1. Mileposts are approximate. Conrail shall convey to P&W all real estate in Rhode Island owned by Conrail, except a parcel of approximately 1 acre located along the Newport Secondary Track in the City of Portsmouth, Rhode Island; provided, however, that the western limit of the excepted parcel shall extend no further west than thirty-three (33) feet from the center of the Newport Secondary Track. Conrail shall also convey to P&W that portion of the Slatersville Secondary Track lying between milepost 0.0 and milepost -1.5 on which rail service is being operated on Conveyance Date, including that portion of said line located in Massachusetts, but excepting that property adjacent to said line known as the Winter Street Yard, including the portion of said Yard which lies within Rhode Island; provided, however, that Conrail shall grant to P&W, at no additional cost to P&W, an easement to operate rail service within the Winter Street Yard, which easement shall be effective for so long as P&W operates such service.

Note 2. Current Conrail ownership of Bristol Secondary Trackage extends from the end of Rhode Island DOT ownership at the harbor line of the Seekonk River (approximately MP 1.7) to MP 1.9.

Non-Conrail Owned lines which Freight Service Obligation would be Transferred to P&W*

	<u>RDBR</u>	<u>MP From</u>	<u>MP To</u>	<u>Total Miles</u>
Providence Terminal	--	--	--	
Shore Line	41-4215/4116	141.1 -	190.8	49.7
Washington Secondary	41-4166	0.0 -	2.4	2.4

Note 1. Mileposts are approximate. Conrail to convey to P&W all real estate owned by Conrail adjoining lines.

MASSACHUSETTS

Conrail Owned Lines which Conrail shall grant Overhead Trackage Rights to P&W

	<u>RDBR</u>	<u>MP. From</u>	<u>MP To</u>	<u>Total Miles</u>
Attleboro Secondary	41-4140	0.0 -	9.4	9.4
New Bedford Branch	41-4169	9.4 -	13.3	3.9
New Bedford Secondary	41-4189	13.3 -	16.9	3.6
Newport Secondary	41-4192	0.0 -	14.2	14.2

Note 1. Mileposts are approximate.

Non-Conrail Owned Lines which P&W shall obtain Overhead Trackage Rights*

	<u>RDBR</u>	<u>MP From</u>	<u>MP To</u>	<u>Total Miles</u>
Shore Line	41-4116	190.0	197.5	6.7

Note 1. Mileposts are approximate.

* As between Conrail and P&W.

Gains on the sale (Real or personal property) or other disposition (term leases) of properties acquired by B&M from Conrail pursuant to the Supplemental Transaction Proposal process established under Section 305(f) of the Regional Rail Reorganization Act of 1973, as amended, shall be shared by Conrail and B&M on the following terms and conditions:

a. The following costs and expenses shall be deducted from the total proceeds of any sale (real or personal property) or disposition (term leases) by B&M of property acquired from Conrail. To the extent particular costs or expenses cannot be directly attributed to the properties transferred to B&M pursuant to this Appendix which are being sold or otherwise disposed of, B&M shall pro-rate the cost or expense in question over the total number of miles acquired from Conrail, and shall deduct that portion of the total cost or expense which corresponds to the number of miles sold or otherwise disposed of.

1. The acquisition cost of the properties.
2. All interest accrued or payable on the acquisition costs.
3. The net liquidation value of materials installed in rehabilitation or other improvements on the properties.
4. Operating losses on the properties. Such losses shall not include interest or rehabilitation already deducted pursuant to items 2 and 3 above.

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APR 13 1982 *A.M.*

JAMES F. DAVEY, Clerk

b. The net proceeds of any sale (real or personal property) or other disposition (term leases), after deducting costs and expenses described in item a above, shall be escrowed in an interest bearing account.

c. On June 1, 1986 and on June 1 of each calendar year thereafter, B&M shall pay Conrail the following portion of the net proceeds of any sale (real or personal property) or the disposition (term leases) and of the interest earned on the escrow of such proceeds:

For sales or dispositions from:

June 1, 1982 to May 31, 1983	87.5% of Proceeds
June 1, 1983 to May 31, 1984	75.0% of Proceeds
June 1, 1984 to May 31, 1985	62.5% of Proceeds
June 1, 1985 to May 31, 1986	50.0% of Proceeds
June 1, 1986 to May 31, 1987	37.5% of Proceeds
June 1, 1987 to May 31, 1988	25.0% of Proceeds
June 1, 1988 to May 31, 1989	12.5% of Proceeds
June 1, 1989 and thereafter	0.0% of Proceeds

d. B&M shall exert its best efforts to obtain the maximum proceeds of sale or other disposition and interest on the escrowed proceeds.

APPENDIX D

DESCRIPTION OF PROPERTIES
COMPRISING THE NEW HAVEN STATION
FOR PURPOSES OF PARAGRAPH 21

Solely for purposes of paragraph 21 of this Order, "New Haven Station" shall mean (1) those rail properties of Conrail within the Corporate limits of New Haven, Connecticut (as those limits were defined on January 1, 1982) and (2) that portion of Cedar Hill Yard reasonably necessary to conduct operations of the P&W, together with the right (as among other freight railroads) to control dispatching functions in the immediate environs of the Yard and through all switches providing access thereto such dispatching to be conducted without preference to the movements of any railroad using the Yard or portions thereof: provided, that, any rights to acquisition of properties in Cedar Hill Yard by P&W shall be without prejudice to the rights of Conrail to retain, or any of the rights of any operator of rail freight service in Central Connecticut to seek to acquire, remaining portions of the Yard to conduct such railroad's operations in the area.

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JAMES F. DAVEY, Clerk



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DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION
WASHINGTON, D.C. 20590

OFFICE OF
THE ADMINISTRATOR

MAR 31 1982

L. Stanley Crane
Chairman and Chief Executive Officer
Consolidated Rail Corporation
c/o Russell L. Smith, Esq.
P. O. Box 23451
L'Enfant Plaza Station
Washington, DC 20024

Dear Mr. Crane:

During our consultations last week on the final form of conveyance order for transfer of the Connecticut/Rhode Island properties under section 305(f) of the Regional Rail Reorganization Act of 1973, as amended, a disagreement arose between Conrail and the Providence and Worcester Railroad Company (P&W) concerning the intent and meaning of paragraph 21 of the order, which states in pertinent part that:

If Conrail elects to withdraw from or abandon or discontinue freight service obligation on the "Shore Line" between Westbrook, Connecticut (MP 101.2) and New Haven, Connecticut (MP 70.2) or on the terminal properties known as "New Haven Station" (which properties are more precisely defined in Appendix D) and if the Administrator shall find, on application of P&W, that P&W is continuing to operate as a self-sustaining railroad capable of undertaking additional common carrier responsibilities without Federal financial assistance, Conrail shall sell said rail properties at a reasonable price and on reasonable terms and conditions to be agreed upon by Conrail and P&W or, in the absence of agreement, in accordance with the procedures of the American Arbitration Association, and P&W shall succeed to Conrail's service obligations upon the following conditions:

* * * * *

Consummation of such a transaction shall be in accordance with otherwise applicable law.

Conrail, the P&W and the FRA sought to arrive at a mutually acceptable refinement of that provision for inclusion in the final form of order which was filed with the Special Court on March 26, 1982. Because of the complexity of the issue we were unable to agree on appropriate substitute language and adhered to the original formulation embodied in the proposal of December 11, 1981, which we believe is quite adequate for its purpose.

You have requested that we state our intent in proposing paragraph 21 and the general effect of its language. We are pleased to do so, with the obvious caveat that the order, once entered, will be construed and applied by the Special Court, rather than this agency.

Paragraph 21 was intended to accommodate the P&W's interest in succeeding to Conrail's operation on the Shore Line (MP 70.2 to 101.2) or in the New Haven Station (as defined in Appendix D), should Conrail elect to withdraw from either of those markets. Clearly, Conrail may "withdraw from or abandon or discontinue freight service obligations" on the designated properties only after the expiration of four years from May 1, 1982 (see paragraphs 12 and 24). Conrail is expected to maintain its properties and conduct its operations consistent both with its pre-existing common carrier obligations and the four-year service guarantee, and failure to perform would be actionable by the affected shipper (in an appropriate forum) and the Administrator (before the Special Court). Under our plan, as proposed, and under the final form of order now before the Court for review, P&W's rights would ripen prior to the expiration of the four-year period only if Conrail is disabled, either as a result of the operation of title IV of the Rail Act, or by some other extraordinary circumstance, from fulfilling its guarantee. During the four-year period Conrail will retain its pricing freedoms under the Staggers Rail Act of 1980.

After the expiration of the service guarantee, Conrail may elect, consistent with prevailing law, to withdraw from the Shore Line or New Haven Station, or both. If Conrail elects to withdraw, P&W has a right of first refusal on the affected property.

The area of dispute between Conrail and the P&W over interpretation of paragraph 21 was whether an incremental withdrawal from a portion of the Shore Line or New Haven Station, or a complete withdrawal from one market, but not the other, would trigger a right on the part of the P&W to purchase the entirety of the affected market or, perhaps, both of the markets. We will begin with the example of withdrawal from an entire market, since it is the easiest case and involves principles capable of application in the other situations that might arise.

Paragraph 21 would permit Conrail to withdraw from the Shore Line east of New Haven, but not from New Haven itself, since Conrail may elect withdrawal from either the Shore Line "or" New Haven; and it is "said properties" that the P&W may then purchase. Under the current configuration of rail operations of the two carriers, Conrail's withdrawal to New Haven without concessions in New Haven would not be unreasonable, and the P&W would presumably have only such additional rights as might be incidental to that acquisition, including access to a convenient point of interchange.

Although the literal language of paragraph 21 would also permit Conrail to withdraw from New Haven while retaining its rights to traffic on the Shore Line, it is difficult to imagine at this date a circumstance in which such an action would be reasonable, either from Conrail's point of view or the view of users

of rail service in the area. Certainly the P&W, as holder of a right of first refusal on the New Haven Station properties, could contend that a "reasonable term," of the New Haven sale would be certain rights on the Shore Line (at a minimum, overhead trackage rights).

Obviously, it was not our intent that these markets be carved up by the railroads involved solely to serve their immediate self interest. As between Conrail and P&W, arbitration will be available to help shape the proposed transaction. The public interest in any transaction under paragraph 21 (other than a transaction under title IV of the Rail Act) will be protected by the Interstate Commerce Commission, which will apply "applicable law" in reviewing the proposal of the parties.

The foregoing should also shed light on the matter of Conrail's incremental withdrawal from one or both of the relevant markets, a subject on which the order is silent. First, in our view as original drafters of the proposed paragraph 21, nothing in that provision creates a "trigger" whereby a partial withdrawal from the market would give rise to a right on the part of P&W to purchase properties comprising the entire relevant market. Similarly, nothing in the order was intended to restrict Conrail's ability to make ordinary adjustments in its operations consistent with prevailing traffic levels, the four-year guarantee and its common carrier and contractual responsibilities.

At the same time, P&W would have the right of first refusal on any property Conrail might elect to abandon or on which Conrail declines to provide service, even if other properties in the market are retained. Of course, if that property from which Conrail "withdraws" is something of little value for rail use, then P&W will have to determine whether to purchase the property and serve it as a volunteer, with an eye to the future, or whether to forego the opportunity. (P&W would certainly be entitled to overhead trackage rights on reasonable terms and conditions to reach any properties that it acquires.)

If, on the other hand, Conrail engages in a withdrawal of a more substantial magnitude, while retaining properties and operations elsewhere in the particular market, then basic issues of transportation economics, operational necessity and equity may arise. It was not intended that P&W would be forced to choose between surrendering its rights and purchasing isolated, non-viable markets. Rather, it was intended that P&W would be offered markets or segments thereof on which economic rail operations can be conducted under normal conditions.

While it was not possible for us to anticipate the shape of all possible Conrail "withdrawals" several years hence, to predict the traffic levels, traffic mixes and operating patterns that might exist at that time, and to define the resultant rights of P&W to additional properties necessary to comprise realistic units for transfer in the form of order proposed to the Court last week, we believe that the operation of the order would involve fewer actual difficulties than has been suggested might be the case. If Conrail elects to withdraw from a portion of

the Shore Line, or a portion of New Haven Station, the order requires that Conrail offer to sell those properties for a reasonable price and "on reasonable terms and conditions." Both arbitration between the parties and subsequent Commission review will be available to assure that any transactions under paragraph 21 will foster efficient and economic rail service. The Federal Railroad Administration will also be available to play a mediating role at the request of the parties and to provide its views on the transportation aspects of the proposed transactions.

Sincerely,

Robert W. Blanchette

Robert W. Blanchette

cc: John L. Richardson, Esq.
J. J. Nee, Esq.
Docket No. RFA-305-81-1

bc: C-4, C-30,
RFA-1, 20, 21
RCC-2

GCothen:jee:3/29/82
SMITH

US OFFICE PRODUCTS

CERTIFIED MAIL
RETURN RECEIPT
P 113 320 188



FOUNDED 1844

September 9, 1997

Mr. David LeVan
Chairman, President and CEO
Consolidated Rail Corporation
2001 Market Street
Philadelphia, PA 19101

Dear David:

Pursuant to Section 21 of the Order Approving and Directing the Consummation of Expedited Supplemental Transactions, issued by the Special Court, in the matter of Expedited Supplemental Transactions Pursuant to Section 305(f) of the Regional Rail Reorganization Act (Misc. No. 81-1) ("Order"), Providence and Worcester Railroad Company possesses the right to acquire certain properties of Conrail in and around the City of New Haven, Connecticut.

Specifically, Section 21 provides in pertinent part:

If Conrail elects to withdraw from or abandon or discontinue freight service obligations... on the terminal properties known as New Haven Station (which properties are more precisely defined in Appendix D) and if the Administrator [of Federal Railroad Administration] shall find, on application of P&W, that P&W is continuing to operate as a self sustaining railroad capable of undertaking additional common carrier responsibilities without Federal financial assistance, Conrail shall sell said rail properties at a reasonable price and on reasonable terms and conditions to be agreed upon by Conrail and P&W or, in the absence of agreement, in accordance with the procedures of the American Arbitration Association and P&W shall succeed to Conrail's service obligations...

Appendix D defines "New Haven Station" to include:

(1) those rail properties of Conrail within the Corporate limits of New Haven, Connecticut (as those limits were defined on January 1, 1982) and (2) that portion of Cedar Hill yard reasonably necessary to conduct operations of the P&W,

PROVIDENCE AND WORCESTER RAILROAD COMPANY
75 HAMMOND STREET, WORCESTER, MA 01610 P.O. BOX 16661, WORCESTER, MA 01601
TELEPHONE (608) 755-4000

David LeVan
September 9, 1997
Page 2

together with the right (as among other freight railroads) to control dispatching functions in the immediate environs of the Yard and through all switches providing access thereto, such dispatching to be conducted without preference to the movements of any railroad using the Yard or portions thereof; provided, that, any rights to acquisition of properties in Cedar Hill Yard by P&W shall be without prejudice to the rights of Conrail to retain, or any of the rights of any operator of rail freight service in Central Connecticut to seek to acquire, remaining portions of the Yard to conduct such railroad's operations in the area.

P&W's rights under the Order have been further clarified by letter dated March 31, 1982 to L. Stanley Crane, then Chairman and Chief Executive Officer, Conrail, from Robert Blanchette, then FRA Administrator.

Having carefully reviewed the various transaction agreements ("Agreements") by and between Conrail, CSX Corporation, Norfolk Southern Corporation (NS) and their respective affiliated entities, P&W concludes that the contemplated conveyance of New Haven Station to New York Central Lines LLC, an entity controlled by CSX, without first offering same to P&W as required by the Order would appear to violate P&W's rights under the Order.¹

The agreement of Conrail to the acquisition of control of Conrail by Green Acquisition Corp. (CRR Holdings) and the subsequent division of Conrail's assets to Pennsylvania Lines LLC and New York Central Lines LLC controlled by NS and CSX respectively constitutes an election by Conrail to withdraw from freight service obligations on New Haven Station triggering P&W's purchase rights.

As respects the extent of property P&W requires in Cedar Hill Yard, please be advised that P&W requires the entirety of the yard "to conduct operations of the P&W." P&W acknowledges the need to establish interchange facilities for the purposes of implementing the Revenue and Service Agreement dated August 6, 1997 by and between P&W, CSX Transportation, and CSX Intermodal for operations between New Haven, Connecticut and Fresh Pond Junction, NY.

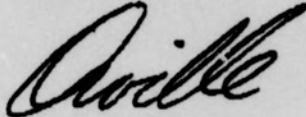
Would you kindly advise me by no later than September 30, 1997 whether Conrail intends to enter into negotiations with P&W to establish a reasonable price and reasonable terms and conditions for the acquisition by P&W of New Haven Station. In the event we are unable to agree on such provisions, we are prepared to submit the matter to arbitration as provided in the Order.

¹ Note that P&W acquired Conrail's freight service obligations on the Shore Line between Westbrook, Connecticut (MP 1^1.2) and New Haven, Connecticut (MP 70.2) in 1991.

David LeVan
September 9, 1997
Page 3

In the event Conrail declines to enter into such negotiation, please be advised that P&W intends to take such measures as are necessary to enforce the Order.

Very truly yours,



Orville R. Harrold
President

cc: Tolene Molitoris, Administrator, Federal Railroad Administration
David Goode, Chairman, President & CEO, Norfolk Southern
John Snow, Chairman, President & CEO, CSX Corporation

ORH:ws



REC'D 11/1

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED



FOUNDED 1844

October 2, 1997

Ms. Jolene Molitoris
Administrator
Federal Railroad Administration
400 7th Street, S.W.
Washington, DC 20590


Dear Administrator Molitoris:

This letter concerns the Order Approving and Directing the Consummation of Expedited Supplemental Transactions issued by the Special Court in the matter of Expedited Supplemental Transactions pursuant to Section 305F of the Regional Rail Reorganization Act of 1993, Miscellaneous Number 81-1, dated April 13, 1982 and its application to the impending acquisition and division of Conrail by CSX Corporation ("CSX") and Norfolk Southern Corporation ("NS"). A copy of the Order is enclosed for your convenience.

According to Section 21 of the Order, if Conrail elects to withdraw from New Haven Station as defined in the Order and you find on application of P&W that P&W is continuing to operate as a self sustaining railroad capable of undertaking additional common carrier responsibilities without federal financial assistance, Conrail shall sell the properties to P&W at a reasonable price and on reasonable terms and conditions. In the absence of an agreement on such price and terms and conditions, arbitration is available.

P&W has reviewed the available information on the proposed transaction by and between Conrail, CSX and Norfolk Southern. Indeed, Conrail is now an indirect wholly owned subsidiary of CSX and NS with all of the stock of Conrail held in a voting trust pending Surface Transportation Board ("STB") review of the application. To accomplish the division of the assets of Consolidated Rail Corporation ("CRC"), a wholly owned subsidiary of Conrail, between CSX and NS, CRC will form two new wholly owned subsidiaries, New York Central Lines LLC ("NYC") and Pennsylvania Lines LLC ("PPR") and will transfer CRC assets to these subsidiaries.

PROVIDENCE AND WORCESTER RAILROAD COMPANY
75 HAMMOND STREET, WORCESTER, MA 01610 P.O. BOX 16551, WORCESTER, MA 01601
TELEPHONE (508) 755-4000



According to the STB application, New Haven Station is among the assets CRC intends to transfer to NYC. CSX will have exclusive authority to appoint the officers and directors of NYC and will manage and direct the operations of NYC for its own account and retain all revenues and profits. Moreover, CRC, now jointly owned by CSX and NS, will follow in all respects the direction of CSX and NS and all liabilities associated with the operation of these properties will be borne by CSX and NS.

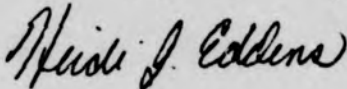
Following consummation of the transaction, CRC will no longer hold itself out to the public as performing transportation services directly or for its own account.

It is clear after a review of the transaction that the transaction will result in a withdrawal from the market by CRC creating a triggering event under the Order. P&W has so advised Conrail and is awaiting a response as to the terms and conditions of a conveyance of "New Haven Station" to P&W.

In accordance with the Order, please consider this letter as P&W's application for a determination that P&W is continuing to operate as a self sustaining railroad capable of undertaking additional common carrier responsibilities without federal financial assistance. In that regard, I am enclosing for your review a copy of P&W's most recent annual report and its first and second quarter 1997 results. The third quarter statements will be forwarded to you as soon as they are available.

If you have any questions regarding this determination, please do not hesitate to contact me.

Very truly yours,



Heidi J. Eddins
General Counsel

Enc.

HJE:ws

STB

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182 791

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

CHARLES H. WHITE, JR.
E-MAIL: cwhite@gkmg.com

October 21, 1997

CANAL SQUARE
1054 THIRTY-FIRST STREET, N.W.
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TELEPHONE: (202) 342-5200
FACSIMILE: (202) 342-5219
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ROBERT N. KHARASCH
OF COUNSEL
GEORGE F. GALLAND (1910-1985)

WRITER'S IMPRINT DIAL NUMBER
(202) 342-6789

BY HAND

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

Re: **Finance Docket No. 33388 (S)**
CSX and NS -- Control -- Conrail

* * *

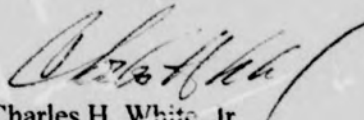
Response of Stark Development Board

Dear Mr. Williams:

Enclosed please find an original and 25 copies of the Response of Stark Development Board along with three copies of a video tape entitled "Neomodal: Your Global Connection" to be lodged in the above docket. Copies of the response are being mailed to parties of record. The video will be made available to parties who request it from Stark Development Board counsel as is outlined in a letter accompanying service.

Will you kindly stamp and return the enclosed copy of this service letter when you receive the enclosed materials.

Very truly yours,



Charles H. White, Jr.
Counsel for
Stark Development Board

cc: Counsel for Parties of Record

XINJI YUAN-GKMG LAW OFFICE
AFFILIATED FIRM
SUITE A-1603, VANTONE NEW WORLD PLAZA
NO. 2, FU CHENG MEN WAI AVENUE
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TEL: 011-86-10 6858-3501 FAX: 011-86-10-6858-8505
E-MAIL: xjylaw@pku.edu.cn



SDB-4

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

RESPONSE OF STARK DEVELOPMENT BOARD, INC.

Charles H. White, Jr.
GALLAND, KHARASCH &
GARFINKLE, P.C.
1054 31st Street, N.W.
Washington, D.C. 20007
Tel: (202) 342-5200
Fax: (202) 342-5219

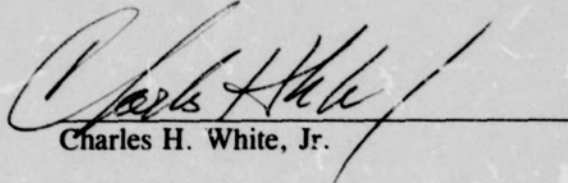
Randall C. Hunt, Esq.
KRUGLIAK, WILKINS, GRIFFITHS
& DOUGHERTY CO., L.P.A.
4775 Munson Street, NW
Canton, Ohio 44718
Tel: (330) 497-0700
Fax: (330) 497-4020

Counsel for Stark Development Board, Inc.

October 17, 1997

CERTIFICATE OF SERVICE

I, Charles H. White, Jr., certify that on the 21 day of October, 1997, I served true copies of the foregoing Responsive Application and Verified Statements of Responsive Application filed on behalf of Stark Development Board on counsel of record by first class mail postage prepaid.



Charles H. White, Jr.

Counsel for Stark Development Board

INDEX OF DOCUMENTS

1. Summary and Remedies Sought
2. Verified Statement of Charles H. West, Chairman of Stark Development Board
3. Verified Statement of Stephen L. Paquette, President of Stark Development Board
4. Verified Statement of Joseph R. Stadelman, President of Stadelman & Associates
5. Operations by Joseph R. Stadelman, President of Stadelman & Associates
6. Political Support Letters
7. Corporate Support Letters
8. Media Support Materials
9. Neomodal Terminal a "State of the Art" Intermodal Railroad Terminal, Exhibit F to Verified Statement of Stephen L. Paquette-item 3 above.



**SUMMARY OF STARK DEVELOPMENT BOARD'S
POSITION ON THE BUYOUT OF CONRAIL BY NS AND CSX**

Background

Through the efforts of Federal, State, and Local public officials with assistance from the local private sector, the Federal Highway Administration ("FHWA") and Ohio Department of Transportation ("ODOT") awarded Stark Development Board ("SDB") Congestion Mitigation and Air Quality ("CMAQ") funds, as authorized under the Intermodal Surface Transportation Efficiency Act of 1991 ("ISTEA"), to build a "state of the art" intermodal terminal in Stark County, Ohio on the W&LE Railway, a regional carrier with connections to three (3) Class I railroads, CSX, Norfolk Southern Railway ("NS") and Conrail, which was intended to enhance competitive intermodal rail service to Northeastern Ohio ("NEO") and Western Pennsylvania.

The terminal would serve as an inland port allowing NEO companies and Western Pennsylvania companies access to international and coastal markets without the need to long haul truck their cargos to distant terminals such as Chicago and the East Coast.

The terminal's plan is to save 1,500,000 gallons of truck diesel fuel per year by getting the trucks off the highways which is a major contribution to improved air quality, as well as, improved highway safety.

The plan was working, Neomodal Terminal ("Terminal" or "Neomodal") was the first ISTEA public/private sector project that was constructed on schedule and within budget. As a result of the Terminal, two (2) major companies have built new facilities adjacent to the Terminal and one (1) company has more than doubled its capacity. These tangible results demonstrate the economic development value of the Terminal.

The W&LE entered into contracts with NS and CSX to market and provide Class I service to Neomodal and its customers. Customers were beginning to use the Terminal, when CSX and NS diverted their attentions to the divestiture of Conrail. As a result of the Conrail divestiture, marketing, sales, reliable service and transit times suffered and Neomodal lost customers and the Terminal ramp up of lifts volume slowed.

It is clear that the announced plans of NS and CSX to absorb Conrail will adversely impact the Neomodal Terminal and its servicing carrier W&LE. It is conceivable that NEO and Western Pennsylvania will be served by only one Class I carrier, NS, down from three (3) Class I carriers which existed at the inception of the market review development and construction of the Terminal. This lack of competition will significantly disadvantage NEO industries and create an anti-competitive rail environment.

As a result of the aforementioned environmental/safety issues, economic development issues, competitive issues, and political issues, SDB seeks the following remedies:

Remedies

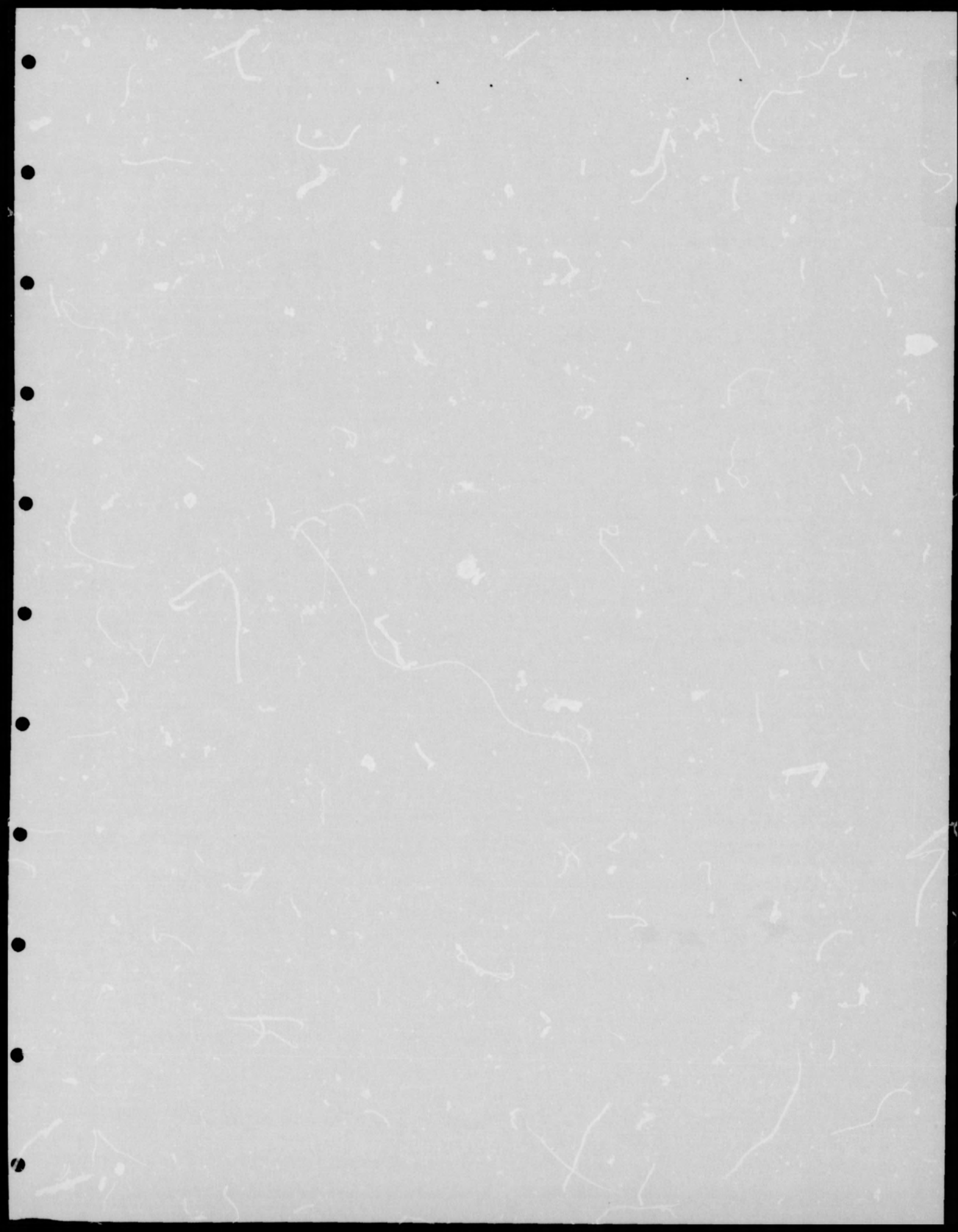
The public sector and private sector participants in the successful Neomodal project want the Terminal operation to continue to succeed as originally intended, i.e. on a viable W&LE, after the breakup of Conrail.

The survivors NS and CSX must provide competitive pricing, schedules, market access and reliability to NEO industries.

The survivors must also work with W&LE to assure competitive rail rates.

The Neomodal must be integrated into the NS and CSX systems and marketed by them as if it was their own terminal. NS and CSX must enter into long term "take or pay" lift contracts with Neomodal that will repay the public sector creative financing loan and provide competitive intermodal rail service to NEO and Western Pennsylvania.

As an alternative remedy, NS and/or CSX purchase the Terminal, at fair market value, and integrate it into their respective systems in a manner that will continue competitive rail service to NEO and Western Pennsylvania.



**VERIFIED STATEMENT
OF
CHARLES H. WEST**

My name is Charles H. West. I am Chairman of the Board of the Stark Development Board (hereinafter "SDB"). My resume is attached and incorporated as Exhibit A. The SDB is the owner of the Neomodal Terminal.

The SDB is a private non-profit 501c(3) corporation organized in 1985 by Stark County's business leaders and public officials to provide a new approach to handling economic development in Stark County, Ohio. Between 1979 and 1983, over 20,000 manufacturing jobs were lost in the area due to the oil crisis and the severe recession that affected the mid-West particularly hard. The mission of the newly created SDB was to attract, expand, and retain business investment and jobs in Stark County. The SDB was organized with three basic principles:

- To be regional in scope - A coordinated countywide economic development effort with all the area chambers of commerce in Stark County.
- Primarily private-sector supported by businesses and local foundations.
- To have representation on the SDB of leadership representing major cities and areas throughout the county.

In 1985, a fund drive to support the SDB raised over One Million Dollars (\$1,000,000) for its first three years of operations. Since the initial driver, Stark County businesses and foundations have raised over Six Million Dollars (\$6,000,000) of additional funds to support the programs and activities of the SDB.

Today, the SDB is governed by a Board of Trustees that represents business leaders and public officials, and by an Executive Committee that represents the SDB in overseeing the monthly activities and programs operated by SDB. The SDB is served by a professional staff of six persons and an office manager. SDB's current staff have an average of 20+ years of professional experience and includes specialists in economic development, marketing, real estate, infrastructure and finance. The major programs operated by SDB include: New Business Attraction, Real Estate & Site

Selection Services, Infrastructure Development, Business Financing, and Governmental Relations.

Since its founding, SDB has assisted in the retention and creation of over 14,000 jobs in the Stark County area, which represents about eight percent (8%) of the current workforce. During this period, SDB has assisted over 300 companies who have invested more than \$600 million into the Stark County economy by expanding or locating new operations.

In addition to working with local businesses, the SDB has been responsible for helping to coordinate several significant development projects in Stark County, including:

- Coordinating a team of 35 federal, state, and local agencies as well as a project team to design and construct the Neomodal Terminal, an \$11.2 million state-of-the-art intermodal freight terminal and a \$1.9 million rail relocation.
- The SDB has also worked to expand the Akron-Canton Foreign Trade Zone #181 to include 843 acres of industrial land surrounding the Neomodal Terminal for future development of a Class A business park.
- SDB has also assisted in the creation of a new Stark County Port Authority to manage the new 843 acre Foreign Trade Zone expansion.

STATE OF OHIO

SS:

COUNTY OF STARK

VERIFICATION

Charles H. West, being duly sworn, deposes and says that he is the Chairman of the Board of the Stark Development Board, that he knows the contents of this Verified Statement and that the contents are true and correct.

Charles H. West

Charles H. West

Subscribed and sworn to before me by Charles H. West on this 14th day of October, 1997.

My Commission expires on July 10, 2002

P:\WPDOCS\JAU\8697579.MI\jau final



Julie Anne Uhrich
JULIE ANNE UHRICH, Notary Public
Recorded in Summit County
My Commission Expires July 10, 2002

CHARLES H. WEST

Curriculum Vitae

Education

Charles H. West is a graduate of Freeport, Ohio, public schools. After graduating from high school in 1952, he entered Tri-State University in Angola, Indiana, from which he graduated two years later with a bachelor of science degree in mechanical engineering. In 1973, Mr. West completed the Program for Management Development at the Harvard University Graduate School of Business Administration.

Professional History

In December 1954 he joined The Timken Company as a mechanical engineer trainee in the physical laboratories. In 1962, he was named assistant lubrication engineer - physical laboratories. He held subsequent positions as follows:

- 1963, Lubrication Engineer-physical laboratories
- 1970, Assistant Chief Engineer-industrial division
- 1970, Chief Engineer-industrial division
- 1977, Executive Assistant-international operations
- 1979, Director-research
- 1982, Vice President-engineering and research
- 1984, became Member of Timken Board of Directors
- 1986, Vice President-technology
- 1986, Executive Vice President-Steel
- 1992, Executive Vice President and President-Steel
- 1996, Retired as officer-continues as Member of the Board of Directors.

Professional Affiliations

Current:

Mr. West is a Fellow of the Society of Tribologists and Lubrication Engineers, for which he has served as national president, chairman of the Presidential Council, national secretary, member of the Executive Committee, and vice president-at-large. He serves on The University of Akron's College of Engineering Advisory Council. Mr. West also holds memberships in the Society of Automotive Engineers and the Association of Iron and Steel Engineers.

He is also Chairman of the Stark Development Board and is a member of the Ohio Steel Industry Advisory Council and the Ohio Development Financing Advisory Council.

Past Affiliations:

Case Western Reserve University' Case Associates Steering Committee; Automotive Hall of Fame Board of Directors; American Society for Testing and Materials-member, chairman of petroleum and metalworking fluids committees; Canton Jr. Chamber of Commerce; American Petroleum Institute.

Community Affiliations: Canton Rotary; Northminster United Presbyterian Church-member and elder, treasurer (1963-65); Boy Scouts of America Executive Council-member, former chairman, Hoover District; Stark Capital Campaigns Committee, current member; Junior Achievement Executive Advisory Council; and United Way of Central Stark County, current member of the Board of Trustees.

Published Papers:

Mr. West has co-authored numerous technical papers, some of which are listed below.

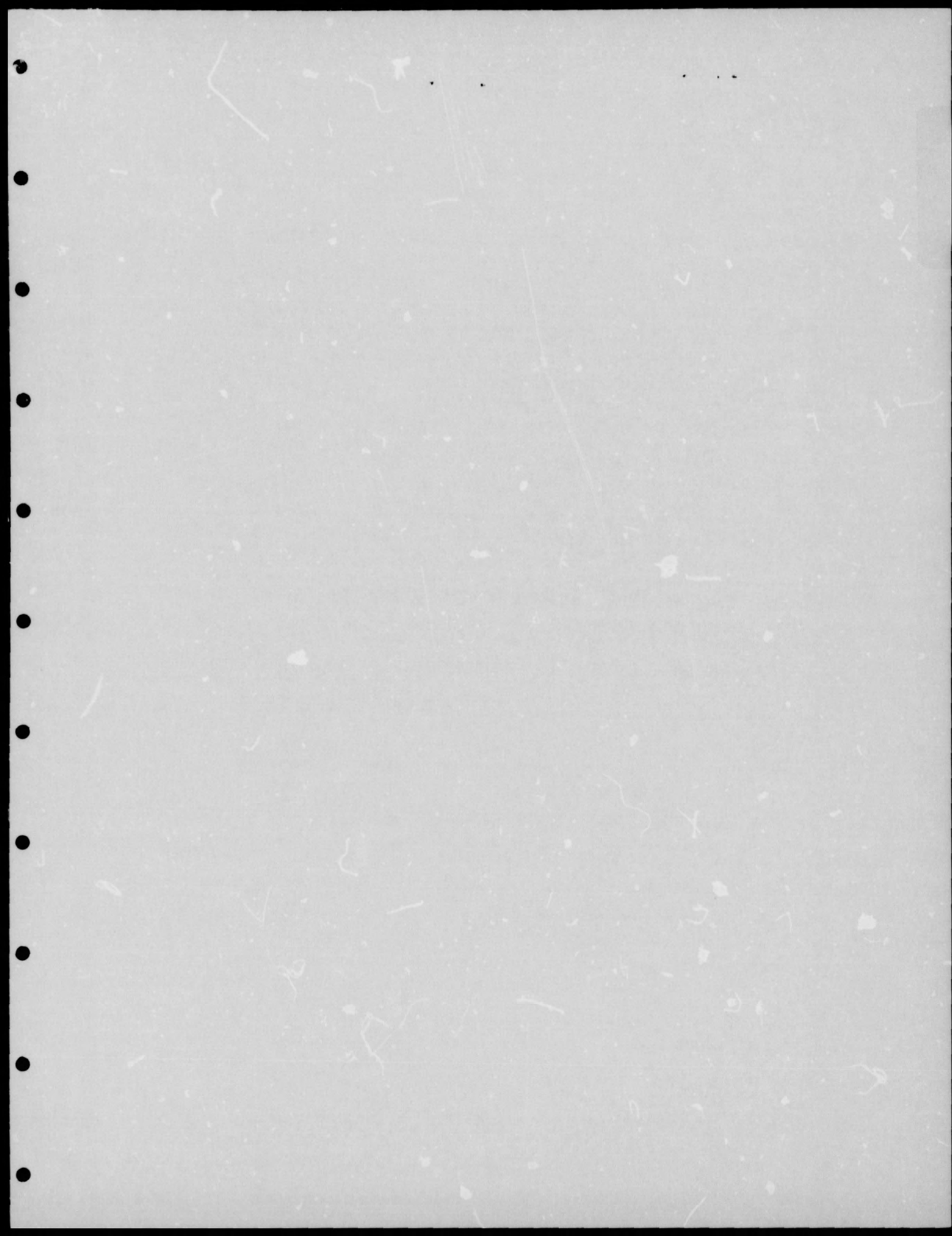
Leiser, J.E. and C.H. West. "Development of Grease-Lubricated Tapered Roller Bearings for High-Speed Rail Transportation." NLGI Spokesman 34 (February 1971): 388-97.

West, Charles H. and H.S. Struttmann. "Guidelines for Mist Lubrications of Roll Neck Bearings." Iron and Steel Engineer 44 (November 1967): 117-123.

McCoy, Wyn E., Charles H. West and P.E. Wilks. "New Mist Lubrication Concepts for Tapered Roller Bearings Used on High-Speed Rolling Mill Back-up Rolls." Tribology in Iron and Steel Works: Proceedings of the Conference in London, England, September 22-25, 1969, by the Iron and Steel Institute and the Institution of Mechanical Engineers. London: Iron and Steel Institute, 1970, 106-111.

Leiser, J.E. and C.H. West. "Vibrating Rig Test for Railway Bearing Greases" presented at the 23rd ASLE Annual Meeting in Cleveland, Ohio, May 6-9, 1968, 8 p.

West, Charles H. and D.E. Sykes. "Maintenance of Tapered Roller Bearings in Rolling Mills." ASME Pap 71-PEM-20, 12 p.



**VERIFIED STATEMENT
OF
STEPHEN L. PAQUETTE**

My name is Stephen L. Paquette. I am President of the Stark Development Board (hereinafter "SDB".) My resume is attached and incorporated as Exhibit A. The SDB is the owner of the Neomodal Terminal and helped to spearhead efforts between the federal, state and local governments and the private sector to develop, design, and to construct the Neomodal Terminal in Stark County, Ohio.

It is my judgment that the proposed divestiture of Conrail Railroad ("Conrail") by the Norfolk Southern ("NS") and CSX ("CSX") Railroads will have an adverse affect on the future viability of the Neomodal Terminal due to logistic changes proposed by NS and CSX. The breakup will eliminate the competitive access of the Terminal to three Class I railroads through the Wheeling & Lake Erie Railway (hereinafter "W&LE"). The competitive access to Class I railroads that existed previous to the Conrail divestiture was one of the most important factors for locating of the Neomodal Terminal in Stark County on the W&LE.

The divestiture will have an adverse affect on the future economic development opportunities and development strategies now in place for Stark County, Ohio, and Northeast Ohio. Because of the Neomodal Terminal, Stark County is actively involved in the development of new business parks to accommodate companies seeking to take advantage of the Terminal. The construction of the Neomodal Terminal was also an important factor in the recent approval by the U.S. Department of Commerce to expand the Akron-Canton Foreign Trade Zone #181 to include 843 acres of industrial land adjacent to the Neomodal Terminal. This property is being developed as a Class A business park that has already attracted new businesses. The Neomodal Terminal and the expansion of the Trade Zone are significant incentives that will assist in creating between 15,000 and 20,000 new jobs in Stark County over the next ten years.

Attached hereto as Exhibit B is the statement "The Neomodal Terminal - A National Model For Transportation Projects" provides information on the history and scope of the project; and the unique public-private partnership that worked to construct the Neomodal Terminal in Stark County. An additional section marked as Exhibit C addresses the Economic Impact of the Neomodal Terminal on Stark County and Northeast Ohio.

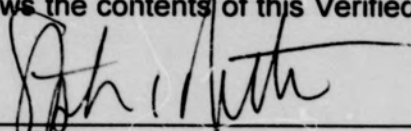
STATE OF OHIO:

SS:

COUNTY OF STARK:

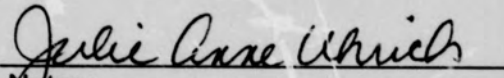
VERIFICATION

Stephen L. Paquette, being duly sworn, deposes and says that he is the President of the Stark Development Board, that he knows the contents of this Verified Statement, and that the contents is true and correct.



Stephen L. Paquette

Subscribed and sworn to before me by Stephen L. Paquette on this 14th day of October, 1997.



Notary

My Commission expires on July 10, 2002



JULIE ANNE UHRICH, Notary Public
Recorded in Summit County
My Commission Expires July 10, 2002

EXHIBIT A

STEPHEN L. PAQUETTE
President, Stark Development Board
116 Cleveland Avenue, N.W., Suite 600
Canton, Ohio 44702-1730
(330) 453-5900

EDUCATION: Bachelor of Science Degree in Business Administration
(1972) University of Arizona, Tucson, Arizona.
Graduate of the Industrial Development Institute (IDI),
(1977), University of Oklahoma.

**OCCUPATIONAL
BACKGROUND:**

Serves as President of the Stark Development Board, a private not-for-profit Economic Development corporation serving of Stark County, Ohio. SDB has a staff of 7 employees. SDB operates programs including: Business Financing, New Business Attraction, Building & Site Selection Assistance, Infrastructure Development and Governmental Relations. In addition, he serves as President of the Stark Development Board Finance Corporation, a subsidiary of the Board. Paquette is also the Chairman of the Neomodal Terminal Management Committee which is responsible for the management of the Neomodal Terminal, an \$ 11.2 million "state of the art" intermodal truck/rail transfer facility located in Navarre, Ohio, owned by the Stark Development Board (May, 1989 to present).

Served as Director of Business Development with the Greater Phoenix Partnership (August 1988 to February 1989).

Served as the Executive Director of the Phoenix Metrogroup, a regional Economic Development Corporation representing 12 chambers of commerce in Metropolitan Phoenix (May 1984 to August 1988).

Senior Area Development Representative for the Salt River Project, a large electric utility company in Phoenix, Arizona (May, 1980 to April 1984).

Director of Industrial Development for the National Council of La Raza, headquartered in Phoenix, Arizona for a national demonstration project, funded by the Economic Development Administration, to assist small rural Hispanic communities in the Southwest in Economic Development projects (May, 1976 to May, 1980).

EXHIBIT A

Served as Economic Development Specialist with the Arizona Office of Economic Planning and Development in Phoenix, Arizona as part of the team recruiting new companies to locate in the State of Arizona. (June, 1972 to April, 1976.

PROFESSIONAL ACTIVITIES:

Associate Member of International Development Research
Council (IDRC)
Past President of the Arizona Association for
Industrial Development
Member of the national Council on Urban Economic
Development (CUED)

EXHIBIT B

THE NEOMODAL TERMINAL **A NATIONAL MODEL FOR TRANSPORTATION PROJECTS**

The Northeast Ohio Neomodal Terminal (Neomodal) located in Stark County, Ohio, was created as a pilot project for the Federal Highway Administration ("FHWA") innovative finance program TE-045. The project allowed the Ohio Department of Transportation ("ODOT") to loan the Stark Development Board ("SDB"), the owner of the Terminal, Congestion Mitigation and Air Quality ("CMAQ") Funds. The premise was that with repayment of the loan ODOT would have more money available to fund future projects. The Terminal was built to reduce truck traffic and air pollution in three nonattainment areas throughout Northeast Ohio and to save an estimated 1.5 million gallons of diesel fuel each year by getting long haul trucks off the highways and on to rail with improved highway safety. This successful pilot project set a precedence and has proven to USDOT and FHWA that innovative financing is a very beneficial and effective way to meet future transportation needs and that the public sector and private sector can successfully work together.

The project was able to leverage \$24 million in private funds and create and retain over 2,500 jobs for Northeast Ohio, to date. The project was also designed and constructed in one year, something the public has never done before in the United States. In addition, only eight percent (8%) of the total project cost was spent on project management, engineering, procurement, and construction management. Traditionally, 15% to 25% is spent on soft costs.

The Neomodal Terminal dedication was held on July 7, 1996, exactly 11 months after the groundbreaking ceremony of July 7, 1995. At the dedication ceremony, U.S. Congressman Ralph Regula remarked that "the facility spells growth and opportunity for Northeast Ohio" and that "the partnership is an example of federal government, state government, and local government working with the private sector with each pulling its own weight." U.S. Secretary of Transportation Federico F. Pena remarked that "nowhere will trailers and containers be transferred more efficiently than at the Neomodal Terminal. It is a state-of-the-art terminal and this project is the first in Ohio and the first in the nation completed under the U.S. Department of Transportation's Creative Financing Program." Mr. Pena further stated that "It is a model for the country and if there were a Hall of Fame for

EXHIBIT B

transportation projects, President Clinton would make the Neomodal Terminal the first inductee."

History of The Project

The Neomodal Terminal (Exhibit D) was built to keep an established company, Fleming Foods, in Stark County and to promote future economic growth in the area and in Northeastern Ohio. Fleming Foods (Exhibit E) is a major food warehouse operation in Stark County. The company employed 450 persons and indicated their desire to create an additional 180 persons if they were able to move forward with their expansion. However, a major obstacle that confronted their plans was the existence of a main-line rail track owned by the Wheeling & Lake Erie Railroad, which ran directly through Fleming's property proposed for their expansion. The estimated costs to relocate the rail track from their site was over \$2 million. Because of this problem, Fleming was being directed by their headquarters office, based in Oklahoma City, to seek alternative locations including a move out of state. The relocation of the rail line enabled the company to undertake a \$24 million plant expansion at their Massillon Division.

In order to retain Fleming's operations, ODOT proposed to construct a new truck/rail intermodal terminal that would allow for the plant expansion and rail relocation. The Neomodal project would serve as a transfer terminal that permits truck trailers and intermodal containers to be loaded and unloaded onto railroad cars. An agreement was made between ODOT and SDB that SDB would own the terminal and lease it to a private operator, Intermodal Operators, Inc., a subsidiary of the Wheeling Corporation.

The Project

The developer and owner of the Neomodal terminal is the Stark Development Board, Inc. ("SDB") who spearheaded the funding effort with the State of Ohio Department of Transportation ("ODOT") and federal government agencies. The project proposal was submitted to the Federal Highway Administration ("FHWA") on April 22, 1994, for consideration of funding. The proposal received a top rating from the FHWA and was approved to proceed on September 30, 1994, under FHWA's Test and Evaluation Program for Innovative Financing TE-045 and Executive Order 12893, Section 2(c). This requires

EXHIBIT B

federal agencies to seek private sector participation in infrastructure ownership, financing, construction and operation in transportation grant programs, and to work with state and local entities to minimize legal and regulatory barriers to private sector participation in infrastructure development. A White Paper titled "Neomodal Terminal - A 'State-Of-The-Art' Intermodal Railroad Terminal" ("White Paper") is provided under separate cover (Exhibit F). This White Paper which covers all aspects of the Neomodal Project including its management, development, funding, design, construction, and operation.

Project Funding

This project was conceived and a proposal was submitted for consideration for funding with Intermodal Surface Transportation Efficiency Act ("ISTEA") funds. The Federal Highway Administration ("FHWA") approved the Stark County Neomodal Terminal as an innovative financing pilot project under the TE-045 program. The innovative financing feature was: FHWA allowed a broader definition of ISTEA, Section 1012 loans, enabling the State of Ohio to establish a revolving loan fund, utilizing CMAQ funds, that, when repaid, could fund future CMAQ and other projects. This project was to operate as a toll terminal, charging a lift fee per lift much like a highway toll. There was a strong emphasis from ISTEA to test creative ways of financing projects in order to maximize the benefit of federal funds. The hypothesis FHWA tested by this project is "In nearly every project, there are economic development activities that benefit from the infrastructure development. These activities can be harvested to help finance the improvement itself."

The funding for the project was a grant from the Federal Highway Administration to ODOT, which provided in effect a "limited recourse" loan to SDB (a non-profit organization) with payback of funds to be achieved from Terminal operation profits called "Net Toll Charges". This Terminal operator does not charge overhead or profit to maximize "Net Toll Charges." The structure of debt repayment is shown as Exhibit G. Revenue from operations would be used to cover operating expenses. After paying out-of-pocket costs, any profit or "Net Toll Charges" will be divided into three equal parts and paid to three state and local agencies (the Ohio Department of Transportation, for benefit of the "Congestion Mitigation Revolving Fund"; the Stark County Area Transportation Study (SCATS) Coordinating Committee for the benefit of the Stark County "Congestion

EXHIBIT B

Mitigation/Air Quality Account"; and to the "Ohio and Erie Canal Heritage Corridor Account") which is in effect repayment of the loan. This is the creative financing feature. The Wheeling Corporation ("WC"), as parent of Intermodal Operators, Inc. ("IOPS"), the operator of the terminal, will carry any operating losses in the startup period up to a limit of \$400,000 on a loss carry forward basis to be repaid, with interest, before payment of "Net Toll Charges."

Management Committee

A management committee was formed to oversee all aspects of the project. The team included a representative of ODOT, the Stark County Commissioners, the Wheeling & Lake Erie Railway Company, the Massillon Development Foundation, Stadelman & Associates, and the Stark Development Board (Exhibit H).

Project Team

The management committee selected Stadelman & Associates to develop, manage, design, and construct a "state-of-the-art" terminal on a fast track basis. The project was to be completed within a one-year time frame from the release to proceed and within budget. Stadelman & Associates assembled a project team consisting of Custom Technologies, Inc., as the project engineering firm for specifying the cranes, the gate system, and the yard management system including the supply of equipment. Hammontree & Associates, Ltd., was chosen as the Civil Engineering firm to design the site, prepare the general contractor's specifications, solicit bids and oversee construction. C.J. Burroughs was selected as the railroad consultant to design the rail system and to oversee its construction. Harris Day was selected as the Gatehouse architect. This project team was supported by qualified suppliers of equipment and services (Exhibit I).

Project Implementation

ODOT received approval for the Neomodal Terminal to participate in the TE-045 program from the FHWA Administrator Rodney Slater on September 30, 1994. On November 22, 1994, a ceremony was held in Columbus, Ohio, to officially announce the commitment of the project. This was the start date for the one-year schedule.

EXHIBIT B

The management committee assisted the project team in successfully rezoning the proposed site of the terminal from residential to industrial zoning, and assisted in obtaining the necessary approvals to complete the project on a "fast track" schedule (Exhibit J). The challenge for the project team was to complete the Neomodal design, obtain 15 permits and other approvals, have the cranes manufactured, develop the software, and construct the terminal within one year. This task had never been accomplished in a private/public sector partnership within the United States. The project was determined eligible for CMAQ funds in March 1995, and the ODOT/SDB agreement was executed on May 18, 1995. Environmental studies were required and the project was approved as a Categorical Exclusion in June 1995. The civil construction contract was awarded in June 1995. Construction was complete and the terminal was open for business on December 15, 1995, on schedule and under budget.

The project benefitted significantly from the flexibility offered by Executive Order 12893, Section 2(c) which allowed the project team to receive considerable support and technical assistance from the federal and state officials to obtain the permits and approvals required for construction.

EXHIBIT C

ECONOMIC IMPACT OF THE NEOMODAL TERMINAL ON STARK COUNTY AND NORTHEAST OHIO

The initial commitment by U.S. Department of Transportation, Federal Highway Administration, and the Ohio Department of Transportation to fund the Neomodal Project was instrumental in Fleming Food Corporation investing over \$24 million to expand its existing food distribution facilities in Stark County, Ohio, resulting in the retention of 450 current jobs and the creation of 180 new jobs to the area. The gross payroll of the Fleming positions retained in Stark County was approximately \$15 million and the added positions accounted for another \$4 million.

The construction of the Neomodal Terminal has also resulted in plans by the Stark County Board of Commissioners, the Massillon Development Foundation (a subsidiary of the Massillon, Ohio Chamber of Commerce) and the Stark Development Board to launch the development of a new 843-acre Class A business Park, NEO Commerce Park ("NEOCOM"), located adjacent to the Neomodal Termini. A copy of the master plan of the park is presented as Exhibit K. This new business park will bring about a major boost to the local economy by helping to attract new businesses and jobs into Stark County who will desire to take advantage of the Neomodal Terminal. The Neomodal Terminal will provide companies with new transportation saving and options previously not available in the area, particularly the ability of shipping by container loads domestically or to destinations worldwide via rail to the nation's ports.

In planning the new business park, the Stark Development Board and Stark County Commissioners have also been successful in working to expand the Akron-Canton Foreign Trade Zone #181 to the area adjacent to the Neomodal Terminal. FTZ #181 was initially created on 140 acres of land at the west end of the Akron-Canton Regional Airport. In July, 1997, the U.S. Department of Commerce announced approval of an expansion of FTZ #181 to include additional sites located at the Vienna Airport in the Youngstown, Ohio area; Columbia County, Ohio, and to the 843 acres in Western Stark County, Ohio adjacent to the Neomodal Terminal.

The projected impact of the new business park is the ultimate creation of between 15,000 and 20,000 new jobs and over \$400 million per year in new annual

EXHIBIT C

payroll to Stark County through the location of new businesses and jobs at the Park. A breakdown of the estimated impacts from the development of the park is included as Exhibit L. The business park will also result in over 14 million square feet of construction in new manufacturing/distribution facilities representing over \$1 billion of new capital investment. The plan is to include a U.S. Customs office which is a necessary adjunct to an inland port.

NEOCOM has already been successful in attracting a number of new businesses in its first year of development. The Sterillite Corporation (Exhibit M), headquartered in Townsend, Massachusetts, invested over \$20 million in 1996 for the construction of a 476,000 sq. ft. manufacturing/distribution facility to produce plastic houseware goods for sale in the Midwest U.S. The company now employs over 180 persons. Less than one year in operation, the company invested an additional \$20 million to construct a 450,000 sq. ft., expansion at its facility that resulted in the creation of an additional 150 persons at that facility. The company is now operating almost a million square foot plastics facility at this location.

Another company, People's Services, has purchased seven acres of land at the Neomodal Terminal from the Stark Development Board and is constructing a 62,000 sq. ft. cross-dock warehouse to handle companies shipping less than load freight to enable them to be able to take advantage of the Neomodal Terminal. The cost of its new terminal is over \$2 million and it is directly connected to the Neomodal Terminal to allow overweight containers up to 40 tons to be shipped to a port for export.

The Massillon Development Foundation and Stark Development Board are actively promoting the business park to prospective companies and anticipate plans by additional companies to locate in the next year.

Long-Term Impacts on Stark County

Immediately following the announcement of the plans to construct the Neomodal Terminal in December, 1994, the Stark Development Board began working on a Long-Term Economic Development Strategy in cooperation with the Stark County Commissioners, the elected officials representing Canton, Alliance, and Massillon; Stark County's state legislators and U.S. Congressman Ralph Regula. The fundamental basis of the plan was to take a "pro-active" approach that would anticipate the success of the area in

EXHIBIT C

attracting new companies and jobs based upon the impact of the Neomodal Terminal as well as the proposed expansion of the Akron-Canton Foreign Trade Zone #181. Approval by the U.S. Department of Commerce was requested. The result of these discussions and planning was the development of a new strategy, Northeast Ohio Intermodal Translinks (Exhibit N) that has been endorsed as the long-term plan for the area.

The Northeast Ohio Intermodal Translinks have been put together by collaboration of the various governmental agencies, listed above, and the private sector to attempt to link future economic development and jobs by connecting the Neomodal Terminal to two other major transportation facilities that have been targeted by a new six-county economic development group, the Northeast Ohio Economic and Trade Consortium ("NEOTEC") of which Stark County is one of the participating counties. Exhibit O provides information on the creation of this new consortium; its organizational make-up and the mission of the group.

The Northeast Ohio Intermodal Translinks have been designed to link the Neomodal Terminal to the Vienna Airport, located in the Youngstown area, which is being planned as the future air cargo hub in Northeast Ohio by the State of Ohio and supported by the Federal Aviation Administration ("FAA"). The FAA, in November 1996, awarded a large grant to the airport to begin expanding the airport runways and preparing to change the mission of the airport to an international jet cargo facility, and has indicated plans to fund the project in the amount of \$30 million.

The Translink Strategy also calls for aligning Neomodal with the port facilities located in East Liverpool, Ohio on the Ohio River. The port facility, operated by the Columbia, Ohio County Port Authority, is one of the largest in-land ports by volume operating in the United States. The Port Authority is currently working through NEOTEC on plans to make major upgrades to their facilities and to expand industrial park sites adjacent to their operations.

A major component of the Northeast Ohio Intermodal Translinks and that of NEOTEC is to change the nature of freight shipments by the three modes, to provide more favorable transportation rates and incentives by virtue of integrating the various modes of transportation into a more fully integrated system. At present, a significant amount of freight generated by companies in Northeast Ohio is handled out of state. By upgrading the types

EXHIBIT C

of facilities for freight movement through such projects as the Neomodal Terminal, developing a new air freight hub at Vienna Airport and upgrading the port at Columbia County, the premise is that Ohio can begin to capture and promote more competitive shipping routes, rates, and services that will assist Ohio's businesses in remaining in Northeast Ohio and increasing the potential for the area to attract future businesses and jobs.

Through the successful implementation of the Northeast Ohio Intermodal Translinks, and the ultimate success of NEOTEC in working to promote the development of Northeast Ohio's transportation capabilities, and to begin to aggressively market Northeast Ohio as a world market location, the future of Stark County and Northeast Ohio is very positive.

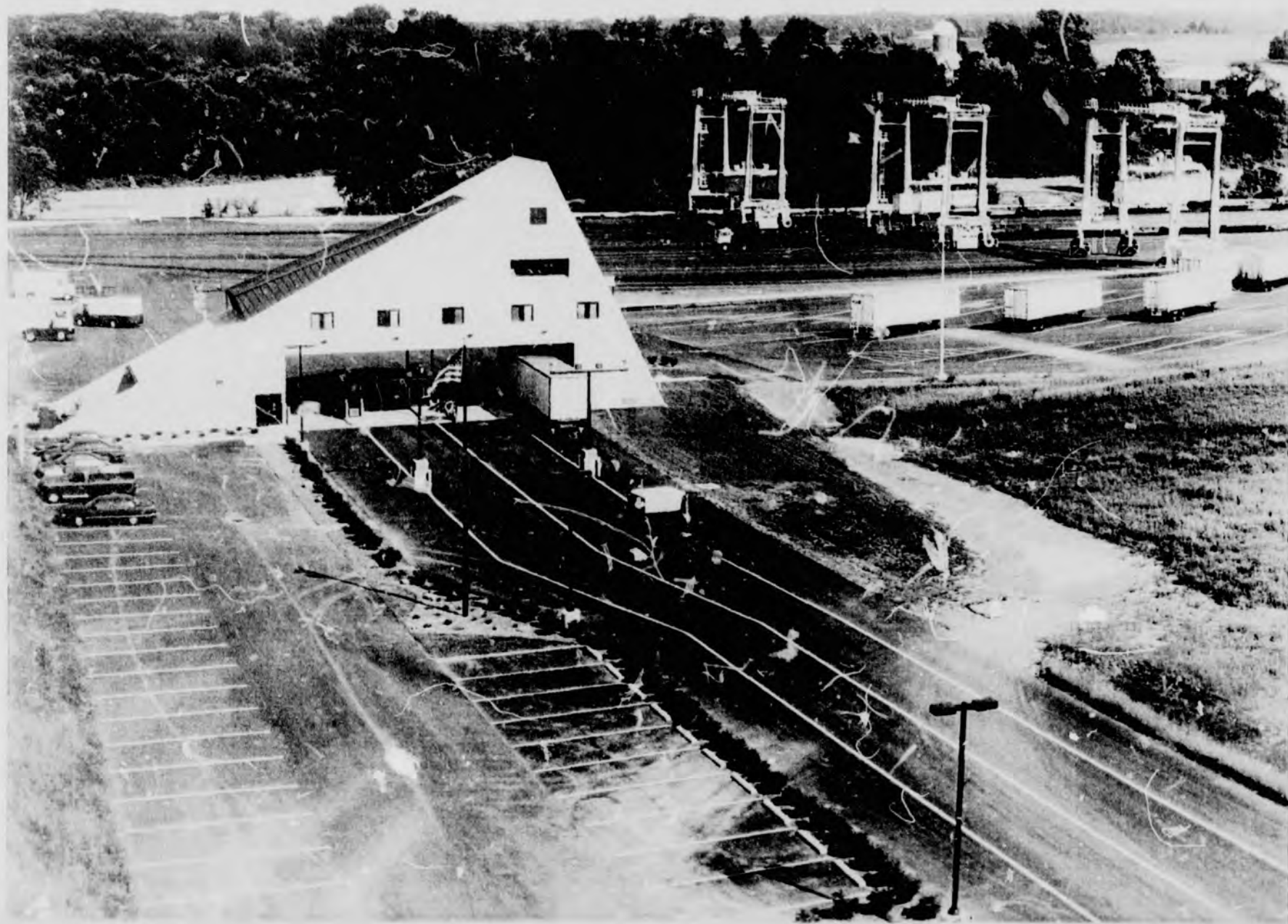


EXHIBIT D

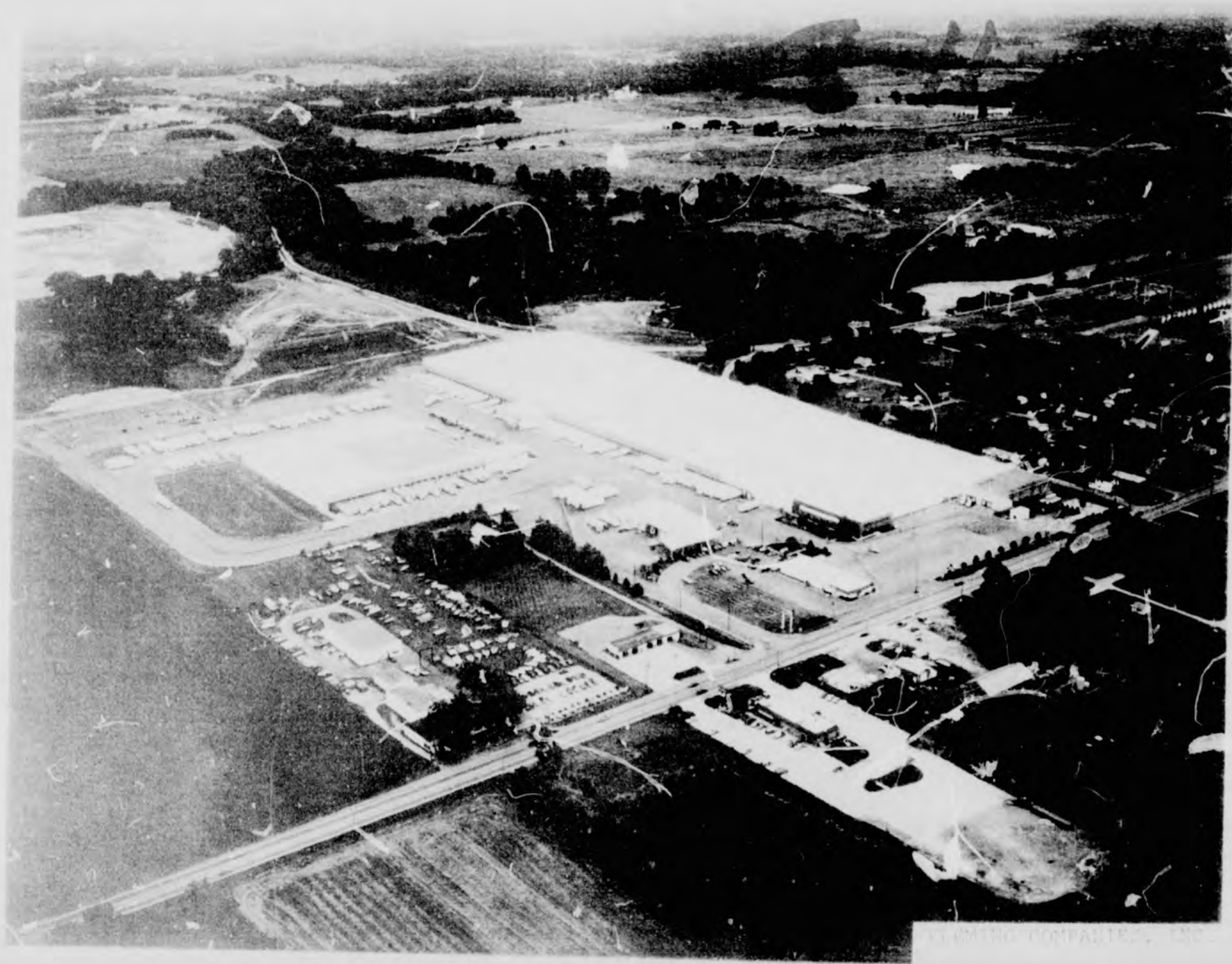


EXHIBIT E

CLIMING COMPANIES, INC.

EXHIBIT F

**Neomodal Terminal a "State of the Art"
Intermodal Railroad Terminal
is attached hereto as Section 9.**

Financing - Payback of Loan

NEOMODAL TERMINAL - CREATIVE FINANCING

WATERFALL OF FUNDS

Intermodal Operators, Inc.

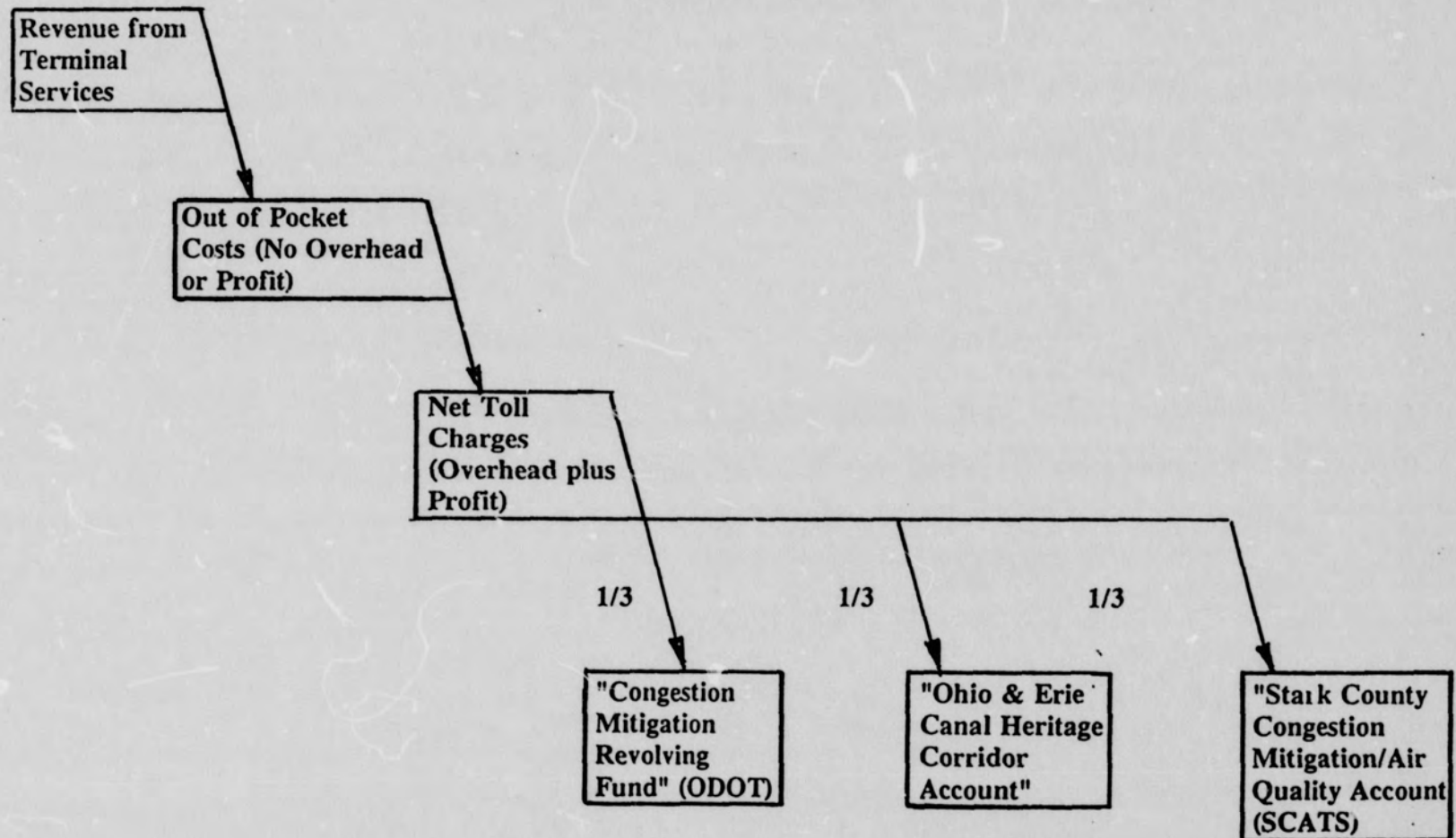


EXHIBIT 6

EXHIBIT H

ORGANIZATION OF THE NEOMODAL PROJECT

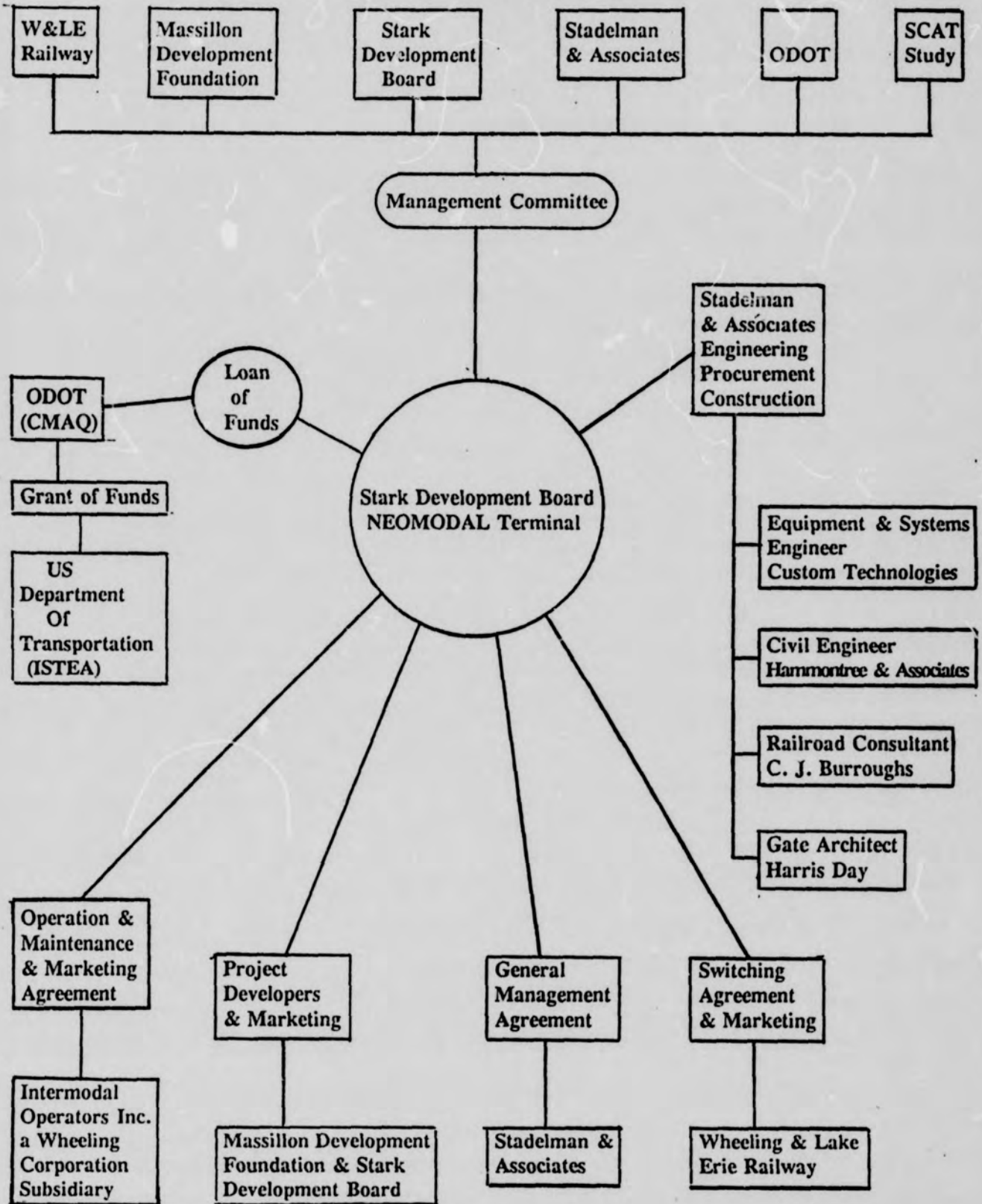


EXHIBIT I

Project Team - List of Participants

MANAGEMENT COMMITTEE For the NEOMODAL Terminal Project

1. The Stark Development Board
2. Ohio Department Of Transportation
3. The Stark County Commissioners
4. The Wheeling & Lake Erie Railway
5. The Massillon Development Foundation
6. Stadelman & Associates

PROJECT TEAM For the NEOMODAL Terminal Project

The Project Team consisted of the following key participants:

1. Stadelman & Associates - Consultant to the Stark Development Board, responsible for the development, design, and General Management of the project.
2. Custom Technologies, Inc. - Project Engineering Firm for specifying the cranes, the gate system, and the yard management system including the supply of equipment.
3. Hammontree & Associates - Civil Engineering, permits, traffic lights.
4. C.I. Burroughs - Railroad Consultant

Major Suppliers were:

Harris Day - Gate House Architect.

Amtrack - Railroad Track Installation.

Beaver Construction - General Site Construction Contractor.

Custom Technologies, Inc. - Design & Supply of NeoBulk Lifting Beams & Stands

Hammond Construction - Gate House Contractor.

LA King - Unmanned Gate Operating System

Mt-Jack - Rubber Tired Gantry Cranes

SGS-GPI - EDI and Yard Management PC Base Computer System Software and Hardware

Wheeling & Lake Erie Railway - Rails & rail accessories, switches, automated switch engine, purchase of North/South properties.

12/27/94

STARK INTERMODAL FACILITY SCHEDULE (Top Level)

ES = Engineering Specifications Completed
AC = Evaluate Bids and Award of Contract
CC = Construction Complete
CT = Commission, Test, and Operate
TO = Train Terminal Operators

BD = Bid Documents Sent to Bidders
MC = Manufacturing of Equipment & Systems Completed
SS = Shipment from Supplier
SO = Selection Of Terminal Operator
ED = Engineered Design Drawings

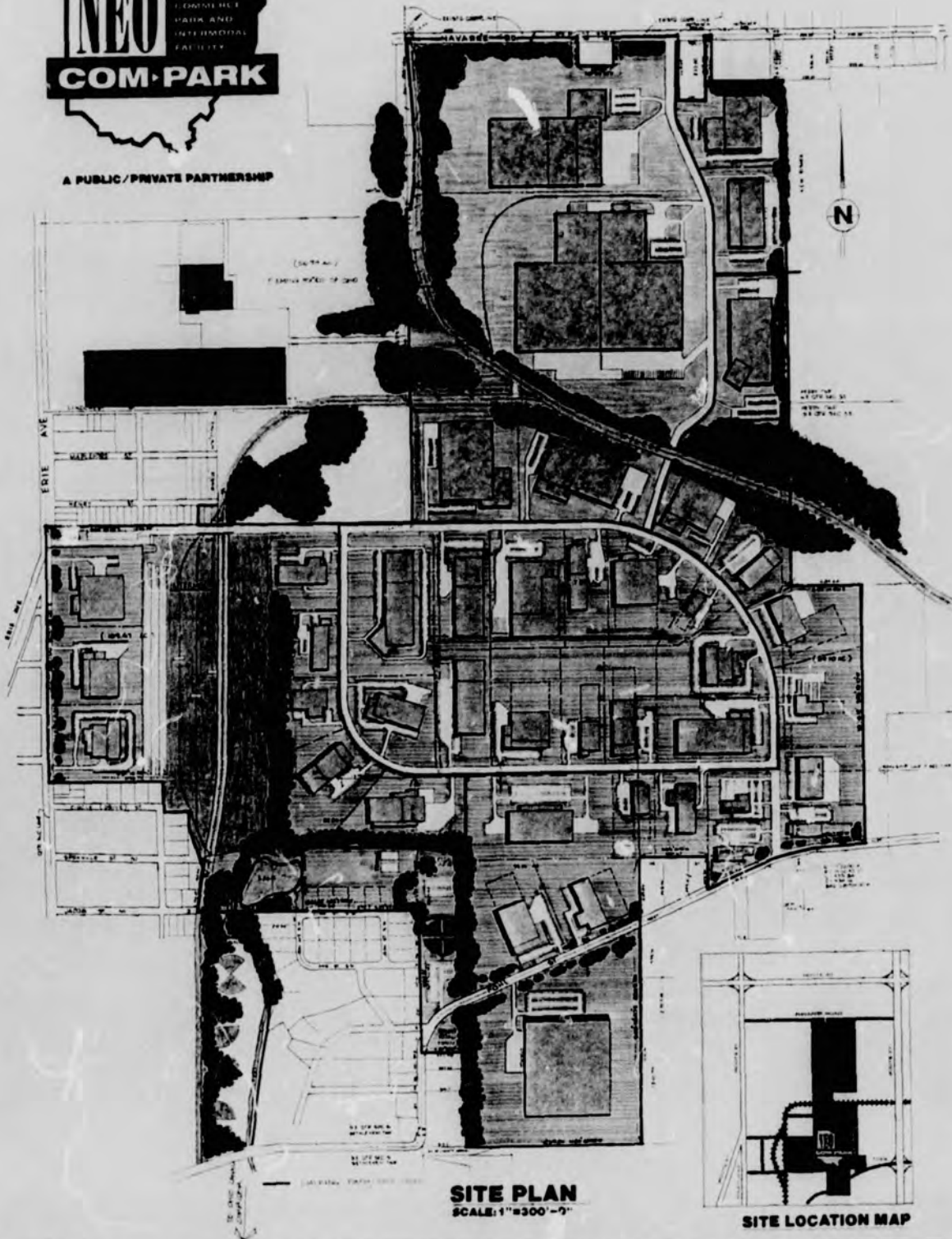
BR = Bids Received
CA = Construction Activities
IN = Installation
MO = Marketing & Sales Organization
CO = Commercial Operation

Item/Date	11/94	12/94	1/95	2/95	3/95	4/95	5/95	6/95	7/95	8/95	9/95	10/95	11/95	12/95
Gantry Cranes	*		1/3 ES 1/3 BD	2/1 BR 2/7 AC	MANUFACTURE CRANES								11/1 MC 11/15 SS	12/1 CT 12/30 CO
Truck Scales	*					4/3 ES 4/3 BD	5/1 BR 5/15 AC	MANUFACTURE SCALES		9/15 MC	10/2 SS 10/15 IN	11/1 CT	12/1 CC 12/30 CO	
Communication System Computers & Software	*				3/1 ES 3/15 BD	4/07 BR 4/15 AC	DEVELOP PROGRAMS & SCPEENS			9/15 MC 9/22 SS	10/2 IN	11/1 CT	12/1 CC 12/30 CO	
Gate Facilities	*				3/1 ED 3/15 ES	4/3 BD 4/24 BR	5/1 AC	CONSTRUCTION		9/1 MC 9/15 CC	OPERATOR'S OFFICE		12/30 CO	
Civil Works Railroad	*			2/15 ED	3/1 ES 3/1 BD	4/24 BR	5/1 AC	CONSTRUCTION				11/1 CC	12/30 CO	
Site Development	*			2/15 ED	3/1 ES 3/1 BD	4/24 BR	5/1 AC	CONSTRUCTION				11/1 CC	12/30 CO	
Terminal Operator	*						5/1 SO	6/1 MO	ORGANIZATION MARKETING & SALES			11/1 TO	12/30 CO	
Transporters (Lease) Chassis (Lease)	*								7/14 ES	8/1 BD 8/15 BR	9/1 AC		11/1 SS	12/30 CO
"Off Site" Services (Sub-Contract)	*									8/15 ES	9/1 BD 9/15 BR	10/2 AC	11/1 SS	12/30 CO

REMARKS/COMMENTS

"Off Site" Services = Tire Service, Fuel Delivery, Heavy Maintenance, Computer Service, Lease of Transporters (Hostlers), Chassis, Etc.

EXHIBIT K



NEO COM-PARK



GEIS CONSTRUCTION
1670 ENTERPRISE PARKWAY TWINSBURG, OHIO 44087

EXHIBIT L

ECONOMIC IMPACT OF "TRANSLINK" DEVELOPMENT STRATEGY UPON STARK COUNTY (1997-2007)

*** DEVELOPMENT OF KEY INDUSTRIAL BUSINESS PARKS AS GENERAL PURPOSE FOREIGN TRADE ZONES**

Neocom Commerce Park (Western Stark County)	843 acres
Fourth Street International Park (Canton)	32 acres
Canton International Business Park (Canton)	123 acres
Alliance International Business Park	315 acres
 Total developable land	 1,313 acres

*** CONSTRUCTION OF BUILDING SPACE (SQ. FT) AT 40% DENSITY**

Neocom Commerce Park	14,000,000
Fourth Street International Park	400,000
Canton International Business Park	2,000,000
Alliance International Business Park	5,500,000
 Total Building Construction	 22 million sq.ft.

*** PROJECTED NEW CAPITAL INVESTMENT IN CONSTRUCTION/MACHINERY & EQUIPMENT**

Neocom Commerce Park	\$ 880 million
Fourth Street International Park	24 million
Canton International Business Park	120 million
Alliance International Business Park	330 million
 Total New Capital Investment	 \$ 1.3 billion

*** PROJECTED NEW EMPLOYMENT IN
NEW BUSINESS PARKS**

Neocom Commerce Park	15,000-20,000 persons
Fourth Street International Park	400-600 persons
Canton International Business Park	2,000-3,000 persons
Alliance International Business Park	6,000-7,500 persons
 Total new employment	 23,000-30,000 persons

***PROJECTED NEW ANNUAL PAYROLL
GENERATED WITHIN STARK COUNTY**

(@ \$20,000 Avg. annual salary)	\$ 400-600 million/yr.
---------------------------------	------------------------

EXHIBIT M

Sterilite



NORTHEAST OHIO INTERMODAL TRANSLINKS



Planning for competition

Agency looks at economic tools of region

By EDWARD R. SEMMLER
 Repository business editor
 and EDD PRITCHARD
 Repository business writer

The Northeast Ohio Trade and Economic Consortium has considerable economic development tools at its disposal. Now, it has to figure out the best way to use all of them in concert.

Dale E. Gibbons, executive director of the Summit County Department of Development and interim executive director of NEOTEC, said planning studies are one of the top priorities for the newly formed organization.

NEOTEC is a joint office of economic development that allows Stark, Summit, Cuyahoga, Portage, Trumbull and Mahoning counties to pool resources to plan and promote the economic development of the region.

Mr. Gibbons said NEOTEC could hire consultants to help it determine its human and infrastructure assets and how to use them best to sell Northeast Ohio to the rest of the world as the place to do business.

Kent State University has its Liquid Crystal Institute, which since 1960 could have the most immediate impact on the regional economy. The University of Akron has considerable polymer and engineering expertise, and other area institutions have their own specialties.

Ms. Gibbons said the study also would look at the size of the work force and its strengths and weaknesses. There is considerable expertise, for example, in polymers, metal fabrication and precision machinery.

As that study is going on, another would look at the region's transportation assets. It would analyze infrastructure needs, prioritize the improvements and determine the best ways to connect the key transportation assets.

Ports at East Liverpool and Wellsville, for example, need to be expanded to handle more river traffic and runways at the Youngstown-Warren Regional Airport have to be extended to accommodate international cargo flights.

In addition, officials hope to get a commuter rail running between Akron, Canton and Cleveland and another line linking Kent State and the University of Akron.

Mr. Gibbons said the study also has to look at the best ways to connect the main transportation assets with roadways and rail lines.

She said chances now might improve for getting the Route 30 freeway extended from Canton to East Liverpool, so that the river port could be connected with the Neomodal transfer station in Perry Township.

Neomodal, which has begun operations, is a site just south of Route 21 and Route 30 where containers and trailers can be loaded or unloaded from trains.

While NEOTEC makes plans, so do private developers. Several are confident that the area — working as a team — can convince manufacturers from Europe and Japan to build facilities here.

NEOTEC is good business sense

An overview of some of NEOTEC's assets:

AKRON CANTON REGIONAL AIRPORT



Airport has a foreign trade zone that can be used by manufacturers to reduce or eliminate custom fees on goods shipped into and out of the United States. Construction has started on two buildings in the zone. Plans are to extend the zone to other key sites. Airport would be NEOTEC's hub for airline passenger traffic.

MAJOR HIGHWAYS INTERSTATES

Interstate 77: North-south corridor runs from Cleveland to key manufacturing areas in the Carolinas. Main corridor between Canton and Akron.

Interstate 80: Major east-west route across the United States. Connects area with New York to the east and Chicago to the west.

Interstate 76: Corridor between Akron and Youngstown. Connects area with Pittsburgh. Private developer hopes to transform it into the Crystal Corridor, tying it to Kent State University's liquid crystal program.

Route 11: North-south highway connects Ashtabula, Youngstown, Warren and East Liverpool.

Route 30: East-west route crosses state. Connects Canton and Massillon with East Liverpool. Proposals are being considered for improving the highway from Canton to East Liverpool.

NEOMODAL



Ohio's sixth and most modern intermodal rail station. Facility will be a transfer point where semi-trailers and containers will be moved on trains bound cross-country. Planners hope to extend Akron-Canton's foreign trade zone to the facility.

NEOTEC's basics



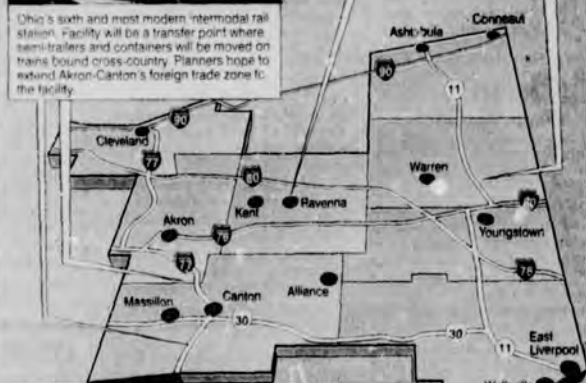
The Northeast Ohio Trade and Economic Consortium is a joint office of economic development formed by six counties in the region that will pool their resources to attract businesses. Officials in Cuyahoga and Ashtabula counties have not yet decided to join. Assets from those counties would include Cleveland Hopkins International Airport and two intermodal railroad facilities.

RAVENNA ARSENAL

Area of about 25,000 acres once was weapons storage area for U.S. military. Planners hope to develop land for industrial use.

YOUNGSTOWN-WARREN REGIONAL AIRPORT

Could become a major cargo airport if the runway can be extended to become a destination for cargo planes from Europe. Rail facilities nearby make possible another intermodal station. Planners hope to extend Akron-Canton's foreign trade zone to the facility.



EAST LIVERPOOL, WELLSVILLE PORTS

Ports on Ohio River are among busiest in United States. More docks could increase barge traffic. Ports are connected by highways to Canton, Youngstown, Pittsburgh and deep-water ports in Ashtabula County. Planners hope to extend Akron-Canton's foreign trade zone to the facility.

Repository / John W. Fleming

"THIS KIND of coordinated, regional approach to economic development is what we're going to have to do in order to compete in the future."

Dale E. Gibbons
 SCDD executive director

Other are looking toward new technology. The Hudson-based Crystal Corridor Group has intentions to take advantage of the advanced liquid crystal projects at Kent State, the University of Akron and Cleveland State.

Crystal Corridor wants to bring companies here to develop the liquid crystal technology, said David L. Hall, a partner in the group.

Hall's organization has ties with Geis Construction, a Twinsburg firm that is spearheading development of N.E.O. Com Park on private and Stark County Farm property in Perry Township. Hall said he has worked with Geis to develop other large industrial parks.

Crystal Corridor already has companies interested in developing the liquid crystal technology being created at Northeast Ohio universities, Hall said. Many of the innovations — like potential improvements to computer view screens — carry the promise of big profits, he said.

Hall and his partners have been networking with businesses, trying to sell them a Northeast Ohio location. NEOTEC helps the sales effort, he said, commending public officials for developing the consortium.

"It's their leadership that kicks it off," Hall said. "We're very positive about it."

NEOTEC will begin marketing the area to the rest of the world. Officials are preparing for an April trade fair in Hannover, Germany.

NEOTEC will be operating on annual contri-

butions from its member counties and a \$750,000 grant from the state. Part of the grant money from the state will be used to improve traffic signals on Route 21, near the Neomodal.

Though NEOTEC has been formally meeting only a few months, the organization has helped push to the top of Ohio's priority list plans for widening Interstate 77 between Canton and Akron.

The organization also has applied to have the Akron-Canton Regional Airport's foreign trade zone extended to Neomodal, the Youngstown-Warren airport and the river ports at East Liverpool and Wellsville.

The foreign trade zone has attracted two businesses to the Akron-Canton airport. A German company that makes electronic components is building one plant, and ASW Services is building a warehouse and distribution center.

Ms. Gibbons said Lahm Airport in Mansfield also is interested in the foreign trade zone, and there have been conversations with Mansfield and Cuyahoga and Ashtabula counties about the possibility of joining NEOTEC.

"This kind of coordinated, regional approach to economic development is what we're going to have to do in order to compete in the future," said Ms. Gibbons. "This is what other areas of the country are looking at and some are pumping a lot of money into it."



**VERIFIED STATEMENT
OF
JOSEPH R. STADELMAN**

My name is Joseph R. Stadelman. I am President of Stadelman & Associates (hereinafter "SA"). My resume is attached and incorporated as Exhibit A.

SA, acting as Consultant to Stark Development Board (hereinafter "SDB"), is responsible for the development, design, project management, procurement, construction, marketing and operations oversight of the Neomodal Terminal (hereinafter "Neomodal").

The marketing, financial and operational aspects of the Neomodal are, in my judgment, significantly adversely affected if Norfolk Southern Railway Company (hereinafter "NS") and CSX do not honor their commitments. The availability of competitive Class I rail service was a key element in the award of the Congestion Mitigation Air Quality ("CMAQ") funds to the Ohio Department of Transportation (hereinafter "ODOT") and SDB for the construction and operation of the Neomodal Terminal.

Management from CSX and NS were involved in technical and marketing discussions, the ground breaking, dedication and dozens of customer meetings in the past three (3) years clearly showing support for Neomodal.

North East Ohio (hereinafter "NEO") and Western Pennsylvania customers stated that they want to use the Terminal but the lack of CSX and NS competitive rates, competitive transit times and reliable service make it impossible. It is difficult to keep our existing customers when cars sit at CSX/Willard waiting for space on CSX East/West intermodal trains. NS initially provided acceptable service design but as a result of the Conrail buyout, NS service to Neomodal is now insignificant.

I am also the sponsor of the Operating Plan, as set forth hereinafter in a separate section.

The marketing and financial aspects of Neomodal, as referenced hereinabove, are more fully described as follows:

MARKET

The original premise of the Neomodal site location on the Wheeling & Lake Erie Railway (hereinafter "W&LE"), a regional railroad, was that the W&LE had good rail connections to the key marshalling rail yards of the three Class I railroads, CSX, NS and Conrail. The strategy was that W&LE switches and Neomodal services would be marketed and sold by the Class I carriers through line haul agreements. These agreements would allow CSX/NS/Conrail intermodal rail access to a portion of Ohio and Western Pennsylvania that was not served by a local intermodal terminal. Prior to the Neomodal, local shippers were required to dray their containers and trailers to intermodal terminals such as Cincinnati, Chicago and East Coast ports.

SDB was led to believe that CSX and NS had strategic plans to locate intermodal terminals in Northeast Ohio ("NEO"), and logistically, Neomodal could fulfill these strategic plans, without the necessity of investing their own capital. In effect, Neomodal was a form of off balance sheet financing for these Class I carriers, which was a win-win deal for all interested parties.

Marketing began early in the terminal design stage when W&LE and SDB reviewed the detailed design with both NS and CSX management. Conrail refused to participate. NS, for example, was insistent that SDB provide ELME lifting beams on the cranes to accommodate the J.B. Hunt high stack units which they envisioned would be a major customer of Neomodal. Early on, NS published Neomodal service routes and schedules (Exhibit B). CSX performed a very thorough design review to be sure that SDB was designing a terminal that met CSX standards. The CSX review report to Neomodal was favorable (Exhibit C). One of the main features of the Neomodal design is the forty (40) ton gantry cranes which match the ports ship-to-shore cranes, which allows Neomodal to truly be an inland port.

One might ask with all the NS and CSX involvement in the development stage of Neomodal, which bordered on inducement, why aren't NS and CSX aggressively working and providing competitive service designs?

W&LE signed haulage and marketing/sales agreements with CSX and NS (Exhibit D - Verified Statement of Reginald Thompson-W&LE Vice President).

An elaborate communication system was set up to allow Neomodal to operate seamless to CSX and NS direct to shippers and other connecting Class I railroads.

CSX and NS marketing and rate quotations would not break out W&LE/Neomodal as a separate entity. These costs would be included in the NS and CSX quotes to shippers and Intermodal Marketing Companies (hereinafter "IMC"). The Neomodal was listed in NS and CSX rate sheets as Stark.

As CSX, NS, W&LE and SDB began to market Neomodal and as early operation commenced, it became readily apparent that the offerings by NS and CSX were not competitive in service design. Specifically, NS and CSX routes, prices, schedules and reliability of service were not competitive with the current transportation methods to and from NEO, namely to continue draying trailers and containers to preexisting intermodal ramps.

As the Neomodal started up, many local customers, IMC's, and trucking companies attempted cargo test moves. Most of these tests failed because the Class I carriers service was not timely and reliable. As service became more reliable and timely, the challenge and current marketing plan was to coax these customers to try Neomodal again. Neomodal shipments have encountered a series of delays at CSX's Willard yard where Neomodal/W&LE cars are left in the yard because the east west trains are full at 9,000 feet long. Roadway and Schneider are examples of trucking companies that are trying for a second time to use the Neomodal.

According to media accounts, the Union Pacific (hereinafter "UP") is having major service disruptions in many areas of the West as a result of the UP merger with Southern Pacific (hereinafter "SP"). There is every indication that these similar service disruptions are occurring and will continue to occur in the CSX/NS takeover of Conrail. Continuing oversight by the Surface Transportation Board is recommended to expedite solutions.

NS was running two (2) intermodal trains a day from Detroit thru Neomodal Stark to Norfolk, Virginia and return (Exhibit E), but NS abruptly dropped the service in favor of other routes utilizing the newly acquired Conrail tracks.

NS executives contend that NEO shippers don't want to use the Neomodal. This is true because NS will not provide competitive rates and service with schedules and reliability that match other shipping choices.

Consequently, use of the Neomodal Terminal has not grown to the level where revenues cover costs, thereby creating a monthly shortfall.

The service problem could be exacerbated by CSX's recently announced plans for an intermodal train switching yard and intermodal terminal at the old Conrail Collingwood yard just East of Cleveland, off congested Interstate 90. W&LE is effectively shut out of reaching Collingwood for two (2) reasons:

1. W&LE does not serve Collingwood and has no trackage rights and interchange traffic;
2. To reach the yard from the South, it is necessary to cross the main East West tracks of CSX. One would expect significant delays to get a clearance or find a large enough window in the high speed East West traffic lanes to allow a timely, low speed train crossing.

In order to provide a broader range of service to NEO and Western Pennsylvania customers (and even more revenue), the Neomodal design includes the capability to handle neo-bulk and project cargos. Neomodal has handled a sixty (60) ton boiler for Grief Bros. in Massillon, Ohio and three (3) sixty-six (66) feet long, thirteen (13) feet in diameter and sixty-five (65) tons in weight tanks fabricated by Hydro Dyne of Massillon destined for a Westinghouse power plant under construction in China.

Exhibit F is a current Neomodal customers list, which demonstrates that Neomodal services NEO and Western Pennsylvania. The service territory ranges from Columbus to Cleveland to Pittsburgh and all points in-between.

W&LE and SDB have had on-going marketing and sales efforts independent and in support of NS and CSX marketing and sales efforts. These efforts included booths at four (4) IANA/International Intermodal Expo conferences and continuous contacts with local companies, Intermodal Marketing Companies and trucking companies -Exhibit G; and an example of CSX's recent marketing effort is attached as Exhibit H.

An early review of the potential market for the Neomodal resulted in establishing an initial design basis capacity of 150,000 lifts (loaded and empty) per year which could be expanded in the future, if necessary.

There is every reason to believe that this level of activity is possible with expected NS and CSX Class I support.

FINANCIAL

There were two key elements in the award of the CMAQ funds to the ODOT and SDB for the Neomodal. One was creative financing described herein and the other was reducing long haul truck traffic with its environmental and safety benefits, as set forth in SDB's Responsive Environmental Report ("SDB-3").

The creative financing was to optimize "Net Toll Charges" by maximizing revenue through superior service and minimizing costs through a state of the art terminal design focused on the lowest operating costs. "Net Toll Charges" is the difference between revenue and out-of-pocket costs. Any profit or "Net Toll Charges" will be divided into three equal parts and paid to three state and local agencies (the Ohio Department of Transportation, for benefit of the "Congestion Mitigation Revolving Fund"; the Stark County Area Transportation Study (SCATS) Coordinating Committee for the benefit of the Stark County "Congestion Mitigation/Air Quality Account"; and to the "Ohio and Erie Canal Heritage Corridor Account") which is in effect repayment of the loan.

The Neomodal was operational and ready to receive cargo in January of 1996. There are no other intermodal terminals in Northeastern Ohio and therefore, it takes time to redirect cargo from customers existing transportation methods (truck) and routes to the Neomodal. In effect, the Neomodal was creating a new local intermodal market. Traditionally, experience shows it takes two (2) to three (3) years to ramp up to the projected volume and therefore, ramp up revenue, through a new intermodal terminal. Neomodal is no exception. The original plan was to achieve twelve thousand (12,000) lift (loaded and empty) in the first year. The actual volume was approximately 4,000 lifts due, in part, to the inability of NS and CSX to provide competitive service.

In anticipation of this shortfall, the Wheeling Corporation (hereinafter "WC") indicated its willingness to advance \$400,000 on a line of credit at an annual rate of 9.5% to support the revenue shortfall in the startup period for the Terminal. On

September 9, 1997, WC advised SDB that the \$400,000 advance to fund the start-up shortfall of the terminal will only last through December 31, 1997 (Exhibit I). The WC's banks will not allow WC to advance additional funds, and therefore, it is necessary to look elsewhere for additional startup funds or cease operation at Neomodal.

On the other side of the equation, Neomodal is a "state of the art" design which requires only three (3) employees to operate during daylight hours, six (6) days a week, hence operating costs are very low. Neomodal incorporates low operating cost, radio controlled forty (40) ton gantry cranes which are a first in the nation (one operator instead of 2 or 3 operators) as opposed to high operational costs, maintenance costs and manning cost piggypackers which many intermodal ramps use. One (1) clerk mans four (4) gates, whereas, other terminals would have at least four (4) gate clerks. All data and communications are through an elaborate computer system, and as a result, there is no paper and no employees to process the paper. Manning is the lowest in the industry. The lift charge is \$30.00 per lift (empty or loaded).

The end result of all of these productivity features is that operating costs are very low.

The terminal operator, Intermodal Operators, Inc. (IOPS), a WC subsidiary, does not charge overhead and profit and the W&LE provides many services, such as marketing, sales, management, and accounting, at no cost to IOPS. The W&LE also provides the switching service from Neomodal to the Class I railroad yards, on an as required basis, regardless of the number of cars in the switch at no added cost to Neomodal. Normally, a regional railroad would charge extra with the price directly related to the number of cars in the switch, and charge to the Class I carriers.

Further, the Neomodal is located in close proximity to the main W&LE yard in Brewster, Ohio, therefore, the W&LE services Neomodal with the yard crew, as opposed to calling in a long haul crew every time Neomodal needs a switch to Brewster, Ohio. This is a significant savings in total costs quoted by W&LE and Neomodal to the Class I railroads.

Financial break even is about six hundred (600) loaded or empty container/trailer lifts per month, which is extremely low by industry standards. The revenue side is principally determined by the number of lifts, the container/trailer

maintenance service, the chassis use factor and the heavy lift service. IOPS bills from \$1,500 to \$3,000 per heavy lift. Neomodal expects this specialty business to increase over time. No other intermodal terminal has this built-in capability to handle neo-bulk and project cargos up to 80 tons (2 cranes) with 22 a foot rail clearance.

The IOPS financials, Exhibit J, supported by the Verified Statement of Michael Mokodean, W&LE Controller, marked as Exhibit K, clearly show that with sales and service support from NS and CSX, Neomodal could perform as projected in the CMAQ financing proposal. If Neomodal had not been stymied by the lack of Class I CSX and NS competitive rates and service routes, Neomodal would have achieved its financial objectives. However, because of the uncertainty of the present situation with rail service (W&LE and NS/CSX), it is impossible to forecast the future profitability of Neomodal.

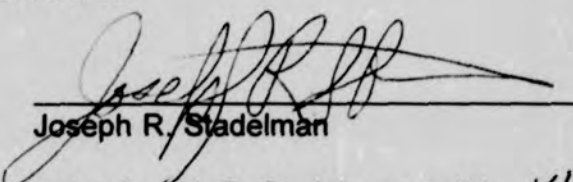
STATE OF OHIO

SS:

COUNTY OF STARK

VERIFICATION

Joseph R. Stadelman, being duly sworn, deposes and says that he is the President of Stadelman & Associates, that he knows the contents of this Verified Statement and that the contents are true and correct.


Joseph R. Stadelman

Subscribed and sworn to before me by Joseph R. Stadelman on this 14th day of October, 1997.


Notary

My Commission expires on July 10, 2002



JULIE ANNE UHRICH, Notary Public
Recorded in Summit County
My Commission Expires July 10, 2002

EXHIBIT A

My name is Joseph R. Stadelman. I am a Consultant and Program Manager for the Stark Development Board, Inc. and I am responsible for the development, design, construction, marketing and operation oversight of the Neomodal Terminal located in Navarre, Ohio.

My experience includes General Manager/President of several high technology businesses in the energy, advanced material handling, and intermodal fields.

Many of the worldwide projects and businesses that I have been responsible for include developing and creating unique project financing, application and design engineering, sophisticated equipment supply and firm price turnkey construction and operation with extensive schedule, equipment system and performance warranties.

As the General Manager and Managing Partner of a partnership between Bechtel and Continental Marine Terminals, my charter was to develop, design, finance, construct, own and operate integrated automated material handling business for railroad, marine, transportation, defense and industrial applications worldwide.

The partnership developed, owned and operated several marine intermodal terminals including the Houston marine intermodal terminal designed to receive cargo from trucks and five (5) major railroads through the Port Terminal Railroad and transfer this cargo in a semi-automated terminal to and from ships. The partnership also developed, owned and operated a similar intermodal terminal in New Zealand to handle apples and pears for the New Zealand Apple and Pear Board

In the early 1980's, I was the President of the AMCA International Production Systems Division which included Morgan Engineering in Alliance, Ohio. Morgan developed, designed and manufactured the fully automated US Steel - Fairfield, Alabama automated pipe mill In-Process Storage and Retrieval System, as well as, the Matson Terminals - Oakland and Terminal Island - Long Beach, large gantry crane container handling systems.

For twenty-five (25) years, I was employed by Westinghouse Electric Corp. in a variety of management assignments in Nuclear Power and Power Generation. My last assignment was General Manager of the Combustion Turbine Systems Division, then the sixth largest Westinghouse Division with total annual sales of over Four Hundred

EXHIBIT A

Million Dollars (\$400,000,000) worldwide. This division manufactured and installed turnkey single cycle combustion turbine and combined cycle power plants.

My resume is attached.

EXHIBIT A

RESUME JOSEPH R. STADELMAN PRESIDENT STADELMAN AND ASSOCIATES

Background

Mr. Stadelman is an experienced General Manager/President of several high technology businesses in the energy, advanced material handling and intermodal field. He brings a wealth of background and knowledge to his present position as President of Stadelman & Associates. His career spans forty-three (43) years with several Fortune 500 companies in significant management positions.

Many of the worldwide projects and businesses that Mr. Stadelman has been responsible for include: developing, creating unique project financing, application and design engineering, sophisticated equipment supply and firm price turnkey construction with extensive schedule, equipment, system and performance warranties.

He has demonstrated capability to successfully manage complex programs and businesses from a technical, financial and commercial viewpoint.

Experience Summary

STADELMAN & ASSOCIATES

1993 -Present

A business development and consulting organization to develop and operate integrated automated intermodal terminals worldwide.

NEOMODAL TERMINAL - Navarre, Ohio

As Program Manager for the Stark Development Board, Inc. and as a member of the Management Committee, developed, designed, constructed and operation of an Eleven Million Two Hundred Thousand Dollar (\$11,200,000) "state of the art" railroad intermodal terminal on schedule (one year) and within budget. Ground was broken on July 7, 1995 and the dedication was June 7, 1996. The Neomodal Terminal is the first demonstration project to be built with ISTE/CMAQ funds in the U.S., a truly successful public sector/private sector partnership. The terminal is in the start up phase handling CSX and NS cargo.

CMT SYSTEMS - San Francisco, California

1985 - 1992

A partnership of Bechtel (49% owner) and Continental Marine Terminals (USA), Ltd., the Managing Partner (51%).

EXHIBIT A

General Manager and Managing Partner - Operating and P&L Responsibility.

Charter to develop, design, finance, construct, own and operate integrated automated material handling business for marine, transportation, defense, and industrial applications worldwide.

Developed, financed and constructed the One Hundred Ten Million Dollar (\$110,000,000) Houston Transmodal Owning Co. (HTOC) intermodal project in 1987. HTOC is a limited recourse project financing with a Twenty Million Dollars (\$20,000,000) equity and Sixty Million Dollars (\$60,000,000) long term debt from a Mellon Bank syndicate of six (6) banks and with Thirty Million Dollars (\$30,000,000) Port of Houston Authority infrastructure contribution. Operations began in July 1988 and commercial operation was achieved in July 1989. The facility handles bags and boxes in import and export trade in a semi-automated mode, loading and unloading rail cars and trucks and loading and unloading ships. This is the first capital intensive investment on the wharf in the U.S. to improve productivity and bring factory automation to the wharf. The Houston terminal is operating at design productivity which is three (3) times manual handling rates.

Developed, financed and constructed Omniport - Napier, New Zealand, a Twenty-Seven Million Dollar (\$27,000,000) U.S. semi-automated marine intermodal terminal to unload truck and railwagons and to load primarily boxes of apples and pears on ships in a high speed, efficient manner. Commercial operation began in 1989. This was the first project to bring semi-automation productivity improvement to a New Zealand Port. Five Hundred Fifty (550) watersiders were reduced to One Hundred Ten (110) watersiders. Nine quays were required to load manually and only two (2) quays are required with the material handling system.

Initiated development, financing and design of marine intermodal terminals in Pascagoula, Mississippi and Port Hueneme, California.

CONTINENTAL MARINE TERMINALS (USA), LTD. - Washington, D.C. 1984 - 1992

Chairman of the Board and CEO

Negotiated a partnership agreement with Bechtel, to develop intermodal terminals worldwide which utilized CMT's patented proprietary technology, as well as, CMT's entrepreneurial project development experience.

AMCA INTERNATIONAL CORPORATION

1980 - 1983

President - Production Systems Division

EXHIBIT A

Full operating and P & L responsibility for four (4) divisions, totalling One Hundred Sixty Million Dollars (\$160,000,000) in annual sales and approximately Three Thousand (3,000) employees worldwide. Included are:

MORGAN ENGINEERING - Alliance, Ohio

Overhead cranes, material handling equipment, heavy industrial equipment and integrated automated material handling systems.

PROVINCIAL CRANE - Niagara Falls, Ontario, Canada

Overhead cranes, material handling equipment and integrated automated material handling systems.

PETROLEUM EQUIPMENT - Tulsa, Oklahoma

Pumping units and mud pumps.

SPEEDSTAR - Enid, Oklahoma

Drill rigs. Workover rigs.

Increased sales in a down market...successfully entered new markets...turned around and was profitable in three (3) of the four (4) units during severe industry recession...developed the most advanced large capacity automated material handling system...upgraded professional engineering staff, introduced CAD and reduced personnel by fifty percent (50%)...obtained desirable licenses from foreign manufacturers such as Marine Cargo Systems on the Spiralvoyer...improved machining productivity by more than two hundred percent (200%)...diversified product line for significant sales increase...shifted operations from oil to water drilling, which significantly increased sales and profits...increased Canadian unit penetration of U.S. market with highly favorable results.

WESTINGHOUSE ELECTRIC CORPORATION

1955 - 1979

General Manager - Combustion Turbine Systems Division - Philadelphia, PA

1975 - 1979

P & L responsibility for design, development, manufacture and turnkey firm price construction of single and combined cycle electric power generating plants, including coal gasification and desalting. Total annual sales over Four Hundred Million Dollars (\$400,000,000) (plus Two Hundred Million Dollars (\$200,000,000) Westinghouse supplied equipment) worldwide; approximately three thousand three hundred (3,300) employees worldwide.

EXHIBIT A

Improved profitability from a Twenty-Seven Million Dollar (\$27,000,000) IAT loss to a Fourteen Million Four Hundred Thousand Dollar (\$14,400,000) IAT profit in 1979 and became number 1 in market share...increased annual service sales from Twelve Million Dollars (\$12,000,000) to Ninety-Five Million Dollars (\$95,000,000) and achieved highest power plant availability...built a new office building which saved One Million Dollars (\$1,000,000) per year in operation costs over previously leased space and which was paid off in three (3) years...turned around a loss situation involving five (5) new Mexican combined cycle plants, Bechtel through Beca was the contractor...considerably improved employee relations and service effort obtained ninety percent (90%) of the Saudi Arabian electric generating market against well-entrenched foreign suppliers.

Vice President, Marketing - Off Shore Power Systems - Jacksonville, Florida
1972 - 1974

A joint venture of Westinghouse Electric Corp. and Tennaco. Market and sell Floating Nuclear Power Plants to coastal electric utilities and provide project management for FNPP's and ocean site development.

Sold and negotiated the contract for four (4) floating nuclear plants, at Eight Hundred Million Dollars (\$800,000,000) each, with Public Service Electric & Gas of New Jersey.

Manager - Four Loop Projects -Pittsburgh, Pennsylvania 1966 -1971

Responsible for P & L, technical, contractual and scheduling for twenty-six (26) 1200 Mwe Nuclear Steam Supply Systems for U.S. electric utilities. Total sales \$1.3 billion.

Earlier Westinghouse Positions - Pittsburgh, Pennsylvania 1955 - 1965

Project Manager - Public Service Electric & Gas Salem Nuclear Generating Station

Sales Manager - Atomic Power Division, Turnkey Nuclear Plants

Supervisory Buyer - Atomic Power Division, Mechanical and Electrical Equipment

Buyer/Engineer - Atomic Power Division and Bettis Atomic Power Division/U.S. Navy

EXHIBIT A

Education

BSME, University of Pittsburgh

Wide variety of Westinghouse and AMCA sponsored courses and seminars in Management disciplines.



NEOMODAL SERVICE

Norfolk Southern and the Wheeling and Lake Erie Railway have joined forces to offer you daily service between Stark County, OH and the Western gateways of Chicago and Kansas City.

Westbound Route: NS Direct

Lane	Cut-off	Availability
Stark-Chicago	9:00pm	8:00am, Day 3
Stark-Kansas City	9:00pm	2:00pm, Day 2

Eastbound Route: NS Direct

Lane	Cut-off	Availability
Chicago-Stark	Noon	2:00pm, Day 2
Kansas City-Stark	2:30pm	2:00pm, Day 2

For more information, contact your NS sales representative.

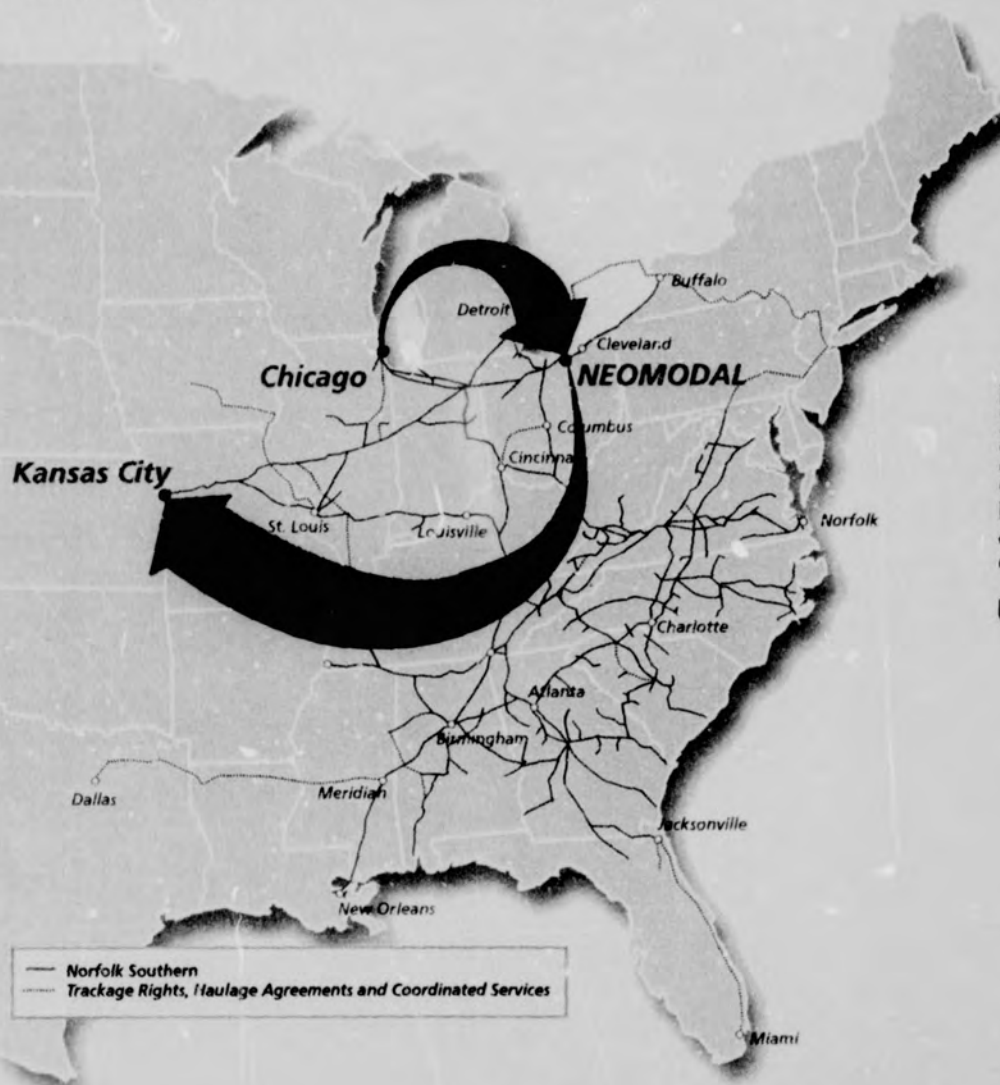


EXHIBIT B

— Norfolk Southern
 Trackage Rights, Haulage Agreements and Coordinated Services

EXHIBIT C



SOUTHERN BELL TOWER
301 WEST BAY STREET, SUITE 2412
JACKSONVILLE, FLORIDA 32202-4434
(904) 359-1523

March 13, 1995

Mr. Joseph R. Stadelman
Stadelman & Associates
P.O. Box 9174
Canton, Ohio 44711

Dear Mr. Stadelman:

**Re: W&LE Served Intermodal Terminal
Canton, Ohio**

First, I want to thank you for the hospitality and open discussion we had concerning the intermodal facility you are going to construct. Secondly, I want to reinforce CSXI's interest in this project. The planned operation looks to be well on it's way to success, very much in step with the W & LE's impact to this area of the country.

Reflecting on our site visit and limited discussion, I render the following comments, choices, observations, and recommendations as you proceed with implementation of the facility improvement plan.

Train Operations To/From Terminal to CSXI Junction

The following in bullet point format lists the majority of the information shared concerning train operations.

- Assumed CSXI connection to be at Willard.
- Estimated running time from Willard to Canton Intermodal Terminal - 3 Hours.
- Presently mainline adjacent to site handles two trains per day.
- Remote controlled switches operated from locomotives.
- W&LE one crew move from Willard to place train at Canton Intermodal site.
- Third party terminal operator to have dedicated switch engine on site at Intermodal Terminal.
- Trains to be received/departed intact from intermodal facility loading tracks and/or 6,000' siding.

Next Steps Concerning Train Operations

- Establish commercial service requirements gate cutoffs, and freight availability.
- Develop train service needs existing and/or new to meet commercial service needs.

Mr. J. R. Stadelman
Page Two
March 13, 1995

Intermodal Facility & Operating Plan

The following lists the majority of the intermodal facility operating areas discussed.

- Third party operator to be hired by Stark County Development.
- Operation to be designed to take advantage of state of the art equipment and technology.
- Estimated throughput capacity anticipated to be 150,000 to 200,000 lifts annually.
- No repair work other than lift equipment on site, due to lack of space.
- No CY capability apparent unless stacked trackside, due to lack of space.

Next Steps

- Equipment needs sized based on commercial plan.
- Development of list of potential operators.
- Development of services to be rendered lift, drayage, hostling, clerical, management, etc.
- Establish compensation approach per lift, productivity based, monthly, hourly.

Terminal Layout Fixed Facility Improvements

- Our discussion concerning facility layout resulted in two areas of consideration. One being carspots for load/unloading, the second being the potential installation of yard air system. Both of these items are choices to make, not deficiencies in anyway. The terminal is laid out very well and would serve your needs as relayed to us.

Lift Equipment Requirements and Selection

- As relayed at our meeting CSXI uses both overhead cranes and side lift equipment. There are various advantages and disadvantages of each. In a tightly constrained terminal such as the one contemplated, overhead cranes at first glance would look to be the best choice. The overhead crane's ability to stack trackside will be a plus as the volume of the terminal reaches it's wheeled capacity.

DKM/jp

cc: J. Priest
S. Rand
H. Buzbee
R. Sleeker
C. Durden
J. Gabiou
L. Parsons, W&LE

D. F. M. David F. Mearns

Exhibit D

VERIFIED STATEMENT OF REGINALD M. THOMPSON

My name is Reggie Thompson. I am the Vice President of Marketing and Sales for the Wheeling & Lake Erie Railway ("W&LE"). I am responsible for marketing the services of the Neomodal Terminal as part of the W&LE intermodal rail service to the Class I carriers and local shippers. I have been involved in the development of the Neomodal Terminal from the beginning and have participated in numerous meetings with Norfolk Southern Railway Company ("NS") and CSX executives jointly promoting the Neomodal Terminal.

The W&LE has entered into contracts with both CSX and NS to market and provide competitive intermodal rail service to the Neomodal Terminal.

The W&LE had every reason to believe that NS and CSX fully intended to create reliable service designs, routes, schedules and rates that were competitive with trucking export and import cargos into Northeast Ohio.

Many of our customers are concerned about the prospect of being captive to NS. The W&LE, if it can remain viable after the Conrail breakup, can act as the rail connection to CSX at several locations. Our shippers would then have true rail competition.

This rail competition is necessary if Neomodal Terminal is to survive.

Exhibit F is a list of W&LE customers at the Neomodal Terminal.

STATE OF OHIO

SS:

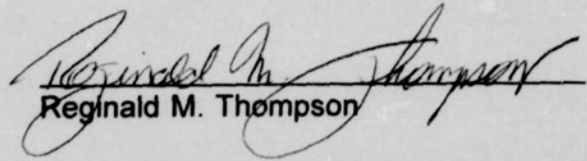
COUNTY OF STARK

VERIFICATION

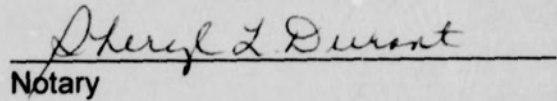
Reginald M. Thompson, being duly sworn, deposes and says that he is the Vice President of Marketing and Sales for Wheeling & Lake Erie Railway, that he knows

Exhibit D

the contents of this Verified Statement and that the contents are true and correct.


Reginald M. Thompson

Subscribed and sworn before me by Reginald M. Thompson on this 13th
day of October, 1997.


Notary

My Commission expires on _____ Sheryl L. Durant
Notary Public, State of Ohio
My Commission Expires August 29, 1999