STB FD 33388 12-15-97 D 184826V2B 13/14

[REDACTED]

Attachment JHW-CMA-4

Comparison of Chemical Traffic Now Moving Via Memphis or New Orleans

Flow	Gateway	Cars	Net Tons	Freight Revenue	Revenue Per Car	Revenue Per Ton	Tons/Car
LA-MD	New Orleans	240	19,572	$1,236,142	$5,151	$63.16	81.6
LA-MD	St Louis	349	30,633	1,969,946	5,648	64.31	87.8
LA-OH	Chicago	410	38,168	1,520,500	3,712	39.84	93.2
LA-OH	Memphis	80	7,890	283,048	3,538	35.87	98.6
LA-OH	New Orleans	680	62,456	2,666,954	3,922	42.70	91.8
LA-OH	St Louis	4,817	414,459	20,283,366	4,211	48.94	86.0
LA-PA	Chicago	314	21,907	1,522,871	4,856	69.51	69.9
LA-PA	New Orleans	434	38,447	2,120,769	4,882	55.16	88.5
LA-PA	St Louis	3,324	299,310	17,961,318	5,404	60.01	90.0
MD-LA	New Orleans	160	8,212	572,040	3,575	69.66	51.3
MD-LA	St Louis	148	12,239	526,969	3,570	43.06	82.9
MD-TX	New Orleans	80	1,728	75,200	940	43.52	21.6
MD-TX	St Louis	49	4,061	308,149	6,263	75.87	82.6
OH-LA	Memphis	120	9,994	457,040	3,809	45.73	83.3
OH-LA	New Orleans	120	9,732	453,600	3,780	46.61	81.1
OH-LA	St Louis	188	16,140	876,419	4,672	54.30	86.0
OH-TX	Chicago	1,230	103,499	4,211,489	3,423	40.69	84.1
OH-TX	Memphis	120	9,000	466,200	3,885	51.80	75.0
OH-TX	New Orleans	120	11,168	510,480	4,254	45.71	93.1
OH-TX	St Louis	1,398	113,742	5,886,592	4,211	51.75	81.4
PA-TX	Chicago	80	6,700	443,600	5,545	66.21	83.8
PA-TX	New Orleans	40	2,800	199,360	4,984	71.20	70.0
PA-TX	St Louis	724	56,306	4,432,216	6,118	78.72	77.7
TX-MD	Chicago	165	10,198	921,397	5,591	90.35	61.9
TX-MD	New Orleans	80	5,864	365,259	4,566	62.29	73.3
TX-MD	St Louis	1,272	112,141	6,022,209	4,734	53.70	88.2
TX-NY	Chicago	563	44,778	3,036,502	5,392	67.81	79.5
TX-NY	New Orleans	80	5,604	418,768	5,235	74.73	70.1
TX-NY	St Louis	3,957	348,790	22,963,016	5,803	65.84	88.1
TX-OH	Chicago	1,786	147,021	7,332,309	4,105	49.87	82.3
TX-OH	Memphis	80	7,760	378,760	4,735	48.81	97.0
TX-OH	New Orleans	400	30,462	1,472,393	3,681	48.34	76.2
TX-OH	St Louis	12,762	1,098,206	54,647,508	4,282	49.76	86.1
TX-PA	Chicago	2,326	134,711	8,170,420	3,512	60.65	57.9
TX-PA	Memphis	40	880	99,071	2,477	112.58	22.0
TX-PA	St Louis	10,042	903,041	56,597,304	5,636	62.67	89.9
TX-WV	Chicago	45	4,256	192,660	4,300	45.27	95.0
TX-WV	Memphis	40	3,804	407,041	10,176	107.00	95.1
TX-WV	New Orleans	80	6,830	281,055	3,513	41.15	85.4
TX-WV	St Louis	4,686	396,782	25,296,712	5,398	63.75	84.7
WV-LA	Memphis	80	6,000	396,000	4,950	66.00	75.0
WV-LA	New Orleans	120	10,356	337,6[illegible]	2,815	32.62	86.3
WV-LA	St Louis	277	21,675	1,518,723	5,487	70.07	78.3
WV-TX	Chicago	98	7,380	532,634	5,413	72.17	75.0
WV-TX	New Orleans	120	6,422	691,840	5,765	107.73	53.5
WV-TX	St Louis	1,116	98,306	5,166,524	4,628	52.56	88.1
Total Chicago		7,018	518,617	$27,884,380	$3,973	$53.77	73.9
Total Memphis		560	45,328	$2,487,159	$4,441	$54.87	80.9
Total New Orleans		2,754	219,653	$11,401,659	$4,139	$51.91	79.7
Total St. Louis		45,110	3,925,831	$224,456,959	$4,976	[illegible]7.17	87.0
Grand Total		55,442	4,709,430	$266,230,168	$4,802	$56.53	84.9

Source: 1995 Carload Waybill Sample

ATTACHMENT JHW-CMA-5

Restatement of Mr. Grocki's Chemical Traffic Analysis

Grocki Category No.	Williams's Rebuttal Restatement Traffic Category	Carloads	Percent	Competition	Service
1	Bridge	600	0.2%	Enhanced	Improved
2	Shared Assets Area to Shared Assets Area	35,400	10.2	Enhanced	Improved
3	Unchanged	76,000	22.0	Unchanged	Improved
3	Unchanged	71,200	20.6	Unchanged	Unchanged
7	Unchanged	1,400	0.4	Unchanged	Unchanged
Subtotal		148,600	43.0		
4	To/From Shared Assets Area	31,900	9.2	Unchanged	Unchanged
5	Single System	12,600	3.7	Unchanged	Improved
2	Single System	16,000	4.6	Enhanced	Improved
3	Single System	28,000	8.1	Unchanged	Improved
Subtotal		56,600	16.4		
6A	S.A.A. Potentially Divertible To Memphis/New Orleans Gateways	21,200	6.1	Enhanced	Improved
6B	Other Potentially Divertible To Memphis/New Orleans Gateways	43,400	12.6	Unchanged	Improved
7	Joint Line	5,200	1.5	Unchanged	Impaired
8	Unknown	2,700	0.8	Unchanged	Unchanged
Grand Total		345,600	100.0%		
Total - Enhanced Competition		73,200	21.2%		
Total - Improved Service		233,200	67.5%		
Total - Impaired Service		5,200	1.5%		

ATTACHMENT JHW-WLE-1

<u>The Woodside Consulting Group's Business Plan For The W&LE</u>

I. <u>Woodside's Assignment</u>

In January 1990, The Woodside Consulting Group, Inc was retained for the following consulting assignment:

> "At the request of Wertheim Schroder & Co. Inc. (Wertheim); The Woodside Consulting Group (WCG) was retained to work with the founders of WAC to both evaluate all existing planning assumptions with respect to the proposed transaction and future operations of W&LE and to prepare a <u>Business Plan</u> for the W&LE based on our findings and our expertise in railroading.
>
> "The specific major elements of this assignment were:
>
> - Assessment of WAC's traffic volume and revenue projections and development of independent pro forma forecasts in this area, where warranted.
> - Evaluation of the underlying assumptions in WAC's existing Operating Plan, including its projected labor, material and other costs.
> - Evaluation of WAC's proposed Capital Expenditure Plan.

- Estimation of the Net Liquidation Value (NLV) of W&LE track and structures and evaluation of existing valuations of W&LE real estate." (*Business Plan*, Page I-4)

In that March 1990 *Business Plan*, we reached the following major conclusion:

"As a result of our analyses, we conclude that the W&LE financial estimates and projections are based on reasonable assumptions. Within the range of error normally anticipated in such projections of future financial performance, we believe that these estimates and projections are, therefore, likely to be achieved. Whether the projections are actually achieved in future years will, however, we believe, be determined primarily by the business policies, plans, and procedures adopted and implemented by W&LE's Board of Directors and Management Team. In addition, successful implementation of this W&LE Business Plan is clearly dependent upon the availability of that capital contemplated by the Plan." (*Business Plan*, Page I-7)

Based on our experience with many start-up regional and short-line railroads, we also concluded that the W&LE would be exposed to a variety of business risks:

"The first is that the management performance of W&LE's Management Team will not be satisfactory. Because this is a leveraged transaction, W&LE's Management Team must demonstrate satisfactory performance if the financial performance forecast by this Plan is to be achieved. We acknowledge the Management Team's general experience in railroading. However, we believe that, in the future, W&LE's properties must be operated at least at their current levels of service in conjunction with an aggressive, effective marketing program if the financial projections contained in this Plan are to be achieved..."

"There is a second risk that the W&LE's existing traffic base could shrink. As is more fully discussed in Chapter II of this Report, based on our review of preliminary WAC traffic projections and on our modifications to those projections as a result of our interviews with all of W&LE's most important customers, we conclude that such traffic projections are reasonable and achievable. However, unforeseen events including unexpected plant closings, changes in the corporate structure of those railroads competing with W&LE through mergers, or other unforeseen external events, could cause a reduction in W&LE's traffic base in future years." (*Business Plan*, Page I-10)

II. <u>Discussion of Coal Traffic In Woodside's Business Plan</u>

This entire discussion of coal traffic was contained in Woodside's *Business Plan* for the W&LE:

"As shown by Table II-1, STCC 11, Coal Traffic is projected to be W&LE's single most important Commodity Group, with 19,577 carloads generating 1990 revenues of $9.7 million. WAC's original <u>Business Plan</u> recognized the importance of coal to the W&LE as follows:

'Norfolk Southern has been hauling approximately 1.7 million tons of coal per year from mines at Cleveland and St. Clairsville, Ohio, on the W&LE to a Cleveland Electric Illuminating (CEICO) plant at Avon Lake, OH, near Cleveland on another NS line that is not part of the transaction package.'

'As part of an overall marketing alliance negotiated as part of the proposed transaction, NS and the Wheeling group have agreed to a defined split of the revenue once the coal begins to move on an interline basis. The agreement in effect projects the rate and a favorable division as long as the coal continues to be mined at the present locations and moved to Avon Lake.'

'The coal mined on the Wheeling lines is moving under contracts with the Consolidation Coal Co. and, to a lesser extent both by contract and tariff, with the Oglebay-Norton Company. The contracts expire at the end of 1992 and 1994 respectively. The coal produced at the mines is in the high sulphur category, and, consequently, its future is clouded by the complexities surrounding the ultimate outcome of acid rain legislation. For instance, the future of the movements could be in jeopardy if the burning of low sulphur coal is flatly mandated. With the installation of scrubbers, on the other hand, the coal from these mines could continue and could indeed increase due to its price and proximity. Some blending of coal to reduce the delivered sulphur content occurs today, and additional blending could be carried out.'

'A complication is that NS is not willing to protect the rate to Avon Lake if the blending of coal from outside sources amounts to more than a stipulated percentage of the present mix. A new agreement between the two railroads would be required to accommodate substantial blending and users would presumably have the option to seek out other coal sources.'

'The Wheeling group has discussed the coal supply matter with most of the key parties involved, and has been informed that the coal producers have plans to continue mining coal, although at somewhat reduced levels after 1992, and that the utility is favorably disposed to continuing the present arrangement but unsure of what the precise outcome will be. The mines are economically well located for the customer, compared to alternate sources for low sulpher coal, and the utility is under some political pressure to continue to burn Ohio coal.' (WAC Business Plan, Page 18)

"The Marketing Alliance between W&LE and NS recognized the importance of coal traffic to the W&LE. Subject to certain constraints, that Agreement established divisions of revenue between the carriers for exiting coal traffic and structured the future relationship between the carriers for the continuation of the existing and the addition of certain new coal movements for a ten year period.

"The most significant limitation placed by NS on its coal marketing arrangements with W&LE was as follows:

'NS agrees to work with New Railroad on a reasonable basis to market High Sulfur Coal from New Railroad into the facilities of CEICO at Avon Lake. High Sulfur Coal is defined as coal loaded at locations served by New Railroad and with an average sulfur content no less than 95 percent of the average sulfur content of the coal shipped from Georgetown, Ohio during 1989. The 1989 average sulfur content shall be established utilizing the Federal Energy Regulatory Commission (FERC) data as summarized by Resource Data International, Inc. (RDI), or another mutually agreed index if the RDI summary is not available. Compliance with sulfur content requirement shall be calculated for each origin on a 12-month moving average basis commencing with the initial month of shipment under the provisions hereof.' (Marketing Alliance, Section 4, page 5)

"The overall effect of this provision of the Marketing Alliance is to preclude NS from being required to work with W&LE to move coal from any origin point having an average sulfur content of "less than 95% of the average sulfur content of the coal" shipped during 1989 to CEICO's Avon Lake Generating Plant.

"In order to assess the likelihood that projected volume of W&LE's Coal Traffic would continue to move in the future, we interviewed two coal producers as well as the coal user, Cleveland Electric Illuminating Company:

- Consolidation Coal Company (Georgetown Mine)
  - Mr. R.B. Atwater, Executive Vice President-Marketing
  - Mr. Jack Daley, Vice President-Sales

- Oglebay Norton Company (Saginaw Mine)
  - Mr. August F. Bradfish, Vice President-Coal and Nonferrous Mining Operations

- Cleveland Electric Illuminating Company (Avon Lake)
  - Mr. R.A. Soucie, Coal Purchasing and Transportation

"These individuals verified the coal volumes and revenues shown in Table II-4 as correct. Based on our interviews, we also found the following:

- Avon lake is a large generating plant and will be subject to tightened emission standards of not more than 2.5 pounds of sulfur per million BTU's, in accordance with the Clean Air Act.

- The effective date of the Clean Air Act has not yet been legislated, but it appears likely to be either January 1, 1995 or January 1, 1996.

- The Avon Lake plant is approximately 30 years old, and only one unit (Avon #9) would be suitable for a scrubber investment; no other "clean coal" technology would be appropriate for this plant.

- CEICO now has underway a comprehensive corporate Acid Rain Study which is evaluating all possible alternatives and the economic effects of each on all its generating plants, including Avon Lake. That study will not be completed for some time, and, accordingly, CEICO has no firm plans at this time for Avon Lake.

- Political pressure will be brought to bear on CEICO by the State of Ohio to cause it to continue to burn the maximum amount of Ohio coal possible.

- Georgetown Mine's coal (1.3 million tons) moves under a contract which will expire at the end of 1992; and Saginaw Mine's coal (0.6 million tons) moves under a contract which will expire in September, 1994.

- Since 1980, both Georgetown's and Saginaw's coal shipments to Avon Lake have consisted of blends of high sulfur coal mined in Ohio and low sulfur coal purchased elsewhere, moved by barge and truck to those mines, and blended with Ohio coal in order to reduce the delivered coal's sulfur content.

"Accordingly, based on our interviews, it is our judgment that the following is the most likely scenario for the Georgetown and Saginaw Mines' coal destined to the Avon Lake generating Plant:

- First, in conjunction with other utilities, a clear objective of CEICO would be to delay to the maximum extent the effective date of the Clean Air Act;

- Second, in order to meet the requirements of the Clean Air Act on its effective date, an increase (of perhaps 10% at the most) in the amount of low sulfur coal blended with Ohio coal could be accomplished, thereby permitting a continuation of existing volumes from both mines to the Avon Lake Plant without violating the provisions of the Marketing Alliance;

- Third, although CEICO may find it economic to install scrubbers at Avon Lake, this would affect only a portion of its existing capacity; and

- Finally, because of the demand for its generating capacity, the Avon Lake plant will likely not be closed for another 20 years, nor is new "clean coal" technology likely to be installed.

"Thus, based on our review and our interviews, it is our conclusion that the pro forma financial projections for W&LE's continuing coal movements to Avon Lake are reasonably stated." (*Business Plan*, Pages II-16 through II-20)

ATTACHMENT JHW-WLE-2-HC

Restatement of W&LE's Loss Study

[REDACTED]

ATTACHMENT JHW-WLE-2-IIC

Restatement of W&LE's Loss Study

[REDACTED]

ATTACHMENT JHW-WLE-2-HC

Restatement of IY&LE's Loss Study

[REDACTED]

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ATTACHMENT

JHW-WLE-4-HC

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ATTACHMENT

JHW-WLE-5-HC

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ATTACHMENT JHW-WLE-7-HC

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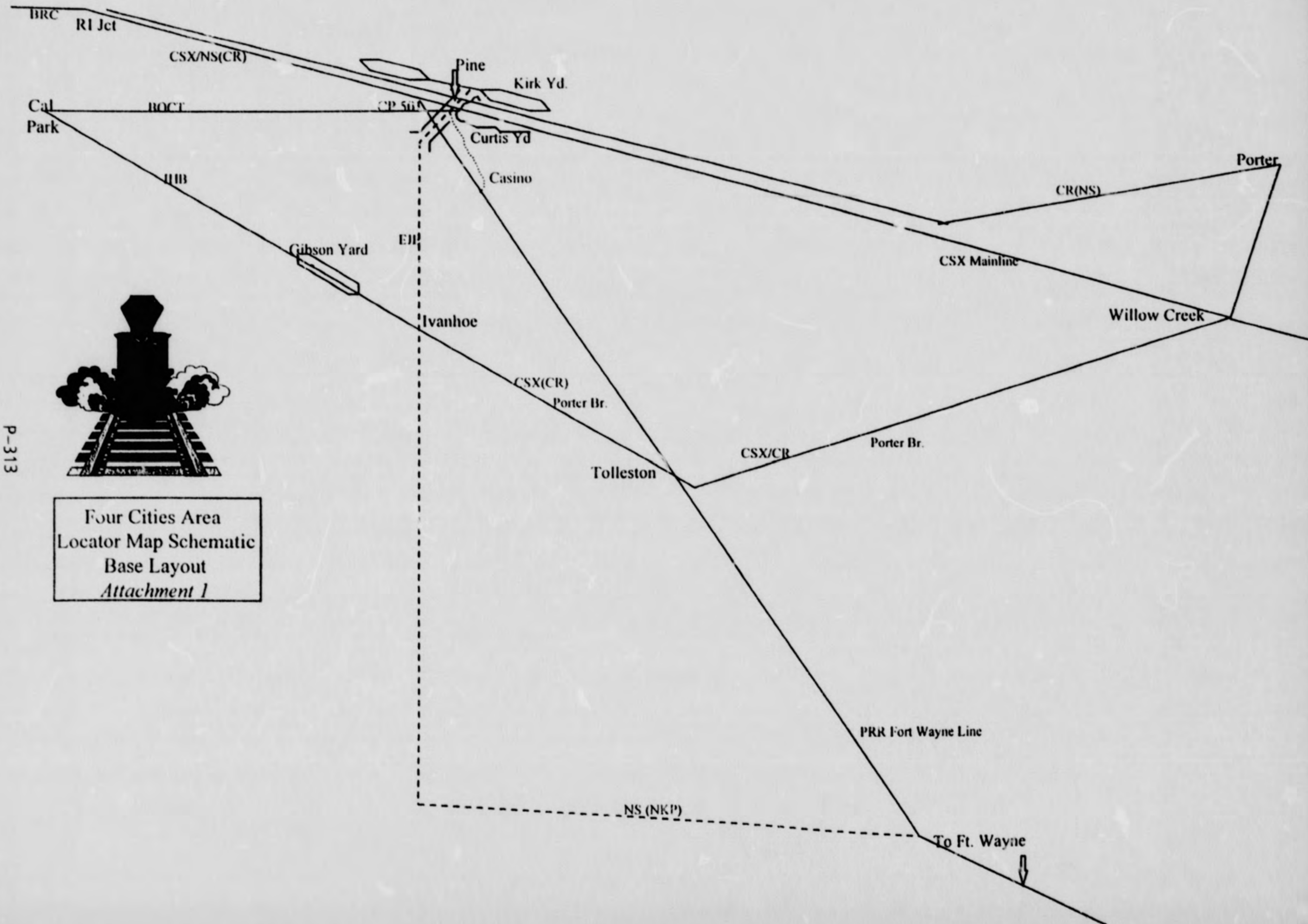
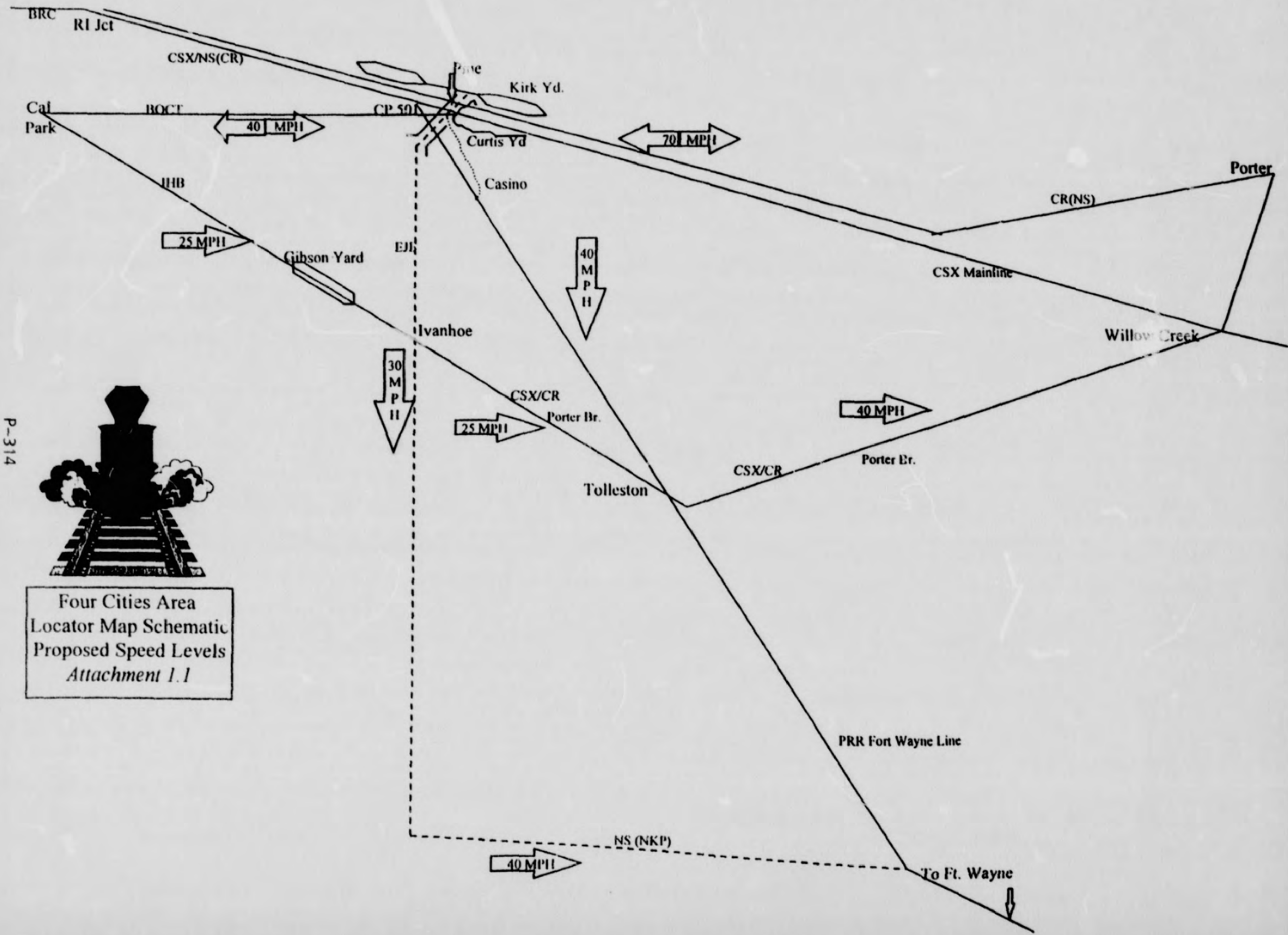


Four Cities Area
Locator Map Schematic
Base Layout
Attachment 1



Four Cities Area
Locator Map Schematic
Proposed Speed Levels
Attachment 1.1

Attachment 2

CHICAGO<-->EAST MOVEMENTS (ORIGINATING/TERMINATING) PASSING THROUGH FOUR CITIES																		
SYMBOL	TYPE TRAIN	7 DAYS	OLD HRUC	OLD HVAN	NEW HRUC	NEW HVAN	NEW/OLD SYMBOL CRC TRAIN	ARRIVE/ LEAVE YARD	+/- TRANSIT TIME	EST. IN SEGMENT HOUR	IN PEAK HOUR	ROUTING VIA	PEAK OLD HRUC	PEAK OLD HVAN	PEAK NEW HRUC	PEAK NEW HVAN	ORIGIN	DESTINATION
CSX TRAINS																		
Q110	IM	0.8	0	0	0	0	NEW/TV108	500	100	600	NO	WC/BOCT	0	0	0	0	CHIC FOREST	BOSTON
Q109	IM	0.8	0	0	0	0	NEW/TV7	900	-100	800	YES	WC/BOCT	0	0	0	0	BOSTON	CHIC FOREST
Q112	IM	0.8	0	0	0	0	NEW/TV14	950	100	1050	YES	WC/BOCT	0	0	0	0	CHI 59TH	BOSTON
Q113	IM	0.8	0	0	0	0	NEW/TV13	730	-100	630	YES	WC/BOCT	0	0	0	0	BOSTON	CHIC FOREST
Q114	IM	0.8	0	0	0	0	NEW/TV24	2200	100	2300	NO	WC/BOCT	0	0	0	0	CHIC FOREST	BOSTON
Q117	IM	0.8	0	0	0.8	0	NEW	415	-100	315	NO	WC/RIJCT	0	0	0	0	BOSTON	CHIC 59TH
Q118	IM	0.8	0	0	[illegible]	0	NEW	[illegible]	100	430	NO	WC/BOCT	0	0	0	0	CHIC 59TH	WORCESMA
Q119	IM	0.8	0	0	0.8	0	NEW/TV9	1100	-100	1000	YES	WC/RIJCT	0	0	0.8	0	WORCESMA	CHIC 59TH
Q138	IM	0.[illegible]	0	0	0	0	Q138	300	100	400	NO	WC/BOCT	0	0	0	0	CHI BEDF	BALTO
Q137	IM	0.8	0.8	0	0	0	Q137	1045	-100	945	YES	WC/RIJCT	0.8	0	0	0	BALTO	CHI BEDF
Q136	IM	0.8	0	0	0	0	Q136	2125	100	2225	NO	WC/BOCT	0	0	0	0	CHI 59TH	PHILI
Q135	IM	0.8	0.8	0	0	0	Q135	1045	-100	945	YES	WC/RIJCT	0.8	0	0	0	PHILI	CHI 59TH
Q146	IM	0.8	0	0	0	0	NEW/TV220	1600	100	1700	YES	WC/BOCT	0	0	0	0	CHI 59TH	COLUMBOH
Q147	IM	0.8	0	0	0.8	0	NEW/TV221	1000	-100	900	YES	WC/RIJCT	0	0	0.8	0	COLUMBOH	59 TH
Q156	IM	0.8	0	0	0.8	0	NEW/TV204	1830	100	1930	NO	WC/RIJCT	0	0	0	0	CHIC 59TH	KEARNEY
Q157	IM	0.8	0	0	0.8	0	NEW/TV263	330	-100	230	NO	WC/RIJCT	0	0	0	0	KEARNEY	CHIC 59TH
Q160	IM	0.8	0	0	0	0	NEW/TV12	2345	100	2445	NO	WC/BOCT	0	0	0	0	CHIC BEDF	NO BERGEN
Q161	IM	0.8	0	0	0	0	NEW/TVLA	500	-100	400	NO	WC/BOCT	0	0	0	0	NO BERGEN	CHIC BEDF
Q162	IM	0.8	0	0	0	0	NEW	2315	100	15	NO	WC/BOCT	0	0	0	0	CHIC BEDF	EXPRESSRL
Q163	IM	0.8	0	0	0.8	0	NEW	600	-100	500	NO	WC/RIJCT	0	0	0	0	EXPRESSRL	CHI BEDF
Q164	IM	0.8	0	0	0.8	0	NEW/TV200	200	100	300	NO	WC/RIJCT	0	0	0	0	CHI 59TH	KEARNEY
Q165	IM	0.8	0	0	0.8	0	NEW/TV201	1200	-100	1100	YES	WC/RIJCT	0	0	0.8	0	KEARNEY	CHI 59TH
Q166	IM	0.8	0	0	0	0	NEW/TV10	230	100	330	NO	WC/BOCT	0	0	0	0	CHI BEDF	NO BERGEN
Q167	IM	0.8	0	0	0.8	0	NEW/TV11	600	-100	500	NO	WC/RIJCT	0	0	0	0	NO BERGEN	CHI BEDF
Q168	IM	0.8	0	0	0	0	NEW	630	100	730	YES	WC/BOCT	0	0	0	0	CHI BEDF	NO BERGEN
Q169	IM	0.8	0	0	0.8	0	NEW	1000	-100	900	YES	WC/RIJCT	0	0	0.8	0	NO BERGEN	CHI BEDF
246	AUT	0.8	0	0.8	0	0	246	830	-100	730	YES	WC/IVAN	0	0.8	0	0	MARYSVOH	CHI GIBSON
288	AUT	0.8	0	0.8	0	0	288	145	100	245	NO	WC/IVAN	0	0	0	0	IHB BLUE IS	MARYSVOH
223	AUT	0.8	0	0.8	0	0	223	1745	-100	1645	YES	WC/IVAN	0	0.8	0	0	WILMDEL	CHI GIBSON
227	AUT	0.8	0	0.8	0	0	227	1830	100	1930	NO	WC/IVAN	0	0	0	0	TOLWALBR	CHI GIBSON
241	AUT	0.8	0	0	0	0	241	900	-100	800	YES	WC/BOCT	0	0	0	0	DETROIT	NS-CALUMET
282	AUT	0.8	0	0	0	0	282	1730	100	1830	NO	WC/BOCT	0	0	0	0	CHI BRC	WILLARDOH
BBSE A		1	0	0	0	1	NEW	1421	100	1521	YES	WC/IVAN	0	0	0	1	BNCICERO	SELKIRKNY
BBSE B		0.4	0	0	0	0.4	NEW	206	100	306	NO	WC/IVAN	0	0	0	0	BNCICERO	SELKIRKNY
SEBB		1	0	0	0	0	NEW	1024	-200	824	YES	WC/BOCT	0	0	0	0	SELKIRKNY	BNCICERO
BUUP A		1	0	0	0	0	NEW	1702	-100	1602	YES	WC/BOCT	0	0	0	0	BUF THRU	CHI PROVISO
BUUP S		0.4	0	0	0	0	NEW	2317	-100	2217	NO	WC/BOCT	0	0	0	0	BUF THRU	CHI PROVISO
NPSE		1	0	0	0	1	NEW	2254	100	2354	NO	WC/IVAN	0	0	0	0	THRU	CHI PROVISO
CWCI		1	0	0	0	0	501	1600	100	1700	YES	WC/BOCT	0	0	0	0	BARR	CINCIQUEEN
CICW		1	0	0	0	0	500	1819	-100	1719	YES	WC/BOCT	0	0	0	0	CINCIQUEEN	CHI BARR
CWER		1	0	0	0	0	691	1021	100	1131	YES	WC/BOCT	0	0	0	0	CHI BARR	ERWINTN
ERCW		1	0	0	0	0	690	[illegible]50	-100	1050	YES	WC/BOCT	0	0	0	0	ERWINTN	CHI BARR
CWTO A		1	0	0	0	0	509	2000	100	2100	NO	WC/BOCT	0	0	0	0	CHI BARR	TOLSTAN
TOCW		1	0	0	0	0	508	332	-100	232	NO	WC/BOCT	0	0	0	0	TOLSTAN	CHI BARR
CWTO B		0.4	0	0	0	0	508-2	800	100	900	YES	WC/BOCT	0	0	0	0	CHI BARR	TOLSTAN
IHCU A		1	0	1	0	0	384	745	100	845	YES	WC/IVAN	0	1	0	0	IHB BLUE IS	CUMBO
IHCU B		0.4	0	0.4	0	0	384-2	1445	100	1545	YES	WC/IVAN	0	0.4	0	0	IHB BLUE IS	CUMBO
IHGR		1	0	0	0	0	336	2200	100	2300	NO	PORT/IVAN	0	0	0	0	IHB BLUE IS	GRAPIDS
GRCW		1	0	0	0	0	327	1427	-100	1327	YES	WC/BOCT	0	0	0	0	GRAPIDS	CHI BARR
IHSE		1	0	0	0	1	NEW	1000	100	1100	YES	WC/IVAN	0	0	0	1	IHB BLUE IS	SELKNY
SEBR		1	0	0	0	0	NEW	529	-100	429	NO	WC/RIJC	0	0	0	0	SELKNY	CLEARING
IHTO		1	0	0	0	1	NEW	400	100	500	NO	WC/IVAN	0	0	0	0	IHB BLUE IS	TOLSTAN
TOIH		1	0	0	0	1	NEW	1502	-100	1402	YES	WC/IVAN	0	0	0	1	TOLSTAN	IHB BLUE IS
WLCW		1	0	0	0	0	NEW	2224	-100	2124	NO	WC/BOCT	0	0	0	0	WILLARDO	CHI BARR
WLIH		0.8	0	0	0	0.8	NEW	209	-100	109	NO	WC/IVAN	0	0	0	0	WILLARDO	IHB BLUE IS
X500 CP TRAINS		0.8	0	0	0	0	X500	1945	100	2045	NO	WC/PORTR	0	0	0	0	IHB BLUE IS	MONTREAL
X501		1	0	0	0	0	X501	1330	-100	1230	YES	WC/PORTR	0	0	0	0	MONTREAL	BENSENV
X502		1	0	0	0	0	X502	45	100	145	NO	WC/PORTR	0	0	0	0	BENSENV	MONTREAL
X503		1	0	0	0	0	X503	30	-100	-70	NO	WC/PORTR	0	0	0	0	MONTREAL	SCHILLERPK
X504		0.8	0	0.8	0	0	X504	2200	100	2300	NO	WC/IVAN	0	0	0	0	CHI GIBSON	MONTREAL
X505		0.8	0	0.8	0	0	X505	1200	-100	1100	YES	WC/IVAN	0	0.8	0	0	MONTREAL	IHB BLUE IS
X511		0.8	0.8	0	0	0	X511	1830	-100	1730	YES	WC/RIJCT	0.8	0	0	0	TORONTO	BENSENV
X512		0.8	0	0	0	0	X512	745	100	845	YES	WC/BOCT	0	0	0	0	BENSENV	TORONTO
X514		0.8	0	0	0	0	X514	545	100	645	YES	WC/BOCT	0	0	0	0	BENSENV	MONTREAL
X517							PROVISIONAL SCHE		-100	-100		WC/RIJCT					MONTREAL	BENSENV
X530							PROVISIONAL SCHE		100	100		WC/BOCT					BENSENV	MONTREAL
X531							PROVISIONAL SCHE		-100	-100		WC/RIJCT					MONTREAL	BENSENV
X532							PROVISIONAL SCHE		100	100		WC/IVAN					SCHILLERPK	MONTREAL
X533							PROVISIONAL SCHE		-100	-100		WC/RIJCT					MONTREAL	SCHILLERPK
X534							PROVISIONAL SCHE		100	100		WC/IVAN					IHB BLUE IS	MONTREAL
X535							PROVISIONAL SCHE		-100	-100		WC/IVAN					MONTREAL	IHB BLUE IS
X747							PROVISIONAL SCHE		-100	-100		WC/IVAN					TORONTO	IHB GIBSON
TOTAL		53.8	2.4	6.2	8	6.2							2.4	3.8	3.2	3.0		

NUMBER OF EXISTING AND PLANNED SCHED. (EX	53.8	(4 CP Port/Bensv)			
NUMBER OF EXISTING TRAINS	25.6	(4 CP Port/Bensv)	NUMBER OF EXISTING TRAINS OPERATING 6AM TO 6PM	15.0	
NUMBER OF EXISTING TRAINS TO USE RIJCT ALTE	-1.6	Q135/137 rerouted	NUMBER OF EXISTING 6AM TO 6PM TRAINS TO USE RIJCT ALTERNAT	-1.6	Q135/137 rerouted
NUMBER OF EXISTING TRAINS TO USE IVANHOE A	-6.2	ALL TAKE	NUMBER OF EXISTING 6AM TO 6PM TRAINS TO USE IVANHOE ALTERN	-3.8	ALL TAKE
NUMBER OF NEW DAILY TRAINS (Weighted Avg. Fre	28.2		NUMBER OF NEW TRAINS OPERATING 6AM TO 6PM	12.2	
NUMBER OF NEW TRAINS USING RIJCT ALTERNATI	-8.0		NUMBER OF NEW 6AM TO 6PM TRAINS USING RIJCT ALTERNATIVE	-3.2	
NUMBER OF NEW TRAINS USING IVANHOE ALTER	-6.2		NUMBER OF NEW 6AM TO 6PM TRAINS USING IVANHOE ALTERNATIV	-3.0	
REROUTES OF EXISTING TRAINS AS ABOVE	-7.8		REROUTES OF EXISTING TRAINS FROM ABOVE	-5.4	
NET NEW TRAINS USING BOCT ALTERNATIVE (NE	6.2		NET NEW 6AM TO 6PM TRAINS USING BOCT (NEW MINUS REROUTED	0.6	

FOOTNOTES

Source: Service Design CSXT. "New" means not an existing train at the time the base line counts were taken (1995)

Counts do not include 2 CSX Amtrak or 5 unit trains operating over refurbished Ft. Wayne line. Four CP Bensenville trains use CRC Porter to Pine

Many intermodal trains may be assumed to displace Conrail trains with the same destinations

ROUTE: APPLICANTS' CALUMET PARK TO PINE JUNCTION TO WILLOW CREEK [1]

City	Road Crossed	USDOT AADT	Field ADT	RR	Per FCC: Current Delay Hours	Per FCC: Applicants' Delay Hours	Per FCC: FCC's Alternative Delay Hours	ICF Kaiser Calculations: Current Delay Hours	ICF Kaiser Calculations: Applicants' Delay Hours [2]	ICF Kaiser Calculations: FCC's Alternative Delay Hours
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Gary	SR 12	**14,820**		CSX	68.258	130.517	65.455	-	54.490	-
East Chicago	Cline Av	3,000	-	CSX	9.109	17.458	8.775	-	7.399	-
East Chicago	SR 912	2,000	-	CSX	-	-	-	-		-
East Chicago	Cline Av/SR 912	500	-	CSX	2.277	4.364	2.188	-	1.823	-
East Chicago	***Euclid Av***	***7,500***	-	**CSX**	***34.544***	***68.051***	***33.125***	-	28.383	-
East Chicago	***Kennedy***	***7,325***	-	**CSX**	***33.738***	***64.510***	***32.352***	-	26.932	-
East Chicago	***Railroad Av***	***7,500***	-	**CSX**	***34.544***	***68.051***	***33.125***	-	28.383	-
East Chicago	Tod Av	2,000	-	CSX	9.109	17.458	8.755	-	7.291	-
East Chicago	***Indpls & SR20***	***13,650***	-	**CSX**	***62.869***	***120.213***	***60.287***	-	50.188	-
East Chicago	Baring Av	2,000	-	CSX	9.109	17.458	8.755	-	7.291	-
East Chicago	Magoun Av	2,000	-	CSX	9.109	17.458	8.755	-	7.291	-
East Chicago	***Columbia Av***	***15,000***	-	**CSX**	69.087	132.103	66.250	-	55.151	-
Whiting	Ash St	500	-	CSX	2.277	4.364	2.188	-	1.823	-
Hammond	Oak St Private	-	-	CSX	-	-	-	-		-
Hammond	***Calumet Av***	***17,600***	-	**CSX**	***81.062***	***155.001***	***77.733***	-	64.71	-
Hammond	Torrence Av	825	-	CSX	3.757	7.201	3.612	-	3.007	-
Hammond	Henry Av	250	-	CSX	1.139	2.182	1.094	-	0.911	-
Hammond	Johnson Av	250	-	CSX	1.139	2.182	1.094	-	0.911	-
Hammond	Cameron St	-	-	CSX	-	-	-	-		-
Hammond	Towle Av	-	-	CSX	-	-	-	-		-
East Chicago	Sheffield	8,030	-	CSX	36.572	70.093	35.152	-	0.032	-
East Chicago	***Front/117th Sts***	***3,000***	-	**CSX**	-	-	-	-		-
Hammond	***Hohman Av***	***10,500***	-	**CSX**	***48.091***	***92.062***	***46.169***	-	38.440	-
Hammond	Wabash	250	-	CSX	1.139	2.182	1.094	-	0.911	-
Calumet	Burnham Av	-	-	CSX	-	-	-	-		-
Calumet	Torrence Av	-	-	CSX	-	-	-	-		-
Calumet	Paxton Av	-	-	CSX	-	-	-	-		-
Calumet	I 94	-	-	CSX	-	-	-	-		-
SUBTOTALS for Calumet Park to Pine Junction					**516.928**	**992.909**	**495.957**		**385.367**	
Portage	Willow Creek	6,477	-	CSX	11.510	26.350	15.018	-	26.350	-
Gary	Private	-	-	CSX	-	-	-	-	-	-
Gary	SR 20		-	CSX	-	-	-	-	-	-
Gary	Tri State	-	-	CSX	-	-	-	-	-	-
Gary	***Countyline Rd***	***7,500***	-	**CSX**	***4.966***	***10.884***	***6.203***	-	***13.392***	-
Gary	Hobart Rd	3,000	-	CSX	1.986	4.354	2.481	-	5.357	-
Gary	Dunes Highway	-	-	CSX	-	-	-	-	-	-
Gary	Howard St	750	-	CSX	0.497	1.088	0.620	-	1.339	-
Gary	***Lake St***	***750***	-	**CSX**	***0.791***	***1.731***	***0.987***	-	**2.145**	-
Gary	Tennessee	-	-	CSX	-	-	-	-	-	-
Gary	Virginia	-	-	CSX	-	-	-	-	-	-
Gary	Broadway	-	-	CSX	-	-	-	-	-	-
Gary	Buchannon	-	-	CSX	-	-	-	-	-	-
Gary	***Clark Rd***	***7,250***	-	**CSX**	***4.801***	***10.521***	***5.996***	-	***10.119***	-
SUBTOTALS for Pine Junction to Willow Creek					**24.550**	**54.928**	**31.306**		**58.702**	
TOTALS for Route					**541.478**	**1047.836**	**527.263**		**444.069**	

1 The intersections shown, except Front/117th Streets, were taken from those listed in "CRS_ACC.WK4." Although that intersection should have been originally listed, its delay hours value (28.529) was purposely omitted here to maintain equivalency. Intersections shown in bold & italics were evaluated in the traffic study.

2 The FCC calculations from Pine Junction to Willow Creek have been recalculated to reflect the actual freight train timetable speed of 70 mph instead of 79 mph.

 12/9/97 2:00 PM

ROUTE: APPLICANTS' HOBART TO TOLLESTON TO CLARKE JUNCTION										
					Per FCC Calculations			ICF Kaiser Calculations		
City (1)	Road Crossed (2)	USDOT AADT (3)	Field ADT (4)	RR (5)	Current Delay Hours (6)	Applicants' Delay Hours (7)	FCC's Alternative Delay Hours (8)	Current Delay Hours (9)	Applicants' Delay Hours (10)	FCC's Alternative Delay Hours (11)
Wheeler	Park Av	588	-	CR	-	0.3261	-	-	0.3261	-
Wheeler	Jones Rd/RT 625	1,304	-	CR	-	0.7231	-	-	0.7231	-
Porter	600N	1,896	-	CR	-	1.0514	-	-	1.0514	-
Hobart	County Line Rd	100	-	CR/NS	-	0.0555	-	-	0.0555	-
Hobart	Joliet	-	-	CR/NS	-	-	-	-	-	-
Hobart	Illinois Av	7,880	-	CR/NS	-	4.3699	-	-	4.3699	-
Hobart	Linda St	250	-	CR/NS	-	1.6611	-	-	0.1206	-
Hobart	Cleveland St	3,000	-	CR/NS	-	19.933	-	-	1.4472	-
Hobart	Lake Park	750	-	CR/NS	-	4.9833	-	-	0.3618	-
Hobart	Wisconsin St	750	-	CR/NS	-	5.0327	-	-	0.3651	-
Hobart	37th Av	-	-	-	-	-		-	-	-
Lake Station	Liverpool Rd	850	-	CR/NS	-	5.6477	-	-	0.4100	-
Gary	Martin Luther	750	-	CR/NS	-	5.0327	-	-	0.3651	-
Gary	Virginia St	750	-	CR/NS	-	4.9833	-	-	0.3618	-
Gary	21st St	3,000	-	CR/NS	-	19.933	-	-	1.4472	-
Gary	Broadway	17,890	-	CR/NS	-	120.0471	-	-	8.7096	-
Gary	Washington	3,000	-	CR/NS	-	19.933	-	-	1.4472	-
Gary	19th St	3,000	-	CR/NS	-	19.933	-	-	1.4472	-
Gary	Jackson St	250	-	CR/NS	-	1.6611	-	-	0.1206	-
Gary	17th St	750	-	CR/NS	-	4.9833	-	-	0.3618	-
Gary	Harrison St	750	-	CR/NS	-	4.9833	-	-	0.3618	-
Gary	15th St	3,300	-	CR/NS	-	21.9263	-	-	1.5919	-
Gary	13th St	3,000	-	CR/NS	-	19.933	-	-	1.4472	-
Gary	11th St	3,000	-	CR/NS	-	19.933	-	-	1.4472	-
Gary	Grant	3,600	-	CR/NS	-	23.9196	-	-	1.7366	-
Gary	10th Av	250	-	CR/NS	-	1.6611	-	-	0.1206	-
SUBTOTALS for Hobart to Tolleston						**332.647**			**30.197**	
Gary	Taft St	3,000	-	CR	-	19.933	-	-	1.4472	-
Gary	5th Av	13,220	-	CR	-	88.7101	-	-	6.4361	-
Gary	4th Av	-	-	CR	-		-	-		-
Gary	Indiana Toll	-	-	CR	-		-	-		-
Gary	Clarke Rd	7,500	-	CR	-	1.7485	-	-	1.7485	-
SUBTOTALS for Tolleston to Clarke Junction						**110.392**			**9.6318**	
TOTALS for Route						**443.038**			**39.8285**	

REBUTTAL VERIFIED STATEMENT
OF
HOWARD A. ROSEN

My name is Howard A. Rosen. I am a Vice President of ALK Associates, Inc. I submitted a Verified Statement on behalf of CSX as part of the primary Application in this proceeding. My credentials are presented in that Statement.

CSX requested that I review the Responsive Application of New England Central Railroad (NECR), the Verified Statement of Mr. Dale Carlstrom submitted on behalf of NECR, NECR Responses to Interrogatories and documents produced by NECR. CSX requested that I focus my review on the traffic studies and claims concerning future NECR traffic that are presented in the Responsive Application and Mr. Carlstrom's Statement. This Statement presents the results and conclusions of my review.

Summary of Conclusions

In summary, the conclusions of my review are:

1. NECR has provided no foundation for its estimate of traffic losses due to the proposed transaction.
2. NECR has provided no foundation for its estimate of traffic gains if its requested conditions are approved.
3. NECR, has failed to show why any of its customers would lose rail service if the proposed transaction is approved and its requested conditions are not.
4. NECR has failed to show how its requested conditions would enable it and the Connecticut Southern Railroad to achieve operating efficiencies.
5. NECR does not need approval of its requested conditions in order to offer its customers competitive routing options to Canadian Pacific (CP), Norfolk Southern (NS) and Guilford connections at or near Albany, NY.
6. NECR claims about the future expansion of CSX and NS services for lumber products into the Northeast and New England are not

consistent with its claims concerning the neutral and indifferent role of Conrail in the current marketplace.

In the remainder of this Statement, I provide the basis for each of these conclusions.

1. NECR has provided no foundation for its estimate of traffic losses due to the proposed transaction.

NECR estimates that it will lose approximately $8 million in revenue due to the proposed transaction. (NECR-4 at 4). In its discovery responses, NECR explains that it derived this amount from its forecasts of 1998 traffic volumes and management knowledge of traffic in New England and the Northeast. (NECR-6, Response to Interrogatory No. 14)(HAR-Exh. 1). However, NECR has provided no explanation of its method to develop these forecasts. It has failed to provide the details of its 1998 forecasts. It has failed to provide actual traffic and revenue information by customer for the years 1995 through 1997 that CSX requested in its discovery requests. Hence, CSX is unable to substantiate the traffic forecasts that are the underpinnings of NECR's estimate of losses due to the proposed transaction.

Further, NECR's method to identify the traffic within its forecasts that it would lose due to the proposed transaction is based on assumptions not supported within its application. NECR claims that it would lose all shipments of paper and wood products (STCC 24 and 26) to NECR customers and to customers of connecting shortlines that originate in Canada and that NECR receives from the Canadian National Railway (CN) at East Alburgh, VT. NECR claims that these losses would occur due to "CSX's and NS's access to producers in the South, their control of the New York and New Jersey area intermodal facilities and the advantages of single-line service. . . . The study further assumed that CSX and NS would establish distribution centers on their newly acquired lines in the Northeast which would compete directly with NECR's customers." (NECR-6, Response to Interrogatory No. 14)(HAR-Exh. 1).

These assumptions incorporate several premises that are not established in the NECR application:

- that paper and wood products produced in the South are equivalent to or substitutes for the products produced in Canada;
- that products moved from the South into New York and New Jersey area intermodal facilities are likely to penetrate New England markets;
- that CSX and NS will be able to deliver products from the South, a considerably longer distance away from New England than Canadian sources, at a delivered price that will be attractive to New England customers;
- that distribution centers established by CSX and NS would materially change the competition in the markets in which NECR's customers currently operate; and,
- that New England consumers of paper and wood products would quickly and completely sever their longstanding relationships with Canadian producers and NECR-served distribution centers in favor of products produced in the South and transported by CSX and NS.

Furthermore, to the extent that the proposed transaction does permit paper and wood products produced in the South to be offered to New England consumers at lower prices, then these lower prices are a benefit of the proposed transaction for New England consumers.

In light of the absence of support for the development of the estimate of losses, and the unfounded assumptions allegedly used to develop the loss estimate, I do not find NECR's loss estimate to be credible.

2. NECR has provided no foundation for its estimate of traffic gains if its requested conditions are approved.

NECR estimates that it will gain approximately $7 million in revenue if its requested conditions are approved. NECR claims that most of this traffic will be overhead traffic originating in Canada and moving to New York. (NECR-4 at 8). NECR claims this traffic will earn it $5 million in annual gross revenues. (NECR-4, Carlstrom VS at 7). NECR also claims that it would be able to attract about 5,000 annual carloads, producing $2 million in annual gross revenues, moving to and from the Connecticut Southern Railroad (CSO). (NECR-4, Carlstrom VS at 7).

NECR has provided no explanation of its method to develop these estimates. They are based solely on "the general familiarity of NECR management with traffic moving to, from or through the New England area and traffic moving to New York which currently originates or could originate in Canada and which could move over the trackage rights lines." (NECR-6, Response to Interrogatory No. 18)(HAR-Exh. 1). NECR has not stated whether this traffic is currently moving by rail or by truck, or is not currently moving. NECR has not stated whether this traffic would be extended hauls on traffic already handled by NECR, or would be new traffic for NECR. NECR has provided no evidence that a current market exists for its proposed new services. It has provided no evidence that a potential market exists for its proposed new services. NECR has provided no detail on what its new service offerings would be, and no evidence that shippers of the target traffic would find these offerings sufficiently attractive to in fact use them. It has provided no detail on the rules or guidelines it used to make the assessments that identify relevant traffic that could originate in Canada and that could use the trackage rights lines. Furthermore, NECR has no documents relating to the development of its traffic gain estimates. (NECR-6, Response to Document Request No. 17) (HAR-Exh. 1).

NECR's claim that most of the gained traffic will be moving to New York is not consistent with its requested conditions. NECR requests rights to operate into the Albany area and the New Jersey/New York Shared Assets Area (SAA) in order to interchange traffic with CSX and NS and other carriers. (NECR-4 at 3). NECR requests no rights to originate or terminate traffic in these areas. NECR requests no reciprocal switching arrangements with CSX or NS. Thus, it is not clear how NECR would actually deliver the traffic it would transport into New York.

In 1997, NECR will handle approximately 34,000 carloads that will generate $16.8 million in gross revenues (NECR-4, Carlstrom VS at 3). This suggests an average revenue per car of approximately $500. If the requested conditions are granted, NECR claims it will move 100 additional carloads per day originating in Canada that will generate $5 million in additional gross revenues. (NECR-4, Carlstrom VS at 7). Assuming 300 operating days per year, this claim represents 30,000 additional annual cars, an amount nearly equal to NECR's existing business for all commodities moving throughout North America. For traffic moving to New York, NECR service would be 1.5 to 2 times the distance of current NECR bridge service to Brattleboro, VT or Palmer, MA. However, $5 million for the movement of 30,000 cars suggests an average revenue per car of only $170 per car. NECR's claim that it will provide twice the amount of service for double the number of cars at one-third the average revenue is clearly ridiculous.

Considering the absence of documentation of the method used to develop the estimated gains, the absence of evidence that there is traffic that would use expanded NECR services, the inconsistency between the traffic to be gained and the requested conditions, and the inconsistency between the estimated traffic volumes and revenues, NECR's estimated gains appear to be pure speculation.

3. NECR has failed to show why any of its customers would lose rail service if the proposed transaction is approved and its requested conditions are not.

The NECR system is a single, twisty, trunk line from East Alburgh, VT to New London, CT with one branch to Burlington, VT. Though NECR claims that its projected losses would "force NECR significantly to reduce service systemwide and to discontinue service altogether on the marginal sections of NECR's rail system" (NECR-4 at 4), NECR's Application does not identify any portions of its system that it would abandon if the proposed transaction is approved and its requested conditions are not. NECR's Application does not identify any portions of its system on which it would discontinue service if the proposed transaction is approved and its requested conditions are not.

///

]]] With this configuration of connections and customers, I believe NECR will operate its complete system post-transaction. Hence, NECR will be able to serve all its current and future customers.

NECR claims that some NECR customers will face an elimination or reduction in rail service. (NECR-4, Carlstrom VS at 6). In a work paper, NECR lists its customers projected to lose all rail service. (NECR 000438) (HAR-Exh. 5). [[[

]]] However, NECR has inverted cause and effect. These service reductions would not be due to NECR decisions *ex ante* to withdraw or curtail rail service. These changes would be NECR's response to reduced demand for NECR services by NECR's customers.

4. NECR has failed to show how its requested conditions would enable it and the Connecticut Southern Railroad to achieve operating efficiencies.

NECR claims that the requested trackage rights between Palmer, MA and West Springfield, MA will enable NECR and CSO to improve significantly their operating efficiencies. (NECR-4 at 5). However, NECR presents no explanation for how these efficiencies would be realized. It presents no evidence that the two railroads would be able to share locomotives, cars, crews, or other resources in ways that are not practical or feasible without the requested rights. In the absence of such evidence, NECR's efficiency claims can be considered only speculative.

5. NECR does not need approval of its requested conditions in order to offer its customers competitive routing options to Canadian Pacific (CP), Norfolk Southern (NS) and Guilford connections at or near Albany, NY.

NECR claims that, in the absence of its requested conditions, "CSXT will have strong incentive to favor its own routes by raising rates or reducing service for any traffic moving to the NSR destinations." (NECR-4 at 7). This claim mischaracterizes the competitive routing options that will exist if the proposed transaction is approved. NECR customers shipping to CSXT destinations will have the option of two-carrier NECR-CSXT service in place of three-carrier NECR-CR-CSXT service. This reduction in the number of carriers in the routing is a shipper benefit. NECR customers shipping to NS destinations will have the option of three-carrier NECR-Guilford-NS service in place of three-carrier NECR-CR-NS service. There is no route deterioration here. The Guilford route from its NECR junction at Brattleboro, VT to its CP and future NS junction at Mechanicville, NY is about 30 miles shorter than the

Conrail route from Palmer, MA to its CP and future NS junction at Albany, NY. Brattleboro is also more centrally located on the NECR system than Palmer. NECR claims that most of the traffic that would use its expanded services would be southbound traffic from Canada. For this traffic, the Guilford route via Brattleboro would also eliminate about 56 miles on NECR from Brattleboro to Palmer. Furthermore, NECR customers will continue to have the option to route traffic via NECR's northern CN gateway to and from CSXT and NS connections at Detroit, and a multitude of connections at Chicago.

In sum, the proposed transaction improves routing options for NECR customers shipping to and from CSXT destinations without reducing routing options to and from non-CSXT destinations.

6. NECR claims about the future expansion of CSX and NS services for lumber products into the Northeast and New England are not consistent with its claims concerning the neutral and indifferent role of Conrail in the current marketplace.

NECR claims that the proposed transaction will give CSXT and NS "significantly enhanced market power to the northeast to displace forest products moving into the northeast from Canada." (NECR-4, Carlstrom VS at 5). NECR also claims that in the current marketplace, Conrail offers a "neutral or indifferent gateway service" between NECR on the one hand and CSXT and NS on the other. (NECR-4 at 7). These claims are not consistent.

If Conrail has indeed provided a neutral or indifferent gateway service, then it is a fair corollary that Conrail has not been a barrier for forest products from the South to penetrate markets in the Northeast and New England. If this is true, then the proposed transaction represents no improvement in the access that products from the South will have to northern markets. Assuming an efficient marketplace, products from the South have already established their best possible positions in northern markets. Thus, NECR fears of product displacements are unfounded.

In the alternative, if the proposed transaction does improve access to northern markets for products from the South, then the proposed transaction is removing a commercial barrier that is present in the current marketplace. The removal of this barrier will permit either greater product choices or lower product prices, or both, for consumers of forest products in the Northeast and New England. These are public benefits of the proposed transaction.

VERIFICATION

STATE OF	Nebraska	)	
		)	ss.
COUNTY OF	Douglas	)	

Howard A. Rosen, being duly sworn, deposes and says that he is Vice President of ALK Associates, Inc., that he is qualified and authorized to submit this Verified Statement, and that he has read the foregoing statement, knows the content thereof, and that the same is correct and true.

Howard A Rosen
Name

Subscribed and sworn to before me by HOWARD A. ROSEN
this 9TH day of December, 1997.

Barbara List
Notary Public

GENERAL NOTARY-State of Nebraska
BARBARA LIST
My Comm. Exp. April 22, 2001

NECR - 6

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

STB FINANCE DOCKET NO. 33388 (SUB-NO. 75)

NEW ENGLAND CENTRAL RAILROAD, INC.
--TRACKAGE RIGHTS--
CSX TRANSPORTATION, INC.

RESPONSE OF NEW ENGLAND CENTRAL RAILROAD, INC.,
TO THE FIRST SET OF INTERROGATORIES AND REQUEST FOR DOCUMENTS OF
CSX AND NORFOLK SOUTHERN

New England Central Railroad, Inc. ("NECR"), hereby responds to the First Set of Interrogatories and Requests for Production of Documents of CSX and NS[1] (CSX/NS-137), served November 7, 1997.

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

HAR-Exh. 1

Response: See response to Interrogatory Nos. 9 and 10. and workpapers on file in NECR's depository. Documents responsive to this interrogatory will be placed in NECR's depository.

12. For each shipper identified in response to Interrogatory No. 9:

a. Have any of that shipper's shipments from any facility served by NECR ever moved by truck or any other mode of transportation not involving NECR during the years 1995, 1996, 1997 to your knowledge?

b. If the answer to the preceding subpart is "yes," identify separately with respect to each such facility the alternate transportation mode or modes by which such shipments moved.

Response: See response to Interrogatory No. 9. NECR is generally aware that many of the rail shippers located on the NECR use trucks to meet varying degrees of their transportation needs. NECR is unaware of any other alternate transportation mode used by these shippers. As to the shippers specifically identified in response to Interrogatory No. 9, the only alternative service these shippers have available, to the best of NECR's knowledge, is trucks.

13 State the volume of traffic that NECR contends it will lose if the Primary Application is approved without the conditions NECR requests:

a. In total; and

b. By shipper.

Response: See workpapers in NECR's depository.

14. Describe in detail how NECR calculated the $8 million estimate of annual revenue loss resulting from traffic diversions if the Proposed Transaction is approved, as reference on page 4 of the Responsive Application. The response should include, but not be limited to, a description of all assumptions used in the calculation, as well as a detailed explanation of the methodology employed.

Response: NECR's traffic diversion analysis was based on 1998 traffic projections for the NECR without the impact of the Proposed Transaction; testimony of Applicants' witnesses [e.g., Verified Statement of Joseph P. Kalt (CSX/NS-19, at 43), Verified Statement of Howard A. Rosen (CSX/NS-19, at 173-176), and Verified Statement of John Q. Anderson (CSX/NS-19, at 279-284)]; and the general knowledge of NECR management regarding traffic moving to, from and through the New England area specifically and the Northeast area in general.

The customers identified in the diversion study receive shipments of paper and wood products via NECR primarily from various Canadian origins. NECR handles the traffic from the Canadian border at East Alburgh to the individual customer location on the NECR. The customers, in turn, distribute the products throughout the New England and Northeast regions by truck. The study assumed that 100 percent of this interline traffic (STCC 24 and 26) would be diverted from NECR because of CSX's and NS's access to producers in the South, their control of the New York and New Jersey area intermodal facilities and the advantages of single-line service. The study also assumed that all paper and wood products traffic hauled by NECR for connecting shortlines would be diverted. The study further assumed that CSX and NS would establish distribution centers on their newly acquired lines in the Northeast which would compete directly with NECR's customers.

15. Identify all traffic to be operated over the line segments over which NECR seeks trackage rights, including but not limited to the number of trains, frequency, length in feet, number of cars, and commodities.

Response: NECR objects to this interrogatory to the extent it seeks "a description of all costs of providing the service" on the grounds that preparing a response would require an unduly burdensome and oppressive special study of countless hypothetical train movements. Without waiving this objection, NECR responds as follows:

NECR proposes to offer the shippers on its current rail system and those located on the lines of connecting rail carriers an efficient and economical rail switching service between NECR's rail lines and the gateways to which NECR seeks access. As with CRC today, NECR would have no reason to favor any of the connecting rail carriers and would offer the shippers comparable rate and service options to access the nearby gateways. NECR's costs of providing these services will depend on the nature of the traffic, the services requested, the volume of traffic tendered to NECR, and other factors. Other than the arrangement identified in response to Interrogatory No. 25, NECR has not worked out any interchange arrangements with any of the connecting carriers.

18. Describe in detail how NECR calculated the $7 million estimate of annual revenue gain resulting from traffic (sic) rights operations if the conditions requested by NECR are granted, as referenced on page 8 of the Responsive Application. The response should include but not be limited to a description of all assumptions used in the calculation, as well as a detailed explanation of the methodology employed.

Response: The $7 million estimate is based on the per car revenues NECR earns today and the general familiarity of NECR management with traffic moving to, from or through the New England area and traffic moving to New York which currently originates or could originate in Canada and which could move over the trackage rights lines.

c. No responsive documents exist.

d. NECR objects to this document request to the extent it seeks documents regarding privileged settlement negotiations between NECR and HRRC. Without waiving this objection, NECR responds as follows:

Non-privileged documents will be placed in NECR's depository.

16. Produce all agreements between NECR and CRC, including but not limited to agreements for switching, trackage rights interchange or haulage.

Response: NECR objects to this document request on the grounds that it is overbroad, unduly burdensome, and seeks information which is not relevant to any issue raised by NECR in these proceedings. NECR further objects to this document requests on the grounds that it seek confidential and sensitive commercial information, including information subject to disclosure restrictions imposed by contractual obligations with third parties. Without waiving these objections, NECR responds as follows:

Responsive documents, if any, will be placed in NECR's depository.

17. Produce all documents relating to NECR's estimate that it will generate $7 million in annual revenue if the conditions requested by NECR were granted, as stated on page 8 of the Responsive Application and page 7 of the Verified Statement of Dale Carlstrom.

Response: No responsive documents have been located.

18. Produce all documents relating to NECR's claim that if the Proposed Transaction is approved by the STB, "CSXT and NSR will be able to use their significantly enhanced market power to the northeast to displace forest products moving into the northeast from Canada," as stated on page 5 of the Verified Statement of Dale Carlstrom.

HAR-Exhibit 2

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HAR-Exhibit 3

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HAR-Exhibit 4

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HAR-Exhibit 5

HAR-Exhibit 6

REBUTTAL VERIFIED STATEMENT
OF
PETER A. RUTSKI

My name is Peter A. Rutski. I am Vice President, Business Planning, CSX Intermodal ("CSXI"). I have held this position since 1995. My business address is 301 West Bay Street, Jacksonville, FL.

I hold a B.S. degree from the U.S. Coast Guard Academy (1965) and an M.B.A. from the Wharton School of Business (1971). I have been employed in the railroad industry since 1971. I began my career in the industry with the Southern Railway as its Manager-Pricing (1971 - 1976), the Rock Island as its Manager-Equipment Planning (1976 - 1978) and Conrail as its Director of Intermodal Marketing (1978 - 1984). I have worked with CSX in connection with intermodal traffic since 1985, serving as Assistant Vice President, Intermodal Sales, CSX Distribution Services (1985 - 1987), Assistant Vice President, Marketing, CSX Intermodal (1987 - 1989), Assistant Vice President, Lane Management (1989 - 1993) and Assistant Vice President, Operations Planning, CSX Intermodal between 1993 and 1995, after which time I assumed my current position.

CSXI is the intermodal marketing affiliate of CSX Transportation, Inc. Among other things, CSXI sells intermodal services on trains operated by CSXT and other rail carriers, operates intermodal terminals and provides drayage services.

This verified statement is offered in response to the statements of several parties that submitted comments or responsive applications concerning intermodal transportation. The parties whose comments I will address in this statement are: American Trucking Associations; APL Limited; Genesee Transportation Council; J.B. Hunt; NYK Lines; Port of New York and New Jersey; Stark Development Board; State of Michigan

Department of Transportation; State of New York/New York City Economic Development Corporation/Congressman Nadler, et al.; and Transportation Intermediaries Association.

The initial Verified Statement of John Q. Anderson, CSXT's Executive Vice President, Sales and Marketing set forth in significant detail the advantages that the Conrail transaction will bring to intermodal rail customers. See CSX/NS-19, Vol. 2A at 290-308. Enlarging the size of the CSXT rail network to include the Conrail lines that will be allocated for use by CSXT translates into a broader reach for CSXT system single-line rail service. Generally, such single-line service is an essential ingredient to our ability to compete effectively for all-highway carriage and to attract such freight to our intermodal network. The transaction also will result in reduced intermodal transit times on major traffic corridors (e.g., I-95 corridor between the Southeast U.S. to the Northeast U.S., and the Memphis Gateway corridor between Memphis, on the one hand, and the Mid Atlantic and Northeast, on the other), which will in turn open up opportunities for competitive intermodal service that do not exist today. In addition, intermodal transportation costs will be reduced, service frequency and reliability will improve and equipment will be more efficiently utilized.

We will also be investing in significant capital improvements to the intermodal network. These improvements, which include building a new intermodal terminal at 59th Street in Chicago to facilitate "steel-wheel" interchanges with Western railroads, and upgrading the B&O corridor between Chicago and Cleveland, are described in detail in the Operating Plan submitted with the Application (CSX/NS-20, Vol. 3A at 147-161).

As a result of these improved opportunities to transport intermodal freight, we believe that a significant amount of freight is likely to be diverted from highway carriage to intermodal carriage, resulting in significant environmental and safety benefits. These expected truck-to-rail diversions, and the public benefits associated with them, are described at length in the Verified Statements of Joseph Bryan and Darius Gaskins submitted with the Application (CSX/NS-19, Vol. 2A at 88, 240) and in the Environmental Report submitted with the Application.

No party has seriously challenged the proposition that the transaction will improve intermodal service for shippers and attract large volumes of intermodal freight to an expanded CSX rail system. Nor has any party challenged the environmental or safety benefits associated with the diversion of freight from the highways to an intermodal network. In fact, over 250 intermodal shippers have voiced their support for the acquisition, including motor carriers (such as Yellow Freight, Landstar, and Dart), Intermodal Marketing Companies (such as Quality Intermodal, Hub, Mark VII, and Alliance Shippers) and ocean carriers (such as Hanjin Shipping Co., Ltd., NOL (USA) Inc., Crowley American Transport, Inc.).

Of those parties that filed comments by October 21, relatively few have raised issues pertaining to intermodal transportation, and none has raised an issue that would warrant the imposition of conditions. While each commentor has raised issues unique to its circumstances, the factor common to these parties is that they have viewed this proceeding as an opportunity to improve their situation over that which currently exists or to press a regulatory agenda that has little or nothing to do with this proceeding. I will address each of these comments.

American Trucking Associations. To my knowledge, the American Trucking Associations ("ATA") previously has not participated in a rail merger or acquisition proceeding. Its request for conditions in this proceeding is (ATA-6) surprising because ATA's motor carrier constituency will benefit from this transaction, as the testimony of well over 100 motor carriers in support of the transaction demonstrates. Many of the motor carriers will benefit because the larger CSX and NS rail networks that will result from the Conrail transaction will allow motor carriers an enhanced opportunity to use efficient intermodal services to move their freight over a long haul. As the cost of long-haul highway carriage increases and driver shortages continue, motor carriers are increasingly partnering with rail carriers to transport freight significant distances using intermodal services efficiently. Thus, in 1996, CSXI transported over 61,000 units for truckload and less-than-truckload motor carriers (excluding UPS), up over 30 percent from 1995 levels. CSXI expects that it will improve by at least 20 percent on 1996 levels during 1997, and that motor carrier use of intermodal services will increase over the foreseeable future.

Instead of applauding the partnerships that have developed between motor carriers and railroads, ATA has requested that a series of onerous conditions be placed on the Conrail transaction. I will next address each of these proposed conditions and show why each should be rejected.

Proposed Equipment Safety Condition. ATA argues that the predicted diversion of approximately one million all-highway units to intermodal services offered by CSX and NS will result in serious safety concerns warranting Board consideration. These safety concerns arise because, according to ATA, the motor carrier involved in intermodal transportation has no control over the maintenance and repair of intermodal equipment and "virtually no opportunity to inspect the railroad controlled equipment." ATA-6 at 3. ATA thus argues that Applicants should be required to "ensure the roadworthiness of all intermodal equipment prior to releasing the equipment to a motor carrier for highway use." Id. at 5. In other words, ATA is asking the Board to re-write the Federal Highway Safety Administration ("FHWA") rules governing motor vehicle safety at 49 C.F.R. Parts 390-396, and more specifically the portions of these rules that squarely place the responsibility for the inspection and repair of equipment on the motor carrier. See 49 C.F.R. § 396.1 (1996).

For several reasons, this requested condition should be denied. If any regulatory proceeding is warranted on this issue, such a proceeding should be instituted by the FHWA, which is the agency that has promulgated the federal motor vehicle safety rules about which ATA is complaining. Those rules, particularly 49 C.F.R. § 396. squarely place the responsibility for operating safe equipment (including intermodal equipment) on public highways on the motor carrier, and have done so since at least 1979, when the current rules were adopted. If the rules are to be changed, it is FHWA that should so decide.

ATA apparently recognizes that FHWA is the proper forum in which to raise its concerns. On March 17, 1997, ATA and the ATA Intermodal Conference submitted to FHWA a Joint Petition for rulemaking to FHWA asking the agency to require parties that tender intermodal equipment to motor carriers to ensure the roadworthiness of that equipment. The arguments set forth in that petition (see Volume 3) were virtually identical to those presented by ATA here. On August 12, 1997, FHWA granted ATA's petition and has decided to publish an advance rulemaking notice on this matter. See Volume 3.

FHWA is clearly the correct forum to consider proposed amendments to its own rules. A proceeding before that agency would be informed by the views of all interested parties -- motor carriers (ATA and non-ATA members), major and shortline railroads, ocean carriers, terminal operators, equipment owners and other interested parties. ATA's own 1996 Intermodal Terminal Survey, on which it relies in its comments, recognizes that equipment roadworthiness "deserves more systematic examination by the intermodal industry -- carriers, equipment owners and terminal operators." By contrast, a proceeding before the Board involving the acquisition of control of one railroad by two other railroads is not the proper forum for re-writing the rules of another agency, particularly on matters that have nothing to do with this transaction.

The equipment safety issue that ATA raises is, in any event, a phony one. At intermodal terminals operated or controlled by CSXI, motor carriers are afforded ample time, space and opportunity to inspect equipment before it is placed on the highway by those carriers. Once the motor carrier driver takes custody of the equipment at an intermodal terminal, the responsibility properly rests with that carrier to ensure that it is in safe condition consistent with FHWA rules. CSXI provides the terminal space and the opportunity for the equipment to be inspected and provides the facilities for any repairs that may be required. It is CSXI's policy to pre-inspect all empty equipment prior to releasing it to a motor carrier to conduct its own inspection. If the motor carrier finds a problem with the pre-inspected equipment, CSXI either will repair it or replace it with another empty. If possible, CSXI will repair loaded equipment immediately upon notification. If extensive repairs are required, the unit will be taken out of service for repair and the motor carrier will be notified when repairs are completed. Privately-owned equipment inspected and in need of repair will be repaired upon the authorization of the equipment owner and, if no authorization is obtained, the equipment is not released from the terminal. Also, no limits are placed on the amount of time that the driver can devote to inspecting the equipment to ensure the safety of its condition.

CSXI maintains its own on-terminal repair facilities at several locations and utilizes mobile repair units at other terminals. CSXI also maintains contractual relations with off-site, non-affiliated repair facilities to handle repairs that cannot be addressed by a mobile repair unit.

None of the processes concerning equipment safety will change as a consequence of the transaction. To the extent that more inspection lanes or other repair facilities are needed, CSXI will arrange for them. However, CSXI believes that its current facilities are fully capable of handling an increased workload and ATA offers no evidence to the contrary.

Finally, ATA does not discuss the fact that diversions of equipment from all-highway transport to intermodal rail transport will result in substantially enhanced highway safety. The safety benefits of these diversions are discussed in the Environmental Report submitted with the Application.

Proposed "Back-Solicitation" Condition. ATA next argues that a condition should be imposed prohibiting the practice of requiring motor carriers purchasing intermodal services from providing to the railroad the name of the motor carrier's customer. ATA argues that this practice opens the door to back-solicitation of these customers by railroads.

ATA does not argue that this request is related in any way to this transaction, and plainly it is not. Since 1993, CSXI has required, for all domestic business, that truckload motor carriers disclose the names of the parties on whose behalf they are tendering intermodal cargo. CSXI imposes the same requirement on Intermodal Marketing Companies ("IMCs") on whose behalf intermodal cargo is transported. The transaction will have no effect on this four-year-old practice and for that reason alone ATA's attempt to impose a condition here relating to that practice should be rejected.

CSXI requires the names of the underlying cargo interests because, like any other business, there is value in knowing which types of businesses utilize intermodal carriage. This knowledge helps CSXI direct its broad marketing efforts (e.g., trade magazine advertisements) appropriately. However, CSXI does not back-solicit freight from any motor carrier, and ATA offers no evidence that it ever has done so. In fact, ATA's responses to CSX's and NS' First Set of Interrogatories and Request for Production of Documents (Interrogatory Response, ATA-7) indicate that ATA is not aware of any such back-solicitation. See Volume 3.

ATA suggests the required disclosure of the names of its members' customers to CSXI or NS constitutes a violation of 49 U.S.C. § 14908, the statute governing the unlawful disclosure of information about cargo tendered to a carrier. This statute reaches disclosures made under circumstances where the "information may be used to the detriment of the shipper or consignee or may disclose improperly to a competitor the business transactions of the shipper or consignee." CSXI does not use the information attained from its motor carrier partners in this prohibited way -- the information is kept confidential by CSXI and not disclosed to any other person.

Proposed "Anti-Discrimination Condition". ATA argues that a condition should be imposed prohibiting CSXT from discriminating against motor carriers with respect to prices and services. It suggests that CSXT may discriminate in favor of CSXI over competing motor carriers. Such discrimination, according to ATA, may occur in order to improve the use of rail equipment, attain "monopoly profits," or eliminate competition. ATA-6 at 12. This requested condition is, as with the other ATA conditions, unrelated to this transaction.

First, ATA misperceives CSXI's role. As I stated above, CSXI is the affiliate of CSXT that, among other things, markets intermodal services on trains operated by CSXT. Thus, if an intermodal customer wishes to transport freight on CSXT, it will deal with CSXI. The notion that CSXT could somehow discriminate in favor of CSXI thus does not comport with the relationship between these two entities.

Second, as I will discuss below, CSXI regularly transports freight for motor carrier competitors and with IMCs with which it competes. We retain good commercial relations with these customers, notwithstanding that they also are competitors. CSXI has a commercial interest in offering all prospective customers of intermodal services fair and reasonable rates -- the intermodal business is highly competitive and failure to provide fair and reasonable rates is simply bad business. In fact, ATA acknowledged in its discovery responses (Interrogatory Response, ATA-7) that it does not allege that any discrimination has occurred, and that its concern relates strictly to possible future discrimination. See Volume 3.

In effect, ATA is asking for some sort of rate regulation for intermodal services, a notion that runs counter to the highly competitive world in which intermodal services are offered. The free market provides the "regulation" that ATA is asking the Board to impose, as the Interstate Commerce Commission recognized when it exempted intermodal transportation from regulation in 1981.

Proposed "Open Access" Condition. ATA asks the Board to impose a condition requiring "open access" to rail lines so that any rail operator could operate over any rail line. ATA offers few details of its vision of the future rail system, but whatever that design may be, it has again chosen the wrong proceeding to present its ideas. Were open access a viable idea warranting further study, such study would be appropriate in a proceeding that involves all interested parties, not a proceeding directed to the request of two railroads to acquire control of a third in the Eastern U.S.

In addition, open access by any rail operator to any rail line is an idea whose time plainly has not come -- and given the network of trackage rights, haulage rights, reciprocal switching and interchange agreements that already exists in the rail industry, the need for "open access" is unproven. I understand that neither rail shippers, shortlines nor any other party involved in rail transportation has raised the issue in this proceeding. Whatever ATA's motive for raising the issue here, it has clearly chosen the wrong proceeding and its request merits no further Board consideration here.

APL Limited ("APL"). APL, an ocean carrier, logistics company and reseller of stacktrain and other transportation services, is a major intermodal customer of Conrail. It is currently a party to a long-term transportation contract that was negotiated with Conrail in 1988. This contract expires on June 1, 2004.

In its Response and Request for Conditions (APL-4), APL acknowledges that it has been very satisfied with the service that Conrail has provided under the transportation contract. However, APL expresses several concerns about the post-transaction services that it will receive, particularly from CSXI/CSXT. These concerns are focused on the fact that CSXI competes with APL for intermodal surface transportation business and that Sea-Land, which is owned by CSX Corporation, also competes with APL as an ocean carrier. APL is apparently concerned that, because of this competitive situation, CSXI will not have sufficient incentive to work cooperatively with APL as Conrail has done, and may use its position as a transportation provider to undermine APL's business opportunities, offer second-rate service or even steal APL's customers. For that reason, among others, APL wants the right to renegotiate its transportation contract following the transaction. Specifically, it asks the Board to nullify Section 2.2(c) of the Transaction Agreement for all shippers, or at least for all intermodal shippers or, failing that, for APL alone.

By virtue of Section 2.2(c) of the Transaction Agreement, the contract that APL entered with Conrail will remain in effect until the contract expires. That section of the Transaction Agreement provides a means for allocating Conrail's existing transportation contracts between CSX and NS. With some simplification, I understand that Section 2.2(c) provides that (1) where either only CSX or only NS can provide single-line service under a